

# HOUSE BILL No. 5672

May 19, 2016, Introduced by Reps. Hughes, Goike, Victory, Lauwers, Barrett and Cole and referred to the Committee on Oversight and Ethics.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 45a (MCL 24.245a), as amended by 2011 PA 245.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 45a. (1) Except as otherwise provided in subsections (7)  
2       to (9), after the committee has received the notice of transmittal  
3       specified in section 45(2), the committee has 15 session days in  
4       which to consider the rule and to object to the rule by ~~filing~~  
5       **APPROVING** a notice of objection ~~approved by a concurrent majority~~  
6       ~~of the committee members or~~ **AND FILING THE NOTICE AS PROVIDED IN**  
7       **SUBSECTION (3). ALTERNATIVELY,** the committee may, by concurrent  
8       majority, waive the remaining session days. If the committee waives  
9       the remaining session days, the clerk of the committee shall  
10      promptly notify the office of regulatory reinvention of the waiver  
11      by electronic transmission. ~~The~~ **TO APPROVE A NOTICE OF OBJECTION, A**

1 ~~CONCURRENT MAJORITY OF THE~~ committee ~~may only approve a notice of~~  
 2 ~~objection if the committee~~ **MUST** affirmatively ~~determines by a~~  
 3 ~~concurrent majority~~ **DETERMINE** that 1 or more of the following  
 4 conditions exist:

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

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

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

10 (d) The rule conflicts with state law.

11 (e) A substantial change in circumstances has occurred since  
 12 enactment of the law ~~upon~~ **ON** which the proposed rule is based.

13 (f) The rule is arbitrary or capricious.

14 (g) The rule is unduly burdensome to the public or to a  
 15 licensee licensed ~~by~~ **UNDER** the rule.

16 (2) If the committee does not ~~file~~ **APPROVE** a notice of  
 17 objection **UNDER SUBSECTION (1) AND FILE THE NOTICE AS PROVIDED IN**  
 18 **SUBSECTION (3)** within the ~~time~~ period prescribed in subsection (1)  
 19 or if the committee waives the remaining session days ~~by concurrent~~  
 20 ~~majority,~~ **UNDER SUBSECTION (1),** the office of regulatory  
 21 reinvention may immediately file the rule, with the certificate of  
 22 approval required under section 45(1), with the secretary of state.  
 23 The rule takes effect immediately ~~upon its filing~~ **ON BEING FILED**  
 24 with the secretary of state unless a later date is indicated ~~within~~  
 25 **IN** the rule.

26 (3) If the committee files **WITH THE OFFICE OF REGULATORY**  
 27 **REINVENTION** a notice of objection within the ~~time~~ period prescribed

1 in subsection (1), the committee chair, the alternate chair, or any  
 2 member of the committee shall cause bills to be introduced in both  
 3 houses of the legislature, simultaneously **TO THE EXTENT**  
 4 **PRACTICABLE**. Each house shall place the bill or bills directly on  
 5 its calendar. The bills ~~shall~~ **MUST** contain 1 or ~~more~~ **BOTH** of the  
 6 following:

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

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

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

12 (4) ~~The notice of objection filed under subsection (3) stays~~  
 13 ~~the ability of the office of regulatory reinvention to~~ **SHALL NOT**  
 14 ~~file the rule with the secretary of state~~ **A RULE AS TO WHICH A**  
 15 **NOTICE OF OBJECTION HAS BEEN FILED UNDER SUBSECTION (3)** until the  
 16 ~~earlier~~ **AFTER WHICHEVER** of the following **APPLIES**:

17 (a) ~~Fifteen~~ **UNLESS SUBDIVISION (B), (C), OR (D) APPLIES, 30**  
 18 session days after **THE DATE** the notice of objection is filed. ~~under~~  
 19 ~~subsection (3).~~

20 (b) The date of ~~the~~ **A** rescission of the ~~issuance of the~~ notice  
 21 of objection, ~~approved by a concurrent majority of the committee~~  
 22 ~~members. The~~ **AS PROVIDED IN THIS SUBDIVISION. UNLESS A CONCURRENT**  
 23 **MAJORITY OF THE COMMITTEE HAS VOTED IN FAVOR OF AN EXTENDED STAY**  
 24 **UNDER SUBDIVISION (C) OR BOTH HOUSES OF THE LEGISLATURE HAVE STAYED**  
 25 **THE EFFECTIVE DATE OF THE RULE UNDER SUBDIVISION (D), THE** committee  
 26 may ~~meet to rescind the issuance of the~~ **A** notice of objection.  
 27 ~~under this subdivision. If the committee rescinds the issuance of a~~

1 notice of objection, ~~under this subdivision,~~ the clerk of the  
 2 committee shall promptly notify the office of regulatory  
 3 reinvention by electronic transmission of the ~~recission~~-**RESCISSION**.

4 (C) IF A CONCURRENT MAJORITY OF THE COMMITTEE VOTES IN FAVOR,  
 5 1 YEAR AFTER THE DATE THE NOTICE OF OBJECTION IS FILED.

6 (D) IF A MAJORITY OF MEMBERS ELECTED AND SERVING IN BOTH  
 7 HOUSES OF THE LEGISLATURE APPROVE A RESOLUTION STAYING THE  
 8 EFFECTIVE DATE OF THE RULE UNDER THIS SUBDIVISION, 2 YEARS AFTER  
 9 THE DATE THE RESOLUTION IS APPROVED.

10 (5) If ~~the~~ legislation introduced under subsection (3) is  
 11 defeated in either house and if the vote by which the legislation  
 12 failed to pass is not reconsidered in compliance with the rules of  
 13 that house, or if legislation introduced under subsection (3) is  
 14 not adopted by both houses within the ~~time~~-**APPLICABLE** period  
 15 specified in subsection (4), the office of regulatory reinvention  
 16 may file the rule with the secretary of state. The rule takes  
 17 effect immediately ~~upon its filing~~-**ON BEING FILED** with the  
 18 secretary of state unless a later date is specified ~~within~~-**IN** the  
 19 rule.

20 (6) If ~~the~~ legislation introduced under subsection (3) is  
 21 enacted by the legislature and presented to the governor within the  
 22 ~~15-session day~~-**APPLICABLE** period **UNDER SUBSECTION (4)**, the rule  
 23 does not take effect unless the legislation is vetoed by the  
 24 governor as provided by law. If the governor vetoes the  
 25 legislation, the office of regulatory reinvention may file the rule  
 26 with the secretary of state immediately. The rule takes effect 7  
 27 days after the date ~~of its filing~~-**IT IS FILED** with the secretary of

1 state unless a later effective date is indicated ~~within~~**IN** the  
2 rule.

3 (7) An agency may withdraw a proposed rule under the following  
4 conditions:

5 (a) With permission of the committee chair and alternate  
6 chair, the agency may withdraw the rule and resubmit it. If  
7 permission to withdraw is granted, the 15-session-day ~~time~~-period  
8 described in subsection (1) is tolled until the rule is  
9 resubmitted. ~~, except that~~**HOWEVER**, the committee ~~shall~~**MUST** have  
10 at least 6 session days after resubmission to consider the  
11 resubmitted rule, **AND IF NECESSARY, THE PERIOD UNDER SUBSECTION (1)**  
12 **IS EXTENDED ACCORDINGLY.**

13 (b) Without permission of the committee chair and alternate  
14 chair, the agency may withdraw the rule and resubmit it. If  
15 permission to withdraw is not granted, a new and untolled 15-  
16 session-day ~~time~~-period described in subsection (1) ~~shall begin~~  
17 ~~upon~~**BEGINS ON** resubmission of the rule to the committee for  
18 consideration.

19 (8) Subsections (1) to (5) do not apply to rules adopted under  
20 sections 33, 44, and 48.

21 (9) An agency shall withdraw any rule pending before the  
22 committee at the final adjournment of a regular session held in an  
23 even-numbered year and resubmit ~~that~~**THE** rule. A new and untolled  
24 15-session-day ~~time~~-period described in subsection (1) ~~shall begin~~  
25 ~~upon~~**BEGINS ON** resubmission of the rule to the committee for  
26 consideration.

27 (10) As used in this section only, "session day" means a day

1 in which both the house of representatives and the senate convene  
2 in session and a quorum is recorded.

3 Enacting section 1. This amendatory act takes effect January  
4 1, 2017.