

1 AMENDMENT TO SENATE BILL 1150

2 AMENDMENT NO. _____. Amend Senate Bill 1150 by replacing
3 the title with the following:

4 "AN ACT concerning access to data."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Illinois Administrative Procedure Act is
8 amended by changing Section 5-40 as follows:

9 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

10 Sec. 5-40. General rulemaking.

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

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

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20 provision to be repealed.

21 (2) The specific statutory citation upon which the

1 proposed rule, the proposed amendment to a rule, or the
2 proposed repeal of a rule is based and by which it is
3 authorized.

4 (3) A complete description of the subjects and
5 issues involved.

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

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

24 (5) The time, place, and manner in which interested
25 persons may present their views and comments concerning
26 the proposed rulemaking.

27 During the first notice period, the agency shall accept
28 from any interested persons data, views, arguments, or
29 comments. These may, in the discretion of the agency, be
30 submitted either orally or in writing or both. The notice
31 published in the Illinois Register shall indicate the manner
32 selected by the agency for the submissions. The agency shall
33 consider all submissions received.

34 The agency shall hold a public hearing on the proposed

1 rulemaking during the first notice period if (i) during the
2 first notice period, the agency finds that a public hearing
3 would facilitate the submission of views and comments that
4 might not otherwise be submitted or (ii) the agency receives
5 a request for a public hearing, within the first 14 days
6 after publication of the notice of proposed rulemaking in the
7 Illinois Register, from 25 interested persons, an association
8 representing at least 100 interested persons, the Governor,
9 the Joint Committee on Administrative Rules, or a unit of
10 local government that may be affected. At the public
11 hearing, the agency shall allow interested persons to present
12 views and comments on the proposed rulemaking. A public
13 hearing in response to a request for a hearing may not be
14 held less than 20 days after the publication of the notice of
15 proposed rulemaking in the Illinois Register unless notice of
16 the public hearing is included in the notice of proposed
17 rulemaking. A public hearing on proposed rulemaking may not
18 be held less than 5 days before submission of the notice
19 required under subsection (c) of this Section to the Joint
20 Committee on Administrative Rules. Each agency may prescribe
21 reasonable rules for the conduct of public hearings on
22 proposed rulemaking to prevent undue repetition at the
23 hearings. The hearings must be open to the public and
24 recorded by stenographic or mechanical means. At least one
25 agency representative shall be present during the hearing who
26 is qualified to respond to general questions from the public
27 regarding the agency's proposal and the rulemaking process.

28 (c) Each agency shall provide additional notice of the
29 proposed rulemaking to the Joint Committee on Administrative
30 Rules. The period commencing on the day written notice is
31 received by the Joint Committee shall be known as the second
32 notice period and shall expire 45 days thereafter unless
33 before that time the agency and the Joint Committee have
34 agreed to extend the second notice period beyond 45 days for

1 a period not to exceed an additional 45 days or unless the
2 agency has received a statement of objection from the Joint
3 Committee or notification from the Joint Committee that no
4 objection will be issued. The written notice to the Joint
5 Committee shall include (i) the text and location of any
6 changes made to the proposed rulemaking during the first
7 notice period in a form prescribed by the Joint Committee;
8 (ii) for all proposed rules and proposed amendments to rules,
9 a final regulatory flexibility analysis containing a summary
10 of issues raised by small businesses during the first notice
11 period and a description of actions taken on any alternatives
12 to the proposed rule suggested by small businesses during the
13 first notice period, including reasons for rejecting any
14 alternatives not utilized; and (iii) if a written request has
15 been made by the Joint Committee within 30 days after initial
16 notice appears in the Illinois Register under subsection (b)
17 of this Section, an analysis of the economic and budgetary
18 effects of the proposed rulemaking. After commencement of the
19 second notice period, no substantive change may be made to a
20 proposed rulemaking unless it is made in response to an
21 objection or suggestion of the Joint Committee. The agency
22 shall also send a copy of the final regulatory flexibility
23 analysis to each small business that has presented views or
24 comments on the proposed rulemaking during the first notice
25 period and to any other interested person who requests a
26 copy. The agency may charge a reasonable fee for providing
27 the copies to cover postage and handling costs.

28 (d) After the expiration of the second notice period,
29 after notification from the Joint Committee that no objection
30 will be issued, or after a response by the agency to a
31 statement of objections issued by the Joint Committee,
32 whichever is applicable, the agency shall file, under Section
33 5-65, a certified copy of each rule, modification, or repeal
34 of any rule adopted by it. The copy shall be published in

1 the Illinois Register. Each rule hereafter adopted under
2 this Section is effective upon filing unless a later
3 effective date is required by statute or is specified in the
4 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
8 rulemaking under subsection (b) commenced. Any period during
9 which the rulemaking is prohibited from being filed under
10 Section 5-115 shall not be considered in calculating this
11 one-year time period.

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