

AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

Sec. 5-40. General rulemaking.

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

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

(1) The text of the proposed rule, the old and new materials of a proposed amendment, or the text of the provision to be repealed.

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

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

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

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

(5) The time, place, and manner in which interested persons may present their views and comments concerning the proposed rulemaking.

During the first notice period, the agency shall accept data, views, arguments, or comments from any interested persons. The agency shall accept submissions in writing, including submissions by email or by other publicly accessible electronic means through its website. In the discretion of the

agency, submissions may be submitted orally. The notice published in the Illinois Register shall indicate the manner selected by the agency for the submissions, including the email address or website address where submissions will be accepted. The agency shall consider all submissions received.

The agency shall hold a public hearing on the proposed rulemaking during the first notice period if (i) during the first notice period, the agency finds that a public hearing would facilitate the submission of views and comments that might not otherwise be submitted or (ii) the agency receives a request for a public hearing, within the first 14 days after publication of the notice of proposed rulemaking in the Illinois Register, from 25 interested persons, an association representing at least 100 interested persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government that may be affected. At the public hearing, the agency shall allow interested persons to present views and comments on the proposed rulemaking. A public hearing in response to a request for a hearing may not be held less than 20 days after the publication of the notice of proposed rulemaking in the Illinois Register unless notice of the public hearing is included in the notice of proposed rulemaking. A public hearing on proposed rulemaking may not be held less than 5 days before submission of the notice required under subsection (c) of this Section to the Joint Committee on Administrative Rules. Each agency may prescribe reasonable

rules for the conduct of public hearings on proposed rulemaking to prevent undue repetition at the hearings. The hearings must be open to the public and recorded by stenographic or mechanical means. At least one agency representative shall be present during the hearing who is qualified to respond to general questions from the public regarding the agency's proposal and the rulemaking process.

(c) Each agency shall provide additional notice of the proposed rulemaking to the Joint Committee on Administrative Rules. The period commencing on the day written notice is received by the Joint Committee shall be known as the second notice period and shall expire 45 days thereafter unless before that time the agency and the Joint Committee have agreed to extend the second notice period beyond 45 days for a period not to exceed an additional 45 days or unless the agency has received a statement of objection from the Joint Committee or notification from the Joint Committee that no objection will be issued. The written notice to the Joint Committee shall include (i) the text and location of any changes made to the proposed rulemaking during the first notice period in a form prescribed by the Joint Committee; (ii) for all proposed rules and proposed amendments to rules, a final regulatory flexibility analysis containing a summary of issues raised by small businesses during the first notice period and a description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first

notice period, including reasons for rejecting any alternatives not utilized; and (iii) if a written request has been made by the Joint Committee within 30 days after initial notice appears in the Illinois Register under subsection (b) of this Section, an analysis of the economic and budgetary effects of the proposed rulemaking. After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee. The agency shall also send a copy of the final regulatory flexibility analysis to each small business that has presented views or comments on the proposed rulemaking during the first notice period and to any other interested person who requests a copy. The agency may charge a reasonable fee for providing the copies to cover postage and handling costs.

(c-5) Notwithstanding the limitation in subsection (c), during the 45-day extension period, an agency and the Joint Committee may agree to a second extension of the second notice period for an additional period not to exceed 45 days.

(d) After the expiration of the second notice period, after notification from the Joint Committee that no objection will be issued, or after a response by the agency to a statement of objections issued by the Joint Committee, whichever is applicable, the agency shall file, under Section 5-65, a certified copy of each rule, modification, or repeal of any rule adopted by it. The copy shall be published in the

Illinois Register. Each rule hereafter adopted under this Section is effective upon filing unless a later effective date is required by statute or is specified in the rulemaking.

(e) No rule or modification or repeal of any rule may be adopted, or filed with the Secretary of State, more than one year after the date the first notice period for the rulemaking under subsection (b) commenced. Any period during which the rulemaking is prohibited from being filed under Section 5-115 shall not be considered in calculating this one-year time period. Additionally, a second extension period granted pursuant to subsection (c-5) shall not be considered in calculating this one-year time period.

(Source: P.A. 103-390, eff. 7-28-23.)

Section 99. Effective date. This Act takes effect upon becoming law.