

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)
Act 306 of 1969

24.245a Joint committee on administrative rules; consideration of rule; actions; filing of rule by office; effective date of rule; withdrawal and resubmission of rule; tolling; "session day" defined.

Sec. 45a. (1) Except as otherwise provided in subsections (10) to (12), after the committee has received a notice of transmittal under section 45(2), the committee has 15 session days in which to consider the rule and do 1 of the following:

(a) Object to the rule by approving a notice of objection under subsection (2) and filing the notice with the office.

(b) Propose that the rule be changed. If the committee proposes that a rule be changed under this subdivision, section 45c applies.

(c) Decide to introduce bills under subsection (5) to enact the subject of the rule into law.

(d) Waive any remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of the waiver by electronic transmission.

(2) To approve a notice of objection under subsection (1)(a), a concurrent majority of the committee, as provided in section 35, must affirmatively determine that 1 or more of the following conditions exist:

(a) The agency lacks statutory authority for the rule.

(b) The agency is exceeding the statutory scope of its rule-making authority.

(c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.

(d) The rule conflicts with state law.

(e) A substantial change in circumstances has occurred since enactment of the law on which the proposed rule is based.

(f) The rule is arbitrary or capricious.

(g) The rule is unduly burdensome to the public or to a licensee licensed under the rule.

(3) If the committee does not approve a notice of objection, propose that the rule be changed, or decide to introduce bills under subsection (5) within the time period prescribed in subsection (1), or if the committee waives the remaining session days under subsection (1), the office may immediately file the rule, with the certificate of approval required under section 45(1), with the secretary of state. The rule takes effect immediately on being filed with the secretary of state unless a later date is indicated in the rule.

(4) If the committee files a notice of objection under subsection (1)(a), the committee chair, the alternate chair, or any member of the committee shall introduce bills in both houses of the legislature, simultaneously to the extent practicable. Each house shall place the bill or bills directly on its calendar. The bills must contain 1 or more of the following:

(a) A rescission of a rule upon its effective date.

(b) A repeal of the statutory provision under which the rule was authorized.

(c) A bill staying the effective date of the proposed rule for up to 1 year.

(5) If the committee decides to proceed under this subsection as provided in subsection (1)(c), the committee chair and the alternate chair shall, as soon as the bills have been prepared, introduce or cause to be introduced in both houses of the legislature bills to enact into law the subject of the proposed rule. The language of a bill introduced under this subsection is not required to be identical to the language of the proposed rule. The legislative service bureau shall give priority to the preparation of the bills.

(6) The office shall not file with the secretary of state a rule as to which the committee has filed a notice of objection under subsection (1)(a) until after whichever of the following applies:

(a) Unless subdivision (b) applies, 15 session days after the date the notice is filed.

(b) The date of a rescission of the notice of objection as provided in this subdivision. The committee may rescind a notice of objection filed under subsection (1)(a). If the committee rescinds a notice of objection under this subdivision, the clerk of the committee shall promptly notify the office by electronic transmission of the rescission.

(7) If the committee decides to introduce bills under subsection (5) with respect to the subject of a rule, the office shall not file the rule with the secretary of state until 270 days after the bills were introduced.

(8) If legislation introduced under subsection (4) or (5) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced under subsection (4) or (5) is not adopted by both houses within the applicable period specified in subsection (6) or (7), the office may file the rule with the secretary of state. The rule takes effect immediately on being filed with the secretary of state unless a later date is specified in the rule.

(9) If legislation introduced under subsection (4) or (5) is enacted by the legislature and presented to the governor within the 15-session-day period under subsection (6) or before the expiration of 270 days under subsection (7), the rule does not take effect unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office may file the rule with the secretary of state immediately. The rule takes effect 7 days after the date it is filed with the secretary of state unless a later effective date is indicated in the rule.

(10) An agency may withdraw a proposed rule under the following conditions:

(a) With permission of the committee chair and alternate chair, the agency may withdraw the rule to change the rule and resubmit it as changed. If permission to withdraw is granted, the 15-session-day period described in subsection (1) is tolled until the rule is resubmitted. However, the committee must have at least 6 session days after resubmission to consider the resubmitted rule, and if necessary, the period under subsection (1) is extended to give the committee the 6 days.

(b) Without permission of the committee chair and alternate chair, the agency may withdraw the rule to change the rule and resubmit it as changed. If permission to withdraw is not granted, a new and untolled 15-session-day time period described in subsection (1) begins on resubmission of the rule to the committee for consideration.

(11) This section does not apply to rules adopted under section 33 or 48 or a rule to which sections 41 and 42 do not apply as provided in section 44(1) or (2).

(12) An agency shall withdraw any rule pending before the committee at the final adjournment of a regular session held in an even-numbered year and resubmit the rule. A new and untolled 15-session-day period described in subsection (1) begins on resubmission of the rule to the committee for consideration.

(13) As used in this section only, "session day" means a day in which both the house of representatives and the senate convene in session and a quorum is recorded.

History: Add. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005;—Am. 2011, Act 245, Imd. Eff. Dec. 8, 2011;—Am. 2016, Act 513, Imd. Eff. Jan. 9, 2017.

Compiler's note: Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

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