



Rep. David S. Olsen

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LRB100 05286 RJF 22447 a

1 AMENDMENT TO HOUSE BILL 301

2 AMENDMENT NO. _____. Amend House Bill 301 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-40 as follows:

6 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

7 Sec. 5-40. General rulemaking.

8 (a) In all rulemaking to which Sections 5-45 and 5-50 do
9 not apply, each agency shall comply with this Section.

10 (b) Each agency shall give at least 45 days' notice of its
11 intended action to the general public. This first notice period
12 shall commence on the first day the notice appears in the
13 Illinois Register. The first notice shall include all the
14 following:

15 (1) The text of the proposed rule, the old and new
16 materials of a proposed amendment, or the text of the

1 provision to be repealed.

2 (2) The specific statutory citation upon which the
3 proposed rule, the proposed amendment to a rule, or the
4 proposed repeal of a rule is based and by which it is
5 authorized.

6 (3) A complete description of the subjects and issues
7 involved.

8 (3.5) A descriptive title or other description of any
9 published study or research report used in developing the
10 rule, the identity of the person who performed such study,
11 and a description of where the public may obtain a copy of
12 any such study or research report. If the study was
13 performed by an agency or by a person or entity that
14 contracted with the agency for the performance of the
15 study, the agency shall also make copies of the underlying
16 data available to members of the public upon request if the
17 data are not protected from disclosure under the Freedom of
18 Information Act.

19 (4) For all proposed rules and proposed amendments to
20 rules, an initial regulatory flexibility analysis
21 containing a description of the types of small businesses
22 subject to the rule; a brief description of the proposed
23 reporting, bookkeeping, and other procedures required for
24 compliance with the rule; and a description of the types of
25 professional skills necessary for compliance.

26 (5) The time, place, and manner in which interested

1 persons may present their views and comments concerning the
2 proposed rulemaking.

3 During the first notice period, the agency shall accept
4 from any interested persons data, views, arguments, or
5 comments. These may, in the discretion of the agency, be
6 submitted either orally or in writing or both. The notice
7 published in the Illinois Register shall indicate the manner
8 selected by the agency for the submissions. The agency shall
9 consider all submissions received.

10 The agency shall hold a public hearing on the proposed
11 rulemaking during the first notice period if (i) during the
12 first notice period, the agency finds that a public hearing
13 would facilitate the submission of views and comments that
14 might not otherwise be submitted or (ii) the agency receives a
15 request for a public hearing, within the first 14 days after
16 publication of the notice of proposed rulemaking in the
17 Illinois Register, from 25 interested persons, an association
18 representing at least 100 interested persons, the Governor, the
19 Joint Committee on Administrative Rules, or a unit of local
20 government that may be affected. If an agency finds that a
21 public hearing would facilitate the submission of views and
22 comments that might not otherwise be submitted, and decides to
23 hold a public hearing, the agency shall, in addition to the
24 required publication in the Illinois Register, post a link to
25 the information required under paragraphs (1) through (5) of
26 this subsection (b) on its Internet website. If an agency

1 decides not to initiate a public hearing, it shall post the
2 requirements to request a public hearing under this subsection
3 (b) on its Internet website, as well as a link to the
4 information required under paragraphs (1) through (5) of this
5 subsection (b). At the public hearing, the agency shall allow
6 interested persons to present views and comments on the
7 proposed rulemaking. A public hearing in response to a request
8 for a hearing may not be held less than 20 days after the
9 publication of the notice of proposed rulemaking in the
10 Illinois Register unless notice of the public hearing is
11 included in the notice of proposed rulemaking. A public hearing
12 on proposed rulemaking may not be held less than 5 days before
13 submission of the notice required under subsection (c) of this
14 Section to the Joint Committee on Administrative Rules. Each
15 agency may prescribe reasonable rules for the conduct of public
16 hearings on proposed rulemaking to prevent undue repetition at
17 the hearings. The hearings must be open to the public and
18 recorded by stenographic or mechanical means. At least one
19 agency representative shall be present during the hearing who
20 is qualified to respond to general questions from the public
21 regarding the agency's proposal and the rulemaking process.

22 (c) Each agency shall provide additional notice of the
23 proposed rulemaking to the Joint Committee on Administrative
24 Rules. The period commencing on the day written notice is
25 received by the Joint Committee shall be known as the second
26 notice period and shall expire 45 days thereafter unless before

1 that time the agency and the Joint Committee have agreed to
2 extend the second notice period beyond 45 days for a period not
3 to exceed an additional 45 days or unless the agency has
4 received a statement of objection from the Joint Committee or
5 notification from the Joint Committee that no objection will be
6 issued. The written notice to the Joint Committee shall include
7 (i) the text and location of any changes made to the proposed
8 rulemaking during the first notice period in a form prescribed
9 by the Joint Committee; (ii) for all proposed rules and
10 proposed amendments to rules, a final regulatory flexibility
11 analysis containing a summary of issues raised by small
12 businesses during the first notice period and a description of
13 actions taken on any alternatives to the proposed rule
14 suggested by small businesses during the first notice period,
15 including reasons for rejecting any alternatives not utilized;
16 and (iii) if a written request has been made by the Joint
17 Committee within 30 days after initial notice appears in the
18 Illinois Register under subsection (b) of this Section, an
19 analysis of the economic and budgetary effects of the proposed
20 rulemaking. After commencement of the second notice period, no
21 substantive change may be made to a proposed rulemaking unless
22 it is made in response to an objection or suggestion of the
23 Joint Committee. The agency shall also send a copy of the final
24 regulatory flexibility analysis to each small business that has
25 presented views or comments on the proposed rulemaking during
26 the first notice period and to any other interested person who

1 requests a copy. The agency may charge a reasonable fee for
2 providing the copies to cover postage and handling costs.

3 (d) After the expiration of the second notice period, after
4 notification from the Joint Committee that no objection will be
5 issued, or after a response by the agency to a statement of
6 objections issued by the Joint Committee, whichever is
7 applicable, the agency shall file, under Section 5-65, a
8 certified copy of each rule, modification, or repeal of any
9 rule adopted by it. The copy shall be published in the Illinois
10 Register. Each rule hereafter adopted under this Section is
11 effective upon filing unless a later effective date is required
12 by statute or is specified in the rulemaking.

13 (e) No rule or modification or repeal of any rule may be
14 adopted, or filed with the Secretary of State, more than one
15 year after the date the first notice period for the rulemaking
16 under subsection (b) commenced. Any period during which the
17 rulemaking is prohibited from being filed under Section 5-115
18 shall not be considered in calculating this one-year time
19 period.

20 (Source: P.A. 92-330, eff. 1-1-02.)".