



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4608

by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-40

from Ch. 127, par. 1005-40

Amends the Illinois Administrative Procedure Act. Provides that if an agency decides to hold a public hearing, it shall post on its Internet website certain requisite information to provide the public with notice of the proposed rulemaking. Provides that if an agency decides not to initiate a public hearing, it shall post the requirements to request a public hearing, along with information on the proposed rulemaking, on its Internet website.

LRB099 18707 RJF 43091 b

1 AN ACT concerning government.

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 Section 5-40 as follows:

6 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

7 Sec. 5-40. General rulemaking.

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

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

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17 provision to be repealed.

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

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

1 (3.5) A descriptive title or other description of any
2 published study or research report used in developing the
3 rule, the identity of the person who performed such study,
4 and a description of where the public may obtain a copy of
5 any such study or research report. If the study was
6 performed by an agency or by a person or entity that
7 contracted with the agency for the performance of the
8 study, the agency shall also make copies of the underlying
9 data available to members of the public upon request if the
10 data are not protected from disclosure under the Freedom of
11 Information Act.

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

19 (5) The time, place, and manner in which interested
20 persons may present their views and comments concerning the
21 proposed rulemaking.

22 During the first notice period, the agency shall accept
23 from any interested persons data, views, arguments, or
24 comments. These may, in the discretion of the agency, be
25 submitted either orally or in writing or both. The notice
26 published in the Illinois Register shall indicate the manner

1 selected by the agency for the submissions. The agency shall
2 consider all submissions received.

3 The agency shall hold a public hearing on the proposed
4 rulemaking during the first notice period if (i) during the
5 first notice period, the agency finds that a public hearing
6 would facilitate the submission of views and comments that
7 might not otherwise be submitted or (ii) the agency receives a
8 request for a public hearing, within the first 14 days after
9 publication of the notice of proposed rulemaking in the
10 Illinois Register, from 25 interested persons, an association
11 representing at least 100 interested persons, the Governor, the
12 Joint Committee on Administrative Rules, or a unit of local
13 government that may be affected. If an agency finds that a
14 public hearing would facilitate the submission of views and
15 comments that might not otherwise be submitted, and decides to
16 hold a public hearing, the agency shall post the information
17 required under paragraphs (1) through (5) of this subsection
18 (b) on its Internet website. If an agency decides not to
19 initiate a public hearing, it shall post the requirements to
20 request a public hearing under this subsection (b) on its
21 Internet website, as well as the information required under
22 paragraphs (1) through (5) of this subsection (b). At the
23 public hearing, the agency shall allow interested persons to
24 present views and comments on the proposed rulemaking. A public
25 hearing in response to a request for a hearing may not be held
26 less than 20 days after the publication of the notice of

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

14 (c) Each agency shall provide additional notice of the
15 proposed rulemaking to the Joint Committee on Administrative
16 Rules. The period commencing on the day written notice is
17 received by the Joint Committee shall be known as the second
18 notice period and shall expire 45 days thereafter unless before
19 that time the agency and the Joint Committee have agreed to
20 extend the second notice period beyond 45 days for a period not
21 to exceed an additional 45 days or unless the agency has
22 received a statement of objection from the Joint Committee or
23 notification from the Joint Committee that no objection will be
24 issued. The written notice to the Joint Committee shall include
25 (i) the text and location of any changes made to the proposed
26 rulemaking during the first notice period in a form prescribed

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

21 (d) After the expiration of the second notice period, after
22 notification from the Joint Committee that no objection will be
23 issued, or after a response by the agency to a statement of
24 objections issued by the Joint Committee, whichever is
25 applicable, the agency shall file, under Section 5-65, a
26 certified copy of each rule, modification, or repeal of any

1 rule adopted by it. The copy shall be published in the Illinois
2 Register. Each rule hereafter adopted under this Section is
3 effective upon filing unless a later effective date is required
4 by statute or is specified in the rulemaking.

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

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