

1 HB30
2 155252-1
3 By Representative Gaston
4 RFD: State Government
5 First Read: 14-JAN-14
6 PFD: 10/18/2013

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the Alabama
9 Administrative Procedure Act governs the procedures
10 for state agencies to adopt rules. The Joint
11 Committee on Administrative Regulation Review may
12 allow an agency to withdraw a proposed rule.

13 This bill would allow an agency to withdraw
14 a proposed or certified rule instead of requiring
15 the joint committee to act on a request by an
16 agency to withdraw the rule.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 41-22-23 of the Code of Alabama
23 1975, relating to the Alabama Administrative Procedure Act; to
24 allow an agency to withdraw a proposed or certified rule.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 41-22-23 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§41-22-23.

2 "(a) The notice required by subdivision (a)(1) of
3 Section 41-22-5 shall be given, in addition to the persons
4 therein named, to the chair of the legislative committee. The
5 agency shall furnish the committee with 33 copies of the
6 proposed rule or rules, and no rule, except an emergency rule
7 issued pursuant to subsection (b) of Section 41-22-5 shall be
8 effective until these copies are so furnished. Any member of
9 the Senate or House of Representatives who requests a copy of
10 proposed agency rules from the Chair of the Joint Committee on
11 Administrative Regulation Review shall be provided a copy and
12 the agency proposing rules shall furnish additional copies of
13 the proposed rule or rules immediately. The form of the
14 proposed rule presented to the committee shall be as follows:
15 New language shall be underlined and language to be deleted
16 shall be typed and lined through.

17 "(b) The committee shall study all proposed rules
18 and may hold public hearings thereon. In the event the
19 committee fails to give notice to the agency of either its
20 approval or disapproval of the proposed rule within 35 days
21 after filing of the adopted rule with the Legislative
22 Reference Service pursuant to Section 41-22-6, the committee
23 shall be deemed to have approved the proposed regulation for
24 the purposes of this section. In the event the committee
25 disapproves a proposed rule or any part thereof, it shall give
26 notice of the disapproval to the agency. Any disapproved rule
27 shall be suspended until the adjournment of the next regular

1 session of the Legislature following the date of disapproval
2 and suspension of the committee or until the Legislature shall
3 revoke, by joint resolution, the suspension of the committee.
4 The rule shall be reinstated on the adjournment of the
5 legislative session in the event the Legislature, by joint
6 resolution, fails to sustain the disapproval and suspension of
7 the committee.

8 "(c) The committee may propose an amendment to any
9 proposed rule and may disapprove the proposed rule and return
10 it to the agency with the suggested amendment. In the event
11 the agency accepts the rule as amended, the agency may
12 resubmit the rule as amended to the committee. In the event
13 the agency does not accept the amendment, the proposed amended
14 rule shall be submitted to the Legislature as disapproved, as
15 provided in Section 41-22-24.

16 "(d) An agency may withdraw a proposed or certified
17 rule ~~by leave of the committee~~. An agency may resubmit a rule
18 so withdrawn or returned under this section with minor
19 modification. Such a rule is a new filing and subject to this
20 section but is not subject to further notice as provided in
21 subsection (a) of Section 41-22-5.

22 "(e) The committee is authorized to review and
23 approve or disapprove any rule adopted prior to October 1,
24 1982.

25 "(f) A rule submitted to the committee which has an
26 economic impact shall be accompanied by a fiscal note prepared
27 by the agency in accordance with this subsection. Upon

1 receiving the fiscal note, the committee may require
2 additional information from the submitting agency, other state
3 agencies, or other sources. A state agency shall cooperate and
4 provide information to the committee. At a minimum, the fiscal
5 note submitted with a proposed rule shall include the
6 following:

7 "(1) A determination of the need for the regulation
8 and the expected benefit of the regulation.

9 "(2) A determination of the costs and benefits
10 associated with the regulation and an explanation of why the
11 regulation is considered to be the most cost effective,
12 efficient, and feasible means for allocating public and
13 private resources and for achieving the stated purpose.

14 "(3) The effect of the regulation on competition.

15 "(4) The effect of the regulation on the cost of
16 living and doing business in the geographical area in which
17 the regulation would be implemented.

18 "(5) The effect of the regulation on employment in
19 the geographical area in which the regulation would be
20 implemented.

21 "(6) The source of revenue to be used for
22 implementing and enforcing the regulation.

23 "(7) A conclusion on the short-term and long-term
24 economic impact upon all persons substantially affected by the
25 regulation, including an analysis containing a description of
26 which persons will bear the costs of the regulation and which

1 persons will benefit directly and indirectly from the
2 regulation.

3 "(8) The uncertainties associated with the
4 estimation of particular benefits and burdens and the
5 difficulties involved in the comparison of qualitatively and
6 quantitatively dissimilar benefits and burdens. A
7 determination of the need for the regulation shall consider
8 qualitative and quantitative benefits and burdens.

9 "(9) The effect of the regulation on the environment
10 and public health.

11 "(10) The detrimental effect on the environment and
12 public health if the regulation is not implemented.

13 "(g) In determining whether to approve or disapprove
14 proposed rules, the committee shall consider the following
15 criteria:

16 "(1) Would the absence of the rule or rules
17 significantly harm or endanger the public health, safety, or
18 welfare?

19 "(2) Is there a reasonable relationship between the
20 state's police power and the protection of the public health,
21 safety, or welfare?

22 "(3) Is there another, less restrictive method of
23 regulation available that could adequately protect the public?

24 "(4) Does the rule or do the rules have the effect
25 of directly or indirectly increasing the costs of any goods or
26 services involved and, if so, to what degree?

1 "(5) Is the increase in cost, if any, more harmful
2 to the public than the harm that might result from the absence
3 of the rule or rules?

4 "(6) Are all facets of the rulemaking process
5 designed solely for the purpose of, and so they have, as their
6 primary effect, the protection of the public?

7 "(7) Any other criteria the committee may deem
8 appropriate."

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.