

HOUSE BILL No. 5974

June 3, 2004, Introduced by Reps. Farhat, Nofs, Shackleton, Stahl, Sheen, Milosch, Huizenga, Caul, Nitz, Hune, Julian, Bradstreet, Mortimer, Emmons and Pastor and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending section 45 (MCL 24.245), as amended by 2004 PA 23.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

HOUSE BILL No. 5974

1 Sec. 45. (1) The agency shall submit the proposed rule to
2 the legislative service bureau for its formal certification. The
3 submission to the legislative service bureau for formal
4 certification shall be in the form of 4 paper copies and
5 electronic transmission. The legislative service bureau shall
6 promptly issue a certificate of approval indicating a
7 determination that a proposed rule is proper as to all matters of
8 form, classification, and arrangement. The office of regulatory
9 reform may approve a proposed rule if it considers the proposed
10 rule to be legal.

11 (2) Except as provided in subsection (6), after notice is

1 given as provided in this act and before the agency proposing the
2 rule has formally adopted the rule, the agency shall prepare an
3 agency report containing a synopsis of the comments contained in
4 the public hearing record and shall describe any changes in the
5 proposed rules that were made by the agency after the public
6 hearing. The office of regulatory reform shall transmit by
7 letter to the committee copies of the rule, the agency reports,
8 and certificates of approval from the legislative service bureau
9 and the office of regulatory reform. The office of regulatory
10 reform shall also electronically submit a copy of the rule,
11 agency reports, and certificates of approval to the committee.
12 The agency shall electronically transmit to the committee the
13 records described in this subsection within 1 year after the date
14 of the last public hearing on the proposed rule unless the
15 proposed rule is a resubmission under section 45a(7).

16 (3) Except for a rule promulgated under sections 33, 44, and
17 48, the agency shall prepare and include with the notice of
18 transmittal a regulatory impact statement containing all of the
19 following information:

20 (a) A comparison of the proposed rule to parallel federal
21 rules or standards set by a state or national licensing agency or
22 accreditation association, if any exist.

23 (b) An identification of the behavior and frequency of
24 behavior that the rule is designed to alter.

25 (c) An identification of the harm resulting from the behavior
26 that the rule is designed to alter and the likelihood that the
27 harm will occur in the absence of the rule.

1 (d) An estimate of the change in the frequency of the
2 targeted behavior expected from the rule.

3 (e) An identification of the businesses, groups, or
4 individuals who will be directly affected by, bear the cost of,
5 or directly benefit from the rule.

6 (f) An identification of any reasonable alternatives to
7 regulation pursuant to the proposed rule that would achieve the
8 same or similar goals.

9 (g) A discussion of the feasibility of establishing a
10 regulatory program similar to that proposed in the rule that
11 would operate through market-based mechanisms.

12 (h) An estimate of the cost of rule imposition on the agency
13 promulgating the rule.

14 (i) An estimate of the actual statewide compliance costs of
15 the proposed rule on individuals.

16 (j) An estimate of the actual statewide compliance costs of
17 the proposed rule on businesses and other groups.

18 (k) An identification of any disproportionate impact the
19 proposed rule may have on small businesses because of their
20 size.

21 (l) An identification of the nature of any report and the
22 estimated cost of its preparation by small business required to
23 comply with the proposed rule.

24 (m) An analysis of the costs of compliance for all small
25 businesses affected by the proposed rule, including costs of
26 equipment, supplies, labor, and increased administrative costs.

27 (n) An identification of the nature and estimated cost of any

1 legal consulting and accounting services that small businesses
2 would incur in complying with the proposed rule.

3 (o) An estimate of the ability of small businesses to absorb
4 the costs estimated under subdivisions (l) through (n) without
5 suffering economic harm and without adversely affecting
6 competition in the marketplace.

7 (p) An estimate of the cost, if any, to the agency of
8 administering or enforcing a rule that exempts or sets lesser
9 standards for compliance by small businesses.

10 (q) An identification of the impact on the public interest of
11 exempting or setting lesser standards of compliance for small
12 businesses.

13 (r) A statement describing the manner in which the agency
14 reduced the economic impact of the rule on small businesses or a
15 statement describing the reasons such a reduction was not
16 feasible.

17 (s) A statement describing whether and how the agency has
18 involved small businesses in the development of the rule.

19 (t) An estimate of the primary and direct benefits of the
20 rule.

21 (u) An estimate of any cost reductions to businesses,
22 individuals, groups of individuals, or governmental units as a
23 result of the rule.

24 (v) An estimate of any increase in revenues to state or local
25 governmental units as a result of the rule.

26 (w) An estimate of any secondary or indirect benefits of the
27 rule.

House Bill No. 5974 as amended June 23, 2004

1 (x) An identification of the sources the agency relied upon
2 in compiling the regulatory impact statement.

3 (y) Any impact of the rule upon a farm operation under the
4 Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

[(z) An estimate of the impact of the rules upon private property
rights.

5 (aa)] ~~(y)~~ Any other information required by the office of
6 regulatory reform.

7 (4) The agency shall electronically transmit the regulatory
8 impact statement required under subsection (3) to the office of
9 regulatory reform at least 28 days before the public hearing
10 required pursuant to section 42. Before the public hearing can
11 be held, the regulatory impact statement must be approved by the
12 office of regulatory reform. The agency shall also
13 electronically transmit a copy of the regulatory impact statement
14 to the committee before the public hearing and the agency shall
15 make copies available to the public at the public hearing.

16 (5) The committee shall electronically transmit to the senate
17 fiscal agency and the house fiscal agency a copy of each rule and
18 regulatory impact statement filed with the committee, as well as
19 a copy of the agenda identifying the proposed rules to be
20 considered by the committee. The senate fiscal agency and the
21 house fiscal agency shall analyze each proposed rule for possible
22 fiscal implications that, if the rule were adopted, would result
23 in additional appropriations in the current fiscal year or commit
24 the legislature to an appropriation in a future fiscal year. The
25 senate fiscal agency and the house fiscal agency shall
26 electronically report their findings to the senate and house
27 appropriations committees and to the committee before the date of

1 consideration of the proposed rule by the committee.

2 (6) Subsections (2), (3), and (4) do not apply to a rule that
3 is promulgated under sections 33, 44, and 48.