



Sen. Don Harmon

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LRB100 11133 RJF 26659 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15 provision to be repealed.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 Public Act includes a deadline for the  
10 adoption of rules, if an agency fails to provide first notice  
11 of its intended action before the deadline established in the  
12 Public Act under which the agency is making the rule or rules  
13 in question, then the Secretary, Director, or other chief  
14 executive officer of that agency shall appear, or in the case  
15 of a constitutional officer, that constitutional officer, or  
16 his or her designee, shall appear on behalf of the agency  
17 before the Joint Committee on Administrative Rules on second  
18 notice to explain that agency's failure to comply with the  
19 deadline. When an agency is required to implement a Public Act  
20 that does not provide a deadline by which the agency is  
21 required to adopt rules, and the agency fails to give first  
22 notice of its intended rulemaking within one year from the  
23 effective date of the Public Act to be implemented, the  
24 Secretary, Director, or other chief executive officer of that  
25 agency shall appear, or in the case of a constitutional  
26 officer, that constitutional officer, or his or her designee,

1 shall appear on behalf of the agency before the Joint Committee  
2 on Administrative Rules on second notice to explain that  
3 agency's failure to provide first notice within one year from  
4 that effective date.

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

1 Illinois Register under subsection (b) of this Section, an  
2 analysis of the economic and budgetary effects of the proposed  
3 rulemaking. After commencement of the second notice period, no  
4 substantive change may be made to a proposed rulemaking unless  
5 it is made in response to an objection or suggestion of the  
6 Joint Committee. The agency shall also send a copy of the final  
7 regulatory flexibility analysis to each small business that has  
8 presented views or comments on the proposed rulemaking during  
9 the first notice period and to any other interested person who  
10 requests a copy. The agency may charge a reasonable fee for  
11 providing the copies to cover postage and handling costs.

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

22 (e) No rule or modification or repeal of any rule may be  
23 adopted, or filed with the Secretary of State, more than one  
24 year after the date the first notice period for the rulemaking  
25 under subsection (b) commenced. Any period during which the  
26 rulemaking is prohibited from being filed under Section 5-115

1 shall not be considered in calculating this one-year time  
2 period.

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