



Sen. Bill Cunningham

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10400HB5130sam001

LRB104 19885 BDA 37791 a

1 AMENDMENT TO HOUSE BILL 5130

2 AMENDMENT NO. _____. Amend House Bill 5130 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
12 period shall commence on the first day the notice appears in
13 the 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1 provision to be repealed.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
17 the data are not protected from disclosure under the
18 Freedom of 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
25 of professional skills necessary for compliance.

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

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

3 During the first notice period, the agency shall accept
4 data, views, arguments, or comments from any interested
5 persons. The agency shall accept submissions in writing,
6 including submissions by email or by other publicly accessible
7 electronic means through its website. In the discretion of the
8 agency, submissions may be submitted orally. The notice
9 published in the Illinois Register shall indicate the manner
10 selected by the agency for the submissions, including the
11 email address or website address where submissions will be
12 accepted. The agency shall consider all submissions received.

13 The agency shall hold a public hearing on the proposed
14 rulemaking during the first notice period if (i) during the
15 first notice period, the agency finds that a public hearing
16 would facilitate the submission of views and comments that
17 might not otherwise be submitted or (ii) the agency receives a
18 request for a public hearing, within the first 14 days after
19 publication of the notice of proposed rulemaking in the
20 Illinois Register, from 25 interested persons, an association
21 representing at least 100 interested persons, the Governor,
22 the Joint Committee on Administrative Rules, or a unit of
23 local government that may be affected. At the public hearing,
24 the agency shall allow interested persons to present views and
25 comments on the proposed rulemaking. A public hearing in
26 response to a request for a hearing may not be held less than

1 20 days after the publication of the notice of proposed
2 rulemaking in the Illinois Register unless notice of the
3 public hearing is included in the notice of proposed
4 rulemaking. A public hearing on proposed rulemaking may not be
5 held less than 5 days before submission of the notice required
6 under subsection (c) of this Section to the Joint Committee on
7 Administrative Rules. Each agency may prescribe reasonable
8 rules for the conduct of public hearings on proposed
9 rulemaking to prevent undue repetition at the hearings. The
10 hearings must be open to the public and recorded by
11 stenographic or mechanical means. At least one agency
12 representative shall be present during the hearing who is
13 qualified to respond to general questions from the public
14 regarding the agency's proposal and the rulemaking process.

15 (c) Each agency shall provide additional notice of the
16 proposed rulemaking to the Joint Committee on Administrative
17 Rules. The period commencing on the day written notice is
18 received by the Joint Committee shall be known as the second
19 notice period and shall expire 45 days thereafter unless
20 before that time the agency and the Joint Committee have
21 agreed to extend the second notice period beyond 45 days for a
22 period not to exceed an additional 45 days or unless the agency
23 has received a statement of objection from the Joint Committee
24 or notification from the Joint Committee that no objection
25 will be issued. The written notice to the Joint Committee
26 shall include (i) the text and location of any changes made to

1 the proposed rulemaking during the first notice period in a
2 form prescribed by the Joint Committee; (ii) for all proposed
3 rules and proposed amendments to rules, a final regulatory
4 flexibility analysis containing a summary of issues raised by
5 small businesses during the first notice period and a
6 description of actions taken on any alternatives to the
7 proposed rule suggested by small businesses during the first
8 notice period, including reasons for rejecting any
9 alternatives not utilized; and (iii) if a written request has
10 been made by the Joint Committee within 30 days after initial
11 notice appears in the Illinois Register under subsection (b)
12 of this Section, an analysis of the economic and budgetary
13 effects of the proposed rulemaking. After commencement of the
14 second notice period, no substantive change may be made to a
15 proposed rulemaking unless it is made in response to an
16 objection or suggestion of the Joint Committee. The agency
17 shall also send a copy of the final regulatory flexibility
18 analysis to each small business that has presented views or
19 comments on the proposed rulemaking during the first notice
20 period and to any other interested person who requests a copy.
21 The agency may charge a reasonable fee for providing the
22 copies to cover postage and handling costs.

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

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

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

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

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