

## CHAPTER 377-A

### LEGISLATIVE REVIEW OF AGENCY RULES

#### §11111. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 524, §15 (NEW).]

**1. Agency, person and rule.** "Agency," "person" and "rule" are defined in section 8002, except that "rule" also means a proposed rule.

[PL 1981, c. 524, §15 (NEW).]

**2. Committee.** "Committee" means a joint standing committee of the Legislature.

[PL 1981, c. 524, §15 (NEW).]

**3. Director.** "Director" means the Executive Director of the Legislative Council.

[PL 1985, c. 737, Pt. B, §14 (AMD).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW). PL 1985, c. 737, §B14 (AMD).

#### §11112. Application for review

Any group of 100 or more registered voters, who have a substantial interest in a rule, or any person who may be directly, substantially and adversely affected by the application of a rule, may file an application for review with the executive director. With respect to any application or petition for review pursuant to this section, the petition or application shall be verified and certified in the same manner provided in Title 21-A, section 354, subsection 7, paragraphs A and C. The applicant shall state with specificity on a form prepared by the director, the following: [PL 1989, c. 574, §9 (AMD).]

**1. Name of agency; citation of rule.** The name of the agency and the citation of the rule, including section and paragraph if applicable;

[PL 1981, c. 524, §15 (NEW).]

**2. Affect on applicant.** A statement of how the rule may directly, substantially and adversely affect the operations or interests of the applicant, or the nature and extent of the applicant's interest in the rule;

[PL 1981, c. 524, §15 (NEW).]

**3. Statement.** A statement of why the rule, in the opinion of the applicant, is inappropriate or unnecessary; and

[PL 1981, c. 524, §15 (NEW).]

**4. Recommendation.** A recommendation proposing changes in the rule or the statute which the rule implements.

[PL 1981, c. 524, §15 (NEW).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW). PL 1985, c. 737, §B15 (AMD). PL 1989, c. 574, §9 (AMD).

#### §11113. Committee review

The executive director shall, upon receipt of an application for review, determine the appropriate joint standing committee of the Legislature responsible for review of the rule in question and send the application and a copy of the rule in question to each member of the committee. Each member of the committee shall individually review the application to determine whether the applicant is qualified and

whether the public interest would be served by a review of the rule in question by the full committee. If a committee member decides that the review should be made, he shall notify the director within 15 days after notice was sent. If 1/3 or more of the full committee notify the director that a review of the rule should be made, the director shall advise the chairman of the committee, who shall schedule a meeting of the committee to review the rule. If the committee votes not to review the rule, a report to that effect shall be prepared by the director and sent to the applicant and the Legislative Council. [PL 1985, c. 737, Pt. B, §16 (AMD).]

The applicant and the affected agency shall be notified of a decision to review the rule and shall be permitted to make expanded statements of their position to the full committee. The committee, in the course of its review, may hold a public hearing, request and obtain opinions of the Attorney General, obtain information from the agency and conduct further investigation approved by the Legislative Council. The committee shall make its determination and report within 90 days of the first notification to the committee chairmen that a review shall be made. [PL 1981, c. 524, §15 (NEW).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW). PL 1985, c. 737, §B16 (AMD).

#### §11114. Criteria for review

When reviewing a rule under this chapter, the committee shall consider, in addition to any matters proposed by the applicant, the following: [PL 1981, c. 524, §15 (NEW).]

**1. Consistency with legislation.** Whether the rule is consistent with and necessary to the intent of the statute which the rule implements;  
[PL 1981, c. 524, §15 (NEW).]

**2. Reasonableness of effects.** Whether the effects of the rule are reasonable, including its benefits and costs, and including costs of compliance and administration;  
[PL 1981, c. 524, §15 (NEW).]

**3. Circumstances.** Whether circumstances have changed since the passage of the statute which the rule implements;  
[PL 1981, c. 524, §15 (NEW).]

**4. Abuse of discretionary powers.** Whether the rule may tend to promote abuse of discretionary powers of the agency; and  
[PL 1981, c. 524, §15 (NEW).]

**5. Fee.** Whether any fee established by rule is reasonable and whether the sums collected relate to the costs of administration.  
[PL 1981, c. 524, §15 (NEW).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW).

#### §11115. Committee recommendation

If the committee determines that any of the criteria for review have not been met, it may discuss their findings with the agency. No agency may, on the basis of these discussions or any subsequent report of the committee, terminate a rule that is required by law. If the committee determines that the rule in question is inappropriate or unnecessary, it shall notify the applicant of its decision and may direct the Office of Policy and Legal Analysis to draft legislation to amend the law to provide that the authority of the agency to adopt the rule is clarified, modified or limited. Only by a majority vote of the committee shall legislation be introduced to amend or enact legislation pursuant to this section. No legislation may be introduced to implement a decision of a minority of the committee. [PL 1985, c. 737, Pt. B, §17 (AMD).]

After approval of the draft legislation, it shall be submitted according to the legislative rules for final preparation and introduction to the Legislature, if the Legislature is in session, or if not, to the next regular session of the Legislature. [PL 1981, c. 524, §15 (NEW).]

If the committee determines that no legislative action is required it shall prepare a brief report of its findings and transmit it to the applicant, agency and Legislative Council. [PL 1981, c. 524, §15 (NEW).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW). PL 1985, c. 737, §B17 (AMD).

#### §11116. Limitation

**1. Debt obligations.** A joint standing committee may not review an agency rule which is part of official action towards issuance or securing repayment of bonds, notes or other debt obligations of the State, its instrumentalities or political subdivisions.

[PL 1981, c. 524, §15 (NEW).]

**2. Review on committee's own motion.** This chapter shall not limit a committee from reviewing a rule on its own motion.

[PL 1981, c. 524, §15 (NEW).]

**3. Failure to review.** The failure of a committee to review a rule or to recommend modification or termination is not an implied legislative authorization of its substantive or procedural lawfulness and shall not be considered for any purpose in a judicial proceeding. No legislative review of a rule may supersede the judicial review granted in section 8058 or 11001.

[PL 1981, c. 524, §15 (NEW).]

#### SECTION HISTORY

PL 1981, c. 524, §15 (NEW).

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