

1 AN ACT in relation to the legislature.

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 and reenacting Sections 5-115, 5-120, and
6 5-125 and validating all actions taken thereunder as follows:

7 (5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

8 Sec. 5-115. Other action by the Joint Committee.

9 (a) If the Joint Committee determines that the adoption and
10 effectiveness of a proposed rule, amendment, or repealer or
11 portion of a proposed rule, amendment, or repealer by an agency
12 would be objectionable under any of the standards for the Joint
13 Committee's review specified in Section 5-100, 5-105, 5-110,
14 5-120, or 5-130 and would constitute a serious threat to the
15 public interest, safety, or welfare, the Joint Committee may
16 issue a statement to that effect at any time before the
17 proposed rule, amendment, or repealer takes effect. The
18 statement may be issued by the Joint Committee only upon the
19 affirmative vote of three-fifths of the members appointed to
20 the Joint Committee. The Joint Committee, however, may withdraw
21 a statement within 180 days after it is issued upon the
22 affirmative vote of a majority of the members appointed to the
23 Joint Committee. A certified copy of each statement and
24 withdrawal shall be transmitted to the proposing agency and to
25 the Secretary of State for publication in the next available
26 issue of the Illinois 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 (a)
30 shall not be accepted for filing by the Secretary of State and
31 shall not ~~not~~ take effect unless the statement is withdrawn or
32 a joint resolution is passed as provided in subsection (c). The

1 agency may not enforce or invoke for any reason a proposed
2 rule, amendment, or repealer or any portion thereof that is
3 prohibited from being filed by this subsection.

4 (c) After the issuance of a statement under subsection (a),
5 any member of the General Assembly may introduce in the General
6 Assembly a joint resolution stating that the General Assembly
7 desires to discontinue the prohibition against the proposed
8 rule, amendment, or repealer or the portion thereof to which
9 the statement was issued being filed and taking effect. If the
10 joint resolution is not passed by both houses of the General
11 Assembly within 180 days after receipt of the statement by the
12 Secretary of State or the statement is not withdrawn as
13 provided in subsection (a), the agency shall be prohibited from
14 filing the proposed rule, amendment, or repealer or the portion
15 thereof and the proposed rule, amendment, or repealer or the
16 portion thereof shall not take effect. The Secretary of State
17 shall not accept for filing the proposed rule, amendment, or
18 repealer or the portion thereof with respect to which the Joint
19 Committee has issued a statement under subsection (a) unless
20 that statement is withdrawn or a joint resolution is passed as
21 provided in this subsection. If the 180-day period expires
22 before passage of the joint resolution, the agency may not file
23 the proposed rule, amendment, or repealer or the portion
24 thereof as adopted and it shall not take effect.

25 (d) If a statement is issued under this Section, then, in
26 response to an objection or suggestion of the Joint Committee,
27 the agency may propose changes to the proposed rule, amendment,
28 or repealer or portion of a proposed rule, amendment, or
29 repealer. If the agency proposes changes, it must provide
30 additional notice to the Joint Committee under the same terms
31 and conditions and shall be subject to the same requirements
32 and limitations as those set forth for a second notice period
33 under subsection (c) of Section 5-40.

34 (Source: P.A. 93-1035, eff. 9-10-04.)

35 (5 ILCS 100/5-120) (from Ch. 127, par. 1005-120)

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

3 (a) The Joint Committee may examine any rule to determine
4 whether the rule is within the statutory authority upon which
5 it is based and whether the rule is in proper form.

6 (b) If the Joint Committee objects to a rule, it shall,
7 within 5 days of the objection, certify the fact to the
8 adopting agency and include within the certification a
9 statement of its specific objections.

10 (c) Within 90 days after receiving the certification, the
11 agency shall do one of the following:

12 (1) Notify the Joint Committee that it has elected to
13 amend the rule to meet the Joint Committee's objection.

14 (2) Notify the Joint Committee that it has elected to
15 repeal the rule.

16 (3) Notify the Joint Committee that it refuses to amend
17 or repeal the rule.

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

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

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

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

1 (h) If an agency refuses to amend or repeal a rule to
2 remedy an objection stated by the Joint Committee, it shall
3 notify the Joint Committee in writing of its refusal and shall
4 submit a notice of refusal to the Secretary of State. The
5 notice shall be published in the next available issue of the
6 Illinois Register. If the Joint Committee, in response to an
7 agency refusal, decides to suspend a ~~the~~ rule adopted under
8 Section 5-45 or 5-50, then it may do so pursuant to Section
9 5-125. Any member of the General Assembly may introduce
10 legislation in the General Assembly to implement the
11 recommendations of the Joint Committee concerning emergency,
12 peremptory, and other existing rules.

13 (Source: P.A. 93-1035, eff. 9-10-04.)

14 (5 ILCS 100/5-125) (from Ch. 127, par. 1005-125)

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

17 (a) If the Joint Committee determines that a rule or
18 portion of a rule adopted under Section 5-45 or 5-50 is
19 objectionable under any of the standards for the Joint
20 Committee's review specified in Section 5-100, 5-105, 5-110,
21 5-120, or 5-130 and constitutes a serious threat to the public
22 interest, safety, or welfare, the Joint Committee may issue a
23 statement to that effect. The statement may be issued by the
24 Joint Committee only upon the affirmative vote of three-fifths
25 of the members appointed to the Joint Committee. The Joint
26 Committee, however, may withdraw a statement within 180 days
27 after it is issued upon the affirmative vote of a majority of
28 the members appointed to the Joint Committee. A certified copy
29 of each statement and withdrawal shall be transmitted to the
30 affected agency and to the Secretary of State for publication
31 in the next available issue of the Illinois Register. Within 30
32 days of transmittal of the statement to the agency, the agency
33 shall notify the Joint Committee in writing whether it has
34 elected to repeal or amend the rule. Failure of the agency to
35 notify the Joint Committee and Secretary of State within 30

1 days constitutes a decision by the agency to not repeal the
2 rule.

3 (b) The effectiveness of the rule or the portion of a rule
4 shall be suspended immediately upon receipt of the certified
5 statement by the Secretary of State. The Secretary of State
6 shall indicate the suspension prominently and clearly on the
7 face of the affected rule or the portion of a rule filed in the
8 Office of the Secretary of State. Rules or portions of rules
9 suspended under this subsection shall not become effective
10 again unless the statement is withdrawn as provided in
11 subsection (a) or unless within 180 days from receipt of the
12 statement by the Secretary of State, the General Assembly
13 discontinues the suspension by joint resolution under
14 subsection (c). The agency may not enforce, or invoke for any
15 reason, a rule or portion of a rule that has been suspended
16 under this subsection. During the 180-day period, the agency
17 may not file, and nor may the Secretary of State may not accept
18 for filing, any rule that (i) has the same purpose and effect
19 as rules or portions of rules suspended under this subsection
20 or (ii) does not substantially address the statement issued
21 under subsection (a), except as otherwise provided in this
22 Section.

23 (c) After the issuance of a statement under subsection (a),
24 any member of the General Assembly may introduce in the General
25 Assembly a joint resolution stating that the General Assembly
26 desires to discontinue the suspension of effectiveness of a
27 rule or the portion of the rule to which the statement was
28 issued. If the joint resolution is not passed by both houses of
29 the General Assembly within the 180-day period provided in
30 subsection (b) or the statement is not withdrawn, the rule or
31 the portion of the rule shall be considered repealed and the
32 Secretary of State shall immediately remove the rule or portion
33 of a rule from the collection of effective rules.

34 (d) If a statement is issued under this Section, then, in
35 response to an objection or suggestion of the Joint Committee,
36 the agency may propose changes to the rule, amendment, or

1 repealer or portion of a rule, amendment, or repealer. If the
2 agency proposes changes, it must provide additional notice to
3 the Joint Committee under the same terms and conditions and
4 shall be subject to the same requirements and limitations as
5 those set forth for a second notice period under subsection (c)
6 of Section 5-40.

7 (Source: P.A. 93-1035, eff. 9-10-04.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.