



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 13 (as discharged)
Sponsor: Senator Bill Hardiman
Committee: Government Operations and Reform

Date Completed: 6-16-09

RATIONALE

There is a concern that some administrative rules are unnecessarily burdensome, resulting in a negative impact on regulated industries and economic recovery. Typically, an administrative rule is a regulation, standard, policy, or ruling that implements or applies law enforced or administered by a State agency. Once it has been promulgated, an administrative rule has the force of law and is binding on the agency and the public at large. The Administrative Procedures Act governs the process for State agencies to promulgate rules. Among other things, an agency proposing a rule must submit a request for rule-making to the State Office of Administrative Rules and Hearings (SOAHR), prepare a regulatory impact statement, and hold a public hearing.

To address concerns about overregulation, it has been suggested that a regulatory impact statement should contain information about Federal standards and competition with the private sector, and that SOAHR should post information about proposed rules on its website.

CONTENT

The bill would amend the Administrative Procedures Act do the following:

- Require a regulatory impact statement to indicate whether a proposed rule would exceed existing Federal standards, and estimate whether the rule would allow a governmental agency to compete against the private sector.**
- Require SOAHR to post on its website information about**

administrative remedies or appeals, policy changes contained in a rule, and instructions regarding compliance.

Regulatory Impact Statement

The Act requires an agency, after proposing a rule, to prepare a regulatory impact statement and transmit it, along with copies of the rule and other items, to SOAHR and to the Joint Committee on Administrative Rules (JCAR). The agency also must make copies of the regulatory impact statement available to the public at a public hearing on the rule. The regulatory impact statement must contain information specified in the Act, including an identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule; an identification of any reasonable alternatives to regulation that would achieve the same or similar goals; estimates of the actual statewide compliance costs of the rule on individuals, businesses, and other groups; an identification of any disproportionate impact the rule may have on small businesses because of their size; and a comparison of the proposed rule to parallel Federal rules or standards.

Under the bill, the agency also would have to indicate whether the proposed rule exceeded any existing Federal standards. In addition, the regulatory impact statement would have to contain an estimate of whether implementation of the rule would allow any governmental agency to compete in the regulated activity against the private sector.

SOAHR Website Postings

The bill would require SOAHR to post on its website any rules transmitted to JCAR, clear instructions on any existing administrative remedies or appeals available to the public, a summary of the changes in policy contained in the rules, and any instructions regarding the method of complying with the rules. The posting would have to occur at least two business days after the transmittal.

The bill also would require SOAHR to post any rules filed with the Secretary of State and the effective date of the rules.

(Under the Act, JCAR may file notice of objection to a rule on specific grounds, and the Legislature may pass a bill to rescind a rule on its effective date, repeal the statutory provision that authorized the rule, or stay the rule's effective date for up to one year. To promulgate a rule, after the time periods for these actions have elapsed, SOAHR must file copies of the rule with the Secretary of State.)

MCL 24.245 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would help address concerns that administrative rules are overly stringent and make Michigan uncompetitive. By requiring a regulatory impact statement to indicate whether the proposed rule would exceed Federal standards, or allow government to compete with the private sector, the bill would bring this information to the attention of policy-makers and the public. The bill also would make the rules-promulgation process more transparent by requiring SOAHR to post information about administrative remedies and appeals, policy changes, and methods of compliance.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State government.

Fiscal Analyst: Bill Bowerman

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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.