



Sen. Don Harmon

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LRB100 11133 RJF 26365 a

1 AMENDMENT TO HOUSE BILL 3222

2 AMENDMENT NO. _____. Amend House Bill 3222 on page 1,
3 immediately below line 21, by inserting the following:

4 "(5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)
5 Sec. 5-40. General rulemaking.

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

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

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15 provision to be repealed.

16 (2) The specific statutory citation upon which the
17 proposed rule, the proposed amendment to a rule, or the

1 proposed repeal of a rule is based and by which it is
2 authorized.

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

5 (3.5) A descriptive title or other description of any
6 published study or research report used in developing the
7 rule, the identity of the person who performed such study,
8 and a description of where the public may obtain a copy of
9 any such study or research report. If the study was
10 performed by an agency or by a person or entity that
11 contracted with the agency for the performance of the
12 study, the agency shall also make copies of the underlying
13 data available to members of the public upon request if the
14 data are not protected from disclosure under the Freedom of
15 Information Act.

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

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

26 During the first notice period, the agency shall accept

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

7 The agency shall hold a public hearing on the proposed
8 rulemaking during the first notice period if (i) during the
9 first notice period, the agency finds that a public hearing
10 would facilitate the submission of views and comments that
11 might not otherwise be submitted or (ii) the agency receives a
12 request for a public hearing, within the first 14 days after
13 publication of the notice of proposed rulemaking in the
14 Illinois Register, from 25 interested persons, an association
15 representing at least 100 interested persons, the Governor, the
16 Joint Committee on Administrative Rules, or a unit of local
17 government that may be affected. At the public hearing, the
18 agency shall allow interested persons to present views and
19 comments on the proposed rulemaking. A public hearing in
20 response to a request for a hearing may not be held less than
21 20 days after the publication of the notice of proposed
22 rulemaking in the Illinois Register unless notice of the public
23 hearing is included in the notice of proposed rulemaking. A
24 public hearing on proposed rulemaking may not be held less than
25 5 days before submission of the notice required under
26 subsection (c) of this Section to the Joint Committee on

1 Administrative Rules. Each agency may prescribe reasonable
2 rules for the conduct of public hearings on proposed rulemaking
3 to prevent undue repetition at the hearings. The hearings must
4 be open to the public and recorded by stenographic or
5 mechanical means. At least one agency representative shall be
6 present during the hearing who is qualified to respond to
7 general questions from the public regarding the agency's
8 proposal and the rulemaking process.

9 (b-5) When a statute includes a deadline for the adoption
10 of rules, if an agency fails to provide first notice of its
11 intended action before the deadline established in the statute
12 under which the agency is making the rule or rules in question,
13 then the Secretary or Director of that agency shall appear
14 before the Joint Committee on Administrative Rules on second
15 notice to explain that agency's failure to comply with the
16 deadline. When an agency is required to implement a statute
17 that does not provide a deadline by which the agency is
18 required to adopt rules, and the agency fails to give first
19 notice of its intended rulemaking within one year from the
20 effective date of the Act providing that authority, the
21 Secretary or Director of that agency shall appear before the
22 Joint Committee on Administrative Rules on second notice to
23 explain its failure to provide first notice within one year
24 from that effective date.

25 (c) Each agency shall provide additional notice of the
26 proposed rulemaking to the Joint Committee on Administrative

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

1 regulatory flexibility analysis to each small business that has
2 presented views or comments on the proposed rulemaking during
3 the first notice period and to any other interested person who
4 requests a copy. The agency may charge a reasonable fee for
5 providing the copies to cover postage and handling costs.

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

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

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