

By: Senator(s) Rayborn

To: Judiciary

SENATE BILL NO. 2626

1 AN ACT TO CLARIFY THE ADMINISTRATIVE PROCEDURES ACT; TO
2 REVISE THE PUBLICATION DUTIES OF THE SECRETARY OF STATE; TO AMEND
3 SECTION 25-43-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
4 SECRETARY OF STATE TO SEND A COPY OF PROPOSED ADMINISTRATIVE RULES
5 TO THE BOARD OF SUPERVISORS OF EACH COUNTY; TO AMEND SECTION
6 25-43-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR AN EXCEPTION TO
7 THE EFFECTIVE DATE OF CERTAIN ADMINISTRATIVE RULES; TO AMEND
8 SECTION 25-43-11, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
9 SECRETARY OF STATE TO PUBLISH AN ADMINISTRATIVE CODE; TO FURNISH
10 THE CODE TO COUNTIES; TO AMEND SECTION 25-43-17, MISSISSIPPI CODE
11 OF 1972, TO REQUIRE AGENCIES TO PROVIDE FOR A PUBLIC HEARING IF A
12 COUNTY CONTESTS AN ADMINISTRATIVE RULE; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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15 SECTION 1. Section 25-43-7, Mississippi Code of 1972, is
16 amended as follows:

17 25-43-7. (1) Prior to the adoption, amendment or repeal of
18 any rule, the agency shall give at least thirty (30) days' notice
19 of its intended action. The notice shall include a statement of
20 either the terms or substance of the intended action or a
21 description of the subjects and issues involved, and the manner in
22 which interested persons may present their views thereon. The
23 notice shall be filed with the Office of the Secretary of State
24 and mailed by the agency to all persons who have made timely
25 request of the agency for advance notice of its rule-making
26 proceedings. The Secretary of State shall furnish copies at the
27 request of any person and shall be reimbursed by the requesting
28 person for the expense of providing such service. The Secretary
29 of State shall send a copy to the board of supervisors of each
30 county.

31 (2) If an agency finds that an imminent peril to the public
32 health, safety or welfare requires adoption of a rule upon fewer

33 than thirty (30) days' notice and states in writing its reasons
34 for that finding, it may proceed without prior notice of hearing
35 or upon any abbreviated notice and hearing that it finds
36 practicable to adopt an emergency rule. The rule may be effective
37 for a period of not longer than one hundred twenty (120) days,
38 renewable once for a period not exceeding ninety (90) days, but
39 the adoption of an identical rule under subsection (1) of this
40 section is not precluded.

41 (3) No rule hereafter adopted is valid unless adopted in
42 substantial compliance with this section. A proceeding to contest
43 any rule on the ground of noncompliance with the procedural
44 requirements of this section must be commenced within one (1) year
45 from the effective date of the rule.

46 SECTION 2. Section 25-43-9, Mississippi Code of 1972, is
47 amended as follows:

48 25-43-9. (1) Each agency shall file in the Office of the
49 Secretary of State a certified copy of each rule adopted by it,
50 including all rules existing on January 1, 1977. The Secretary of
51 State shall keep a permanent register of the rules open to public
52 inspection.

53 (2) Each rule hereafter adopted is effective thirty (30)
54 days after filing, except that:

55 (a) If a later date is required by statute or specified
56 in the rule, the later date is the effective date.

57 (b) Subject to applicable constitutional or statutory
58 provisions, an emergency rule becomes effective immediately upon
59 filing with the Secretary of State, or at a stated date less than
60 thirty (30) days thereafter if the agency finds that this
61 effective date is necessary because of imminent peril to the
62 public health, safety or welfare. The agency's finding and a
63 brief statement of the reasons therefor shall be filed with the
64 rule. The agency shall take appropriate measures to make
65 emergency rules known to the persons who may be affected by them.

66 (c) If a public hearing is requested by a county to
67 contest or modify a rule.

68 SECTION 3. Section 25-43-11, Mississippi Code of 1972, is
69 amended as follows:

70 25-43-11. (1) The agency shall compile and index all
71 effective rules adopted and shall furnish the Secretary of State
72 with a copy of its rules and index. Compilations shall be
73 supplemented or revised as often as necessary * * *.

74 (2) Copies of bulletins and compilations shall be made
75 available by the Secretary of State upon request to agencies and
76 officials of this state at no cost to the agencies and officials.
77 Other persons may receive copies by requesting them and
78 reimbursing the Secretary of State for publication and mailing
79 cost.

80 (3) The Secretary of State shall publish all rules filed by
81 each agency in a compilation entitled "Mississippi Administrative
82 Code" and include complete indexes to all rules contained in the
83 code. Supplementation shall be made as often as practicable. The
84 Secretary of State may contract for the publication, in a timely
85 and useful form, of the Mississippi Administrative Code.

86 (4) The Secretary of State shall furnish one (1) copy of the
87 Mississippi Administrative Code to the board of supervisors of
88 each county. The Secretary of State may make copies of the
89 Mississippi Administrative Code available upon an annual
90 subscription basis.

91 SECTION 4. Section 25-43-17, Mississippi Code of 1972, is
92 amended as follows:

93 25-43-17. (1) Each agency shall adopt procedures to assure
94 that persons who give timely notice of their desire to contest the
95 making of any rule shall have an opportunity to present their
96 views and have the opportunity for review of adverse rulings.

97 (2) Each agency shall adopt procedures to provide for a
98 public hearing if a county files notice to contest the making of
99 any rule.

100 SECTION 5. This act shall take effect and be in force from
101 and after July 1, 1999.