

1 AN ACT concerning administrative procedure.

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

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 5-40, 5-100, 5-110, 5-115,
6 5-120, and 5-125 as follows:

7 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

8 Sec. 5-40. General rulemaking.

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

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

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18 provision to be repealed.

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

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

25 (3.5) A descriptive title or other description of
26 any published study or research report used in developing
27 the rule, the identity of the person who performed such
28 study, and a description of where the public may obtain a
29 copy of any such study or research report. If the study
30 was performed by an agency or by a person or entity that
31 contracted with the agency for the performance of the

1 study, the agency shall also make copies of the
2 underlying data available to members of the public upon
3 request if the data are not protected from disclosure
4 under the Freedom of Information Act.

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

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

15 During the first notice period, the agency shall accept
16 from any interested persons data, views, arguments, or
17 comments. These may, in the discretion of the agency, be
18 submitted either orally or in writing or both. The notice
19 published in the Illinois Register shall indicate the manner
20 selected by the agency for the submissions. The agency shall
21 consider all submissions received.

22 The agency shall hold a public hearing on the proposed
23 rulemaking during the first notice period if (i) during the
24 first notice period, the agency finds that a public hearing
25 would facilitate the submission of views and comments that
26 might not otherwise be submitted or (ii) the agency receives
27 a request for a public hearing, within the first 14 days
28 after publication of the notice of proposed rulemaking in the
29 Illinois Register, from 25 interested persons, an association
30 representing at least 100 interested persons, the Governor,
31 the Joint Committee on Administrative Rules, or a unit of
32 local government that may be affected. At the public
33 hearing, the agency shall allow interested persons to present
34 views and comments on the proposed rulemaking. A public

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

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

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

16 (d) After the expiration of the second notice period,
17 the agency shall submit its final proposed rule, amendment to
18 a rule, or repeal of a rule to the Joint Committee. If the
19 Joint Committee and the General Assembly approve the rule,
20 amendment to a rule, or repeal of a rule as provided in
21 subsection (b) of Section 5-110, after-notification-from--the
22 ~~Joint--Committee-that-no-objection-will-be-issued, or after a~~
23 ~~response-by-the-agency-to-a-statement-of-objections-issued-by~~
24 ~~the-Joint-Committee,--whichever--is--applicable,~~ the agency
25 shall file, under Section 5-65, a certified copy of the each
26 rule, amendment to a rule modification, or repeal of a any
27 rule adopted--by--it. The copy shall be published in the
28 Illinois Register. Each rule hereafter adopted under this
29 Section is effective upon filing unless a later effective
30 date is required by statute or is specified in the
31 rulemaking.

32 (e) No rule or modification or repeal of any rule may be
33 adopted, or filed with the Secretary of State, more than one
34 year after the date the first notice period for the

1 rulemaking under subsection (b) commenced. ~~Any period during~~
 2 ~~which the rulemaking is prohibited from being filed under~~
 3 ~~Section 5-115 shall not be considered in calculating this~~
 4 ~~one-year time period.~~

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

6 (5 ILCS 100/5-100) (from Ch. 127, par. 1005-100)

7 Sec. 5-100. Powers of the Joint Committee. The Joint
 8 Committee shall have the following powers under this Act:

9 (a) The function of the Joint Committee shall be the
 10 promotion of adequate and proper rules by agencies and an
 11 understanding on the part of the public respecting those
 12 rules. This function shall be advisory only, except as
 13 provided otherwise in this Act. ~~in Sections 5-115 and 5-125.~~

14 (b) The Joint Committee may undertake studies and
 15 investigations concerning rulemaking and agency rules.

16 (c) The Joint Committee shall monitor and investigate
 17 agencies' compliance with the provisions of this Act, make
 18 periodic investigations of the rulemaking activities of all
 19 agencies, and evaluate and report on all rules in terms of
 20 their propriety, legal adequacy, relation to statutory
 21 authorization, economic and budgetary effects, and public
 22 policy.

23 (d) Hearings and investigations conducted by the Joint
 24 Committee under this Act may be held at times and places
 25 within the State as the Committee deems necessary.

26 (e) The Joint Committee may request from any agency an
 27 analysis of the following:

28 (1) The effect of a new rule, amendment, or
 29 repealer, including any direct economic effect on the
 30 persons regulated by the rule; any anticipated effect on
 31 the proposing agency's budget and the budgets of other
 32 State agencies; and any anticipated effects on State
 33 revenues.

1 (2) The agency's evaluation of the submissions
2 presented to the agency under Section 5-40.

3 (3) (Blank.) ~~A--description--of--any--modifications~~
4 ~~from--the--initially--published--proposal--made--in--the--finally~~
5 ~~accepted--version--of--the--intended--rule,--amendment,--or~~
6 ~~repealer.~~

7 (4) The agency's justification and rationale for
8 the intended rule, amendment, or repealer.

9 ~~(f)--Failure--of--the--Joint--Committee--to--object--to--any~~
10 ~~proposed--rule,--amendment,--or--repealer--or--any--existing--rule~~
11 ~~shall--not--be--construed--as--implying--direct--or--indirect~~
12 ~~approval--of--the--rule--or--proposed--rule,--amendment,--or--repealer~~
13 ~~by--the--Joint--Committee--or--the--General--Assembly.~~

14 (Source: P.A. 87-823.)

15 (5 ILCS 100/5-110) (from Ch. 127, par. 1005-110)

16 Sec. 5-110. Responsibilities of the Joint Committee with
17 respect to proposed rules, amendments, or repealers.

18 (a) The Joint Committee shall examine any proposed rule,
19 amendment to a rule, and repeal of a rule to determine
20 whether the proposed rule, amendment to a rule, or repeal of
21 a rule is within the statutory authority upon which it is
22 based; whether the rule, amendment to a rule, or repeal of a
23 rule is in proper form; and whether the notice was given
24 before its adoption, amendment, or repeal and was sufficient
25 to give adequate notice of the purpose and effect of the
26 rule, amendment, or repeal. In addition, the Joint Committee
27 may consider whether the agency has considered alternatives
28 to the rule that are consistent with the stated objectives of
29 both the applicable statutes and regulations and whether the
30 rule is designed to minimize economic impact on small
31 businesses.

32 (b) The Joint Committee shall vote upon each rule,
33 amendment to a rule, and repeal of a rule proposed by an

1 agency exercising its general rulemaking authority under
2 Section 5-40. If the Joint Committee approves a rule,
3 amendment to a rule, or repeal of a rule by a majority vote,
4 the Joint Committee shall have prepared and introduced in
5 either house of the General Assembly a joint resolution
6 setting forth the proposed rule, amendment to a rule, or
7 repeal of a rule. No rule, amendment to a rule, or repeal of
8 a rule may be adopted by an agency or filed with or published
9 by the Secretary of State unless it is approved by the
10 General Assembly by passage of the joint resolution. If--the
11 Joint--Committee--objects--to-a-proposed-rule,--amendment-to-a
12 rule,--or-repeal-of-a-rule,--it-shall-certify-the-fact--to--the
13 issuing-agency-and-include-with-the-certification-a-statement
14 of-its-specific-objections.

15 (c) (Blank.) If--within--the--second--notice-period-the
16 Joint-Committee--certifies--its--objections--to--the--issuing
17 agency,--then-that-agency-shall-do-one-of-the-following-within
18 90-days-after-receiving-the-statement-of-objection:

19 (1)--Modify--the--proposed--rule,--amendment,--or
20 repealer-to-meet-the-Joint-Committee's-objections.

21 (2)--Withdraw--the--proposed--rule,--amendment,--or
22 repealer-in-its-entirety.

23 (3)--Refuse-to-modify-or-withdraw-the-proposed-rule,
24 amendment,--or-repealer.

25 (d) (Blank.) If--an--agency-elects-to-modify-a-proposed
26 rule,--amendment,--or-repealer-to-meet--the--Joint--Committee's
27 objections,--it--shall--make--these--modifications--that--are
28 necessary-to-meet-the-objections-and-shall-resubmit-the-rule,
29 amendment,--or--repealer-to-the-Joint-Committee.-In-addition,
30 the-agency-shall-submit-a-notice-of-its--election--to--modify
31 the--proposed--rule,--amendment,--or-repealer-to-meet-the-Joint
32 Committee's-objections-to-the-Secretary--of--State,--and--the
33 notice-shall-be-published-in-the-first-available-issue-of-the
34 Illinois--Register,--but--the-agency-shall-not-be-required-to

1 conduct a public hearing. If the Joint Committee determines
2 that the modifications do not remedy the Joint Committee's
3 objections, it shall so notify the agency in writing and
4 shall submit a copy of that notification to the Secretary of
5 State for publication in the next available issue of the
6 Illinois Register. In addition, the Joint Committee may
7 recommend legislative action as provided in subsection (g)
8 for agency refusals.

9 (e) If an agency elects to withdraw a proposed rule,
10 amendment, or repealer as a result of the Joint Committee's
11 objections, it shall notify the Joint Committee in writing of
12 its election and shall submit a notice of the withdrawal to
13 the Secretary of State. The notice shall be published in the
14 next available issue of the Illinois Register.

15 (f) Failure of an agency to respond to the Joint
16 Committee's objections to a proposed rule, amendment, or
17 repealer within the time prescribed in subsection (e) shall
18 constitute withdrawal of the proposed rule, amendment, or
19 repealer in its entirety. The Joint Committee shall submit a
20 notice to that effect to the Secretary of State, and the
21 notice shall be published in the next available issue of the
22 Illinois Register. The Secretary of State shall refuse to
23 accept for filing a certified copy of the proposed rule,
24 amendment, or repealer under the provisions of Section 5-65.

25 (g) If an agency refuses to modify or withdraw the
26 proposed rule, amendment, or repealer to remedy an objection
27 stated by the Joint Committee, it shall notify the Joint
28 Committee in writing of its refusal and shall submit a notice
29 of refusal to the Secretary of State. The notice shall be
30 published in the next available issue of the Illinois
31 Register. If the Joint Committee decides to recommend
32 legislative action in response to an agency refusal, then the
33 Joint Committee shall have drafted and introduced into either
34 house of the General Assembly appropriate legislation to

1 implement-the-recommendations-of-the-Joint-Committee.

2 (h)--No--rule,--amendment,--or--repeal-of-a-rule-shall-be
3 accepted-by-the-Secretary-of-State-for-filing--under--Section
4 5-65,--if--the--rulemaking--is-subject-to-this-Section,--until
5 after-the-agency-has-responded-to-the-objections-of-the-Joint
6 Committee-as-provided-in-this-Section.

7 (Source: P.A. 90-372, eff. 7-1-98.)

8 (5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)
9 Sec. 5-115. Other action by the Joint Committee.

10 (a) If the Joint Committee determines that the adoption
11 and effectiveness of a proposed rule, amendment, or repealer
12 or portion of a proposed rule, amendment, or repealer by an
13 agency would be objectionable under any of the standards for
14 the Joint Committee's review specified in Section 5-100,
15 5-105, 5-110, 5-120, or 5-130 and would constitute a serious
16 threat to the public interest, safety, or welfare, the Joint
17 Committee must disapprove the proposal as provided in
18 subsection (b) of Section 5-110. may--issue--a--statement--to
19 that--effect-at-any-time-before-the-proposed-rule,--amendment,
20 or-repealer-takes-effect.--The-statement-may-be-issued-by-the
21 Joint--Committee---only--upon---the---affirmative---vote---of
22 three-fifths-of-the-members-appointed-to-the-Joint-Committee.
23 A-certified-copy-of-the-statement-shall-be-transmitted-to-the
24 proposing---agency---and---to--the--Secretary--of--State--for
25 publication-in-the--next--available--issue--of--the--Illinois
26 Register.

27 (b)--The--proposed--rule,--amendment,--or--repealer-or-the
28 portion-of-the-proposed-rule,--amendment,--or--repealer-to-which
29 the-Joint-Committee-has-issued-a-statement--under--subsection
30 (a)--shall--not--be--accepted--for-filing-by-the-Secretary-of
31 State-nor-take-effect-for-at-least-180-days-after-receipt--of
32 the--statement-by-the-Secretary-of-State.--The-agency-may-not
33 enforce-or-invoke-for-any-reason-a-proposed-rule,--amendment,

1 or--repealer--or--any-portion--thereof--that--is--prohibited--from
2 being--filed--by--this--subsection--during--this--180--day--period.

3 (c)--The--Joint--Committee--shall,--as--soon--as--practicable
4 after--the--issuance--of--a--statement--under--subsection--(a),
5 introduce--in--either--house--of--the--General--Assembly--a--joint
6 resolution--stating--that--the--General--Assembly--desires--to
7 continue--the--prohibition--against--the--proposed--rule,
8 amendment,
9 or--repealer--or--the--portion--thereof--to--which--the
10 statement--was--issued--being--filed--and--taking--effect.--The--joint
11 resolution--shall,--immediately--following--its--first--reading,
12 be--placed--on--the--calendar--for--consideration--in--each--house--of--the
13 General--Assembly--without--reference--to--a--standing--committee.
14 If--the--joint--resolution--is--passed--by--both--houses--of--the
15 General--Assembly--within--the--180--day--period--provided--in
16 subsection--(b),
17 the--agency--shall--be--prohibited--from--filing
18 the--proposed--rule,
19 amendment,
20 or--repealer--or--the--portion
21 thereof--and--the--proposed--rule,
22 amendment,
23 or--repealer--or--the
24 portion--thereof--shall--not--take--effect.--The--Secretary--of
25 State--shall--not--accept--for--filing--the--proposed--rule,
26 amendment,
27 or--repealer--or--the--portion--thereof--that--the
28 General--Assembly--has--prohibited--the--agency--from--filing--as
29 provided--in--this--subsection.--If--the--180--day--period--provided
30 in--subsection--(b)--expires--before--passage--of--the--joint
31 resolution,
32 the--agency--may--file--the--proposed--rule,
33 amendment,
34 or--repealer--or--the--portion--thereof--as--adopted--and--it--shall
35 take--effect.

(Source: P.A. 87-823; 88-667, eff. 9-16-94.)

(5 ILCS 100/5-120) (from Ch. 127, par. 1005-120)

29 Sec. 5-120. Responsibilities of the Joint Committee with
30 respect to emergency, peremptory, and other existing rules.

31 (a) The Joint Committee may examine any rule to
32 determine whether the rule is within the statutory authority
33 upon which it is based and whether the rule is in proper

1 form.

2 (b) -- If the Joint Committee objects to a rule, it shall,
3 within 5 days of the objection, certify the fact to the
4 adopting agency and include within the certification a
5 statement of its specific objections.

6 (c) -- Within 90 days after receiving the certification,
7 the agency shall do one of the following:

8 (1) -- Notify the Joint Committee that it has elected
9 to amend the rule to meet the Joint Committee's
10 objection.

11 (2) -- Notify the Joint Committee that it has elected
12 to repeal the rule.

13 (3) -- Notify the Joint Committee that it refuses to
14 amend or repeal the rule.

15 (d) -- If the agency elects to amend a rule to meet the
16 Joint Committee's objections, it shall notify the Joint
17 Committee in writing and shall initiate rulemaking procedures
18 for that purpose by giving notice as required by Section
19 5-35. The Joint Committee shall give priority to rules so
20 amended when setting its agenda.

21 (e) -- If the agency elects to repeal a rule as a result of
22 the Joint Committee's objections, it shall notify the Joint
23 Committee in writing of its election and shall initiate
24 rulemaking procedures for that purpose by giving notice as
25 required by Section 5-35.

26 (f) -- If the agency elects to amend or repeal a rule as a
27 result of the Joint Committee's objections, it shall complete
28 the process within 180 days after giving notice in the
29 Illinois Register.

30 (g) -- Failure of the agency to respond to the Joint
31 Committee's objections to a rule within the time prescribed
32 in subsection (c) shall constitute a refusal to amend or
33 repeal the rule.

34 (h) -- If an agency refuses to amend or repeal a rule to

1 remedy--an--objection--stated--by--the--Joint--Committee,--it--shall
2 notify--the--Joint--Committee--in--writing--of--its--refusal--and
3 shall--submit--a--notice--of--refusal--to--the--Secretary--of--State.
4 The--notice--shall--be--published--in--the--next--available--issue--of
5 the--Illinois--Register.--If--the--Joint--Committee,--in--response--to
6 an--agency--refusal,--decides--to--recommend--legislative--action,
7 then--the--Joint--Committee--shall--have--drafted--and--introduced
8 into--either--house--of--the--General--Assembly--appropriate
9 legislation--to--implement--the--recommendations--of--the--Joint
10 Committee.

11 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)

12 (5 ILCS 100/5-125) (from Ch. 127, par. 1005-125)

13 Sec. 5-125. Other Joint Committee action with respect to
14 emergency or peremptory rulemaking.

15 (a) If the Joint Committee determines that a rule or
16 portion of a rule adopted under Section 5-45 or 5-50 is
17 objectionable under any of the standards for the Joint
18 Committee's review specified in Section 5-100, 5-105, 5-110,
19 5-120, or 5-130 and constitutes a serious threat to the
20 public interest, safety, or welfare, the Joint Committee
21 shall by majority vote disapprove the rule or portion of the
22 rule. may--issue--a--statement--to--that--effect.--The--statement--may
23 be--issued--by--the--Joint--Committee--only--upon--the--affirmative
24 vote--of--three-fifths--of--the--members--appointed--to--the--Joint
25 Committee.--A--certified--copy--of--the--statement--shall--be
26 transmitted--to--the--affected--agency--and--to--the--Secretary--of
27 State--for--publication--in--the--next--available--issue--of--the
28 Illinois--Register.--Within--30--days--of--transmittal--of--the
29 statement--to--the--agency,--the--agency--shall--notify--the--Joint
30 Committee--in--writing--whether--it--has--elected--to--repeal--or
31 amend--the--rule.--Failure--of--the--agency--to--notify--the--Joint
32 Committee--and--Secretary--of--State--within--30--days--constitutes--a
33 decision--by--the--agency--to--not--repeal--the--rule.

1 (b) -- The effectiveness of the rule or the portion of a
2 rule shall be suspended immediately for at least 180 days
3 upon receipt of the certified statement by the Secretary of
4 State. -- The Secretary of State shall indicate the suspension
5 prominently and clearly on the face of the affected rule or
6 the portion of a rule filed in the Office of the Secretary of
7 State. -- Rules or portions of rules suspended under this
8 subsection shall become effective again upon the expiration
9 of 180 days from receipt of the statement by the Secretary of
10 State if the General Assembly does not continue the
11 suspension under subsection (c). -- The agency may not enforce,
12 or invoke for any reason, a rule or portion of a rule that
13 has been suspended under this subsection. -- During the 180-day
14 period, the agency may not file, nor may the Secretary of
15 State accept for filing, any rule having substantially the
16 same purpose and effect as rules or portions of rules
17 suspended under this subsection.

18 (e) The Joint Committee shall, as soon as practicable
19 after its vote the issuance of a statement under subsection
20 (a), cause to be introduced in either house of the General
21 Assembly a joint resolution stating that the General Assembly
22 desires to suspend the continue the suspension of
23 effectiveness of the a rule or the portion of the rule to
24 which the statement was issued. The joint resolution shall
25 immediately following its first reading be placed on the
26 calendar for consideration in each house of the General
27 Assembly without reference to a standing committee. If the
28 joint resolution is passed by both houses of the General
29 Assembly within the 180-day period provided in subsection
30 (b), the rule or the portion of the rule shall be considered
31 repealed and the Secretary of State shall immediately remove
32 the rule or portion of a rule from the collection of
33 effective rules.

34 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)

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