



Sen. Sue Rezin

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1 AMENDMENT TO SENATE BILL 3672

2 AMENDMENT NO. _____. Amend Senate Bill 3672 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 1-5 as follows:

6 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

7 Sec. 1-5. Applicability.

8 (a) This Act applies to every agency as defined in this
9 Act. Beginning January 1, 1978, in case of conflict between the
10 provisions of this Act and the Act creating or conferring power
11 on an agency, this Act shall control. If, however, an agency
12 (or its predecessor in the case of an agency that has been
13 consolidated or reorganized) has existing procedures on July 1,
14 1977, specifically for contested cases or licensing, those
15 existing provisions control, except that this exception
16 respecting contested cases and licensing does not apply if the

1 Act creating or conferring power on the agency adopts by
2 express reference the provisions of this Act. Where the Act
3 creating or conferring power on an agency establishes
4 administrative procedures not covered by this Act, those
5 procedures shall remain in effect.

6 (b) The provisions of this Act do not apply to (i)
7 preliminary hearings, investigations, or practices where no
8 final determinations affecting State funding are made by the
9 State Board of Education, (ii) legal opinions issued under
10 Section 2-3.7 of the School Code, (iii) as to State colleges
11 and universities, their disciplinary and grievance
12 proceedings, academic irregularity and capricious grading
13 proceedings, and admission standards and procedures, and (iv)
14 the class specifications for positions and individual position
15 descriptions prepared and maintained under the Personnel Code.
16 Those class specifications shall, however, be made reasonably
17 available to the public for inspection and copying. The
18 provisions of this Act do not apply to hearings under Section
19 20 of the Uniform Disposition of Unclaimed Property Act.

20 (c) Section 5-35 of this Act relating to procedures for
21 rulemaking does not apply to the following:

22 (1) Rules adopted by the Pollution Control Board that,
23 in accordance with Section 7.2 of the Environmental
24 Protection Act, are identical in substance to federal
25 regulations or amendments to those regulations
26 implementing the following: Sections 3001, 3002, 3003,

1 3004, 3005, and 9003 of the Solid Waste Disposal Act;
2 Section 105 of the Comprehensive Environmental Response,
3 Compensation, and Liability Act of 1980; Sections 307(b),
4 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal
5 Water Pollution Control Act; ~~and~~ Sections 1412(b),
6 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking
7 Water Act; and Section 109 of the Clean Air Act.

8 (2) Rules adopted by the Pollution Control Board that
9 establish or amend standards for the emission of
10 hydrocarbons and carbon monoxide from gasoline powered
11 motor vehicles subject to inspection under the Vehicle
12 Emissions Inspection Law of 2005 or its predecessor laws.

13 (3) Procedural rules adopted by the Pollution Control
14 Board governing requests for exceptions under Section 14.2
15 of the Environmental Protection Act.

16 (4) The Pollution Control Board's grant, pursuant to an
17 adjudicatory determination, of an adjusted standard for
18 persons who can justify an adjustment consistent with
19 subsection (a) of Section 27 of the Environmental
20 Protection Act.

21 (5) Rules adopted by the Pollution Control Board that
22 are identical in substance to the regulations adopted by
23 the Office of the State Fire Marshal under clause (ii) of
24 paragraph (b) of subsection (3) of Section 2 of the
25 Gasoline Storage Act.

26 (6) Rules adopted by the Illinois Pollution Control

1 Board under Section 9.14 of the Environmental Protection
2 Act.

3 (d) Pay rates established under Section 8a of the Personnel
4 Code shall be amended or repealed pursuant to the process set
5 forth in Section 5-50 within 30 days after it becomes necessary
6 to do so due to a conflict between the rates and the terms of a
7 collective bargaining agreement covering the compensation of
8 an employee subject to that Code.

9 (e) Section 10-45 of this Act shall not apply to any
10 hearing, proceeding, or investigation conducted under Section
11 13-515 of the Public Utilities Act.

12 (f) Article 10 of this Act does not apply to any hearing,
13 proceeding, or investigation conducted by the State Council for
14 the State of Illinois created under Section 3-3-11.05 of the
15 Unified Code of Corrections or by the Interstate Commission for
16 Adult Offender Supervision created under the Interstate
17 Compact for Adult Offender Supervision or by the Interstate
18 Commission for Juveniles created under the Interstate Compact
19 for Juveniles.

20 (g) This Act is subject to the provisions of Article XXI of
21 the Public Utilities Act. To the extent that any provision of
22 this Act conflicts with the provisions of that Article XXI, the
23 provisions of that Article XXI control.

24 (Source: P.A. 97-95, eff. 7-12-11.)

25 Section 10. The Environmental Protection Act is amended by

1 changing Sections 7.2 and 10 as follows:

2 (415 ILCS 5/7.2) (from Ch. 111 1/2, par. 1007.2)

3 Sec. 7.2. Identical in substance rulemakings.

4 (a) In the context of a mandate that the Board adopt
5 regulations to secure federal authorization for a program,
6 regulations that are "identical in substance" means State
7 regulations which require the same actions with respect to
8 protection of the environment, by the same group of affected
9 persons, as would federal regulations if USEPA administered the
10 subject program in Illinois. After consideration of comments
11 from the USEPA, the Agency, the Attorney General and the
12 public, the Board shall adopt the verbatim text of such USEPA
13 regulations as are necessary and appropriate for authorization
14 of the program. In adopting "identical in substance"
15 regulations, the only changes that may be made by the Board to
16 the federal regulations are those changes that are necessary
17 for compliance with the Illinois Administrative Code, and
18 technical changes that in no way change the scope or meaning of
19 any portion of the regulations, except as follows:

20 (1) The Board shall not adopt the equivalent of USEPA
21 rules that are not applicable to persons or facilities in
22 Illinois, that govern the program authorization process,
23 that are appropriate only in USEPA-administered programs,
24 or that govern actions to be taken by USEPA, other federal
25 agencies or other states.

1 (2) The Board shall not adopt rules prescribing things
2 which are outside the Board's normal functions, such as
3 rules specifying staffing or funding requirements for
4 programs.

5 (3) If a USEPA rule prescribes the contents of a State
6 regulation without setting forth the regulation itself,
7 which would be an integral part of any regulation required
8 to be adopted as an "identical in substance" regulation as
9 defined in this Section, the Board shall adopt a regulation
10 as prescribed, to the extent possible consistent with other
11 relevant USEPA regulations and existing State law. The
12 Board may not use this subsection to adopt any regulation
13 which is a required rule as that term is defined by Section
14 28.2 of this Act. To the extent practicable, the Board in
15 its proposed and adopted opinion shall include its
16 rationale for adopting such regulation.

17 (4) Pursuant to subsection (a) of Section 5-75 of the
18 Illinois Administrative Procedure Act, the Board may
19 incorporate USEPA rules by reference where it is possible
20 to do so without causing confusion to the affected public.

21 (5) If USEPA intends to retain decision-making
22 authority for a portion of the program, the Board
23 regulation shall so specify. In addition, the Board
24 regulation shall specify whether a decision is to be made
25 by the Board, the Agency or some other State agency, based
26 upon the general division of functions within this Act and

1 other Illinois statutes.

2 (6) Wherever appropriate, the Board regulations shall
3 reflect any consistent, more stringent regulations adopted
4 pursuant to the rulemaking requirements of Title VII of
5 this Act and Section 5-35 of the Illinois Administrative
6 Procedure Act.

7 (7) The Board may correct apparent typographical and
8 grammatical errors in USEPA rules.

9 (b) In adopting regulations that are "identical in
10 substance" with specified federal regulations under subsection
11 (c) of Section 13, Section 13.3, Section 17.5, subsection (a)
12 or (d) of Section 22.4, subsection (a) of Section 22.7, or
13 subsection (a) of Section 22.40, subsection (H) of Section 10,
14 or specified federal determinations under subsection (e) of
15 Section 9.1, the Board shall complete its rulemaking
16 proceedings within one year after the adoption of the
17 corresponding federal rule. If the Board consolidates multiple
18 federal rulemakings into a single Board rulemaking, the
19 one-year period shall be calculated from the adoption date of
20 the federal rule first adopted among those consolidated. After
21 adopting an "identical in substance" rule, if the Board
22 determines that an amendment is needed to that rule, the Board
23 shall initiate a rulemaking proceeding to propose such
24 amendment. The amendment shall be adopted within one year of
25 the initiation of the Board's determination.

26 Additionally, if the Board, after adopting an "identical in

1 substance" rule, determines that a technical correction to that
2 rule is needed, the Board may initiate an application for
3 certification of correction under Section 5-85 of the Illinois
4 Administrative Procedure Act.

5 The one-year period may be extended by the Board for an
6 additional period of time if necessary to complete the
7 rulemaking proceeding. In order to extend the one-year period,
8 the Board must make a finding, based upon the record in the
9 rulemaking proceeding, that the one-year period is
10 insufficient for completion of the rulemaking, and such finding
11 shall specifically state the reasons for the extension. Except
12 as otherwise provided above, the Board must make the finding
13 that an extension of time is necessary prior to the expiration
14 of the initial one-year period, and must also publish a notice
15 of extension in the Illinois Register as expeditiously as
16 practicable following its decision, stating the specific
17 reasons for the Board's decision to extend. The notice of
18 extension need not appear in the Illinois Register prior to the
19 expiration of the initial one year period and shall specify a
20 date certain by which the Board anticipates completion of the
21 rulemaking, except that if a date certain cannot be specified
22 because of a need to delay adoption pending occurrence of an
23 event beyond the Board's control, the notice shall specify the
24 event, explain its circumstances, and contain an estimate of
25 the amount of time needed to complete the rulemaking after the
26 occurrence of the specified event.

1 (Source: P.A. 87-830; 88-45; 88-496.)

2 (415 ILCS 5/10) (from Ch. 111 1/2, par. 1010)

3 Sec. 10. Regulations.

4 (A) The Board, pursuant to procedures prescribed in Title
5 VII of this Act, may adopt regulations to promote the purposes
6 of this Title. Without limiting the generality of this
7 authority, such regulations may among other things prescribe:

8 (a) (Blank); ~~Ambient air quality standards specifying~~
9 ~~the maximum permissible short term and long term~~
10 ~~concentrations of various contaminants in the atmosphere;~~

11 (b) Emission standards specifying the maximum amounts
12 or concentrations of various contaminants that may be
13 discharged into the atmosphere;

14 (c) Standards for the issuance of permits for
15 construction, installation, or operation of any equipment,
16 facility, vehicle, vessel, or aircraft capable of causing
17 or contributing to air pollution or designed to prevent air
18 pollution;

19 (d) Standards and conditions regarding the sale,
20 offer, or use of any fuel, vehicle, or other article
21 determined by the Board to constitute an air-pollution
22 hazard;

23 (e) Alert and abatement standards relative to
24 air-pollution episodes or emergencies constituting an
25 acute danger to health or to the environment;

1 (f) Requirements and procedures for the inspection of
2 any equipment, facility, vehicle, vessel, or aircraft that
3 may cause or contribute to air pollution;

4 (g) Requirements and standards for equipment and
5 procedures for monitoring contaminant discharges at their
6 sources, the collection of samples and the collection,
7 reporting and retention of data resulting from such
8 monitoring.

9 (B) The Board may adopt regulations and emission standards
10 that are applicable or that may become applicable to stationary
11 emission sources located in all areas of the State in
12 accordance with any of the following:

13 (1) that are required by federal law;

14 (2) that are otherwise part of the State's attainment
15 plan and are necessary to attain the national ambient air
16 quality standards; or

17 (3) that are necessary to comply with the requirements
18 of the federal Clean Air Act.

19 (C) The Board may not adopt any regulation banning the
20 burning of landscape waste throughout the State generally. The
21 Board may, by regulation, restrict or prohibit the burning of
22 landscape waste within any geographical area of the State if it
23 determines based on medical and biological evidence generally
24 accepted by the scientific community that such burning will
25 produce in the atmosphere of that geographical area
26 contaminants in sufficient quantities and of such

1 characteristics and duration as to be injurious to humans,
2 plant, or animal life, or health.

3 (D) The Board shall adopt regulations requiring the owner
4 or operator of a gasoline dispensing system that dispenses more
5 than 10,000 gallons of gasoline per month to install and
6 operate a system for the recovery of gasoline vapor emissions
7 arising from the fueling of motor vehicles that meets the
8 requirements of Section 182 of the federal Clean Air Act (42
9 USC 7511a). These regulations shall apply only in areas of the
10 State that are classified as moderate, serious, severe or
11 extreme nonattainment areas for ozone pursuant to Section 181
12 of the federal Clean Air Act (42 USC 7511), but shall not apply
13 in such areas classified as moderate nonattainment areas for
14 ozone if the Administrator of the U.S. Environmental Protection
15 Agency promulgates standards for vehicle-based (onboard)
16 systems for the control of vehicle refueling emissions pursuant
17 to Section 202(a)(6) of the federal Clean Air Act (42 USC
18 7521(a)(6)) by November 15, 1992.

19 (E) The Board shall not adopt or enforce any regulation
20 requiring the use of a tarpaulin or other covering on a truck,
21 trailer, or other vehicle that is stricter than the
22 requirements of Section 15-109.1 of the Illinois Vehicle Code.
23 To the extent that it is in conflict with this subsection, the
24 Board's rule codified as 35 Ill. Admin. Code, Section 212.315
25 is hereby superseded.

26 (F) Any person who prior to June 8, 1988, has filed a

1 timely Notice of Intent to Petition for an Adjusted RACT
2 Emissions Limitation and who subsequently timely files a
3 completed petition for an adjusted RACT emissions limitation
4 pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be
5 subject to the procedures contained in Subpart I but shall be
6 excluded by operation of law from 35 Ill. Adm. Code, Part 215,
7 Subparts PP, QQ and RR, including the applicable definitions in
8 35 Ill. Adm. Code, Part 211. Such persons shall instead be
9 subject to a separate regulation which the Board is hereby
10 authorized to adopt pursuant to the adjusted RACT emissions
11 limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I.
12 In its final action on the petition, the Board shall create a
13 separate rule which establishes Reasonably Available Control
14 Technology (RACT) for such person. The purpose of this
15 procedure is to create separate and independent regulations for
16 purposes of SIP submittal, review, and approval by USEPA.

17 (G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code,
18 Sections 218.720 through 218.730 and Sections 219.720 through
19 219.730, are hereby repealed by operation of law and are
20 rendered null and void and of no force and effect.

21 (H) In accordance with subsection (b) of Section 7.2, the
22 Board shall adopt ambient air quality standards specifying the
23 maximum permissible short-term and long-term concentrations of
24 various contaminants in the atmosphere; those standards shall
25 be identical in substance to the national ambient air quality
26 standards promulgated by the Administrator of the United States

1 Environmental Protection Agency in accordance with Section 109
2 of the Clean Air Act. The Board may consolidate into a single
3 rulemaking under this subsection all such federal regulations
4 adopted within a period of time not to exceed 6 months. The
5 provisions and requirements of Title VII of this Act and
6 Section 5-35 of the Illinois Administrative Procedure Act,
7 relating to procedures for rulemaking, shall not apply to
8 identical in substance regulations adopted pursuant to this
9 subsection. However, the Board shall provide for notice and
10 public comment before adopted rules are filed with the
11 Secretary of State. Nothing in this subsection shall be
12 construed to limit the right of any person to submit a proposal
13 to the Board, or the authority of the Board to adopt, air
14 quality standards more stringent than the standards
15 promulgated by the Administrator, pursuant to the rulemaking
16 requirements of Title VII of this Act and Section 5-35 of the
17 Illinois Administrative Procedure Act.

18 (Source: P.A. 95-460, eff. 8-27-07.)

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