



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4240 (Substitute S-1 as reported)
House Bill 4326 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 4500 (Substitute H-2 as reported without amendment)
House Bill 4573 (Substitute S-1 as reported)
Sponsor: Representative Ken Goike (H.B. 4240)
Representative Jeff Farrington (H.B. 4326)
Representative Eileen Kowall (H.B. 4500)
Representative Gail Haines (H.B. 4573)
House Committee: Regulatory Reform
Senate Committee: Economic Development

CONTENT

The bills would amend the Administrative Procedures Act (APA) to revise provisions that govern the promulgation of administrative rules.

House Bill 4240 (S-1) would do the following:

- Specify that, except as otherwise provided by law, an operational memorandum, bulletin, interpretive statement, or form with instructions would not be enforceable by an agency, would be advisory only, and could not be given the force and effect of law.
- Specify that, except as otherwise provided by law, a court could not rely upon an operational memorandum, bulletin, interpretive statement, or form with instructions to uphold an agency decision to act or refuse to act.
- Prohibit a rule from exceeding the rule-making delegation in its authorizing statute.

House Bill 4326 (S-1) would prohibit an agency from promulgating or adopting a rule more stringent than the applicable Federal standard, unless specifically authorized by Michigan statute, except for an emergency rule. The bill would take effect on February 1, 2012.

House Bill 4500 (H-2) would do the following:

- Require an agency's annual regulatory plan to include rules the agency expected to review in the next year.
- Establish standards for a review of rules pursuant to the annual regulatory plan.
- Require each agency to provide a link on its website to the Office of Regulatory Reinvention (ORR) website.

House Bill 4573 (S-1) would do the following:

- Require an agency's request for rule-making to include the decision record of an advisory committee, if applicable.
- Specify that the ORR would not be required to approve a request for rule-making and could do so only after it had indicated that there were appropriate and necessary bases for approving the request.
- Require the ORR to issue a response to a request for rule-making that specifically addressed whether the request had appropriate and necessary bases for approval.

MCL 24.232 & 24.240 (H.B. 4240)
24.232 (H.B. 4326)
24.253 (H.B. 4500)
24.203 et al. (H.B. 4573)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Date Completed: 11-9-11

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.