

By: Representative Touchstone

To: Judiciary A

HOUSE BILL NO. 1062

1 AN ACT TO AMEND SECTION 25-43-3.106, MISSISSIPPI CODE OF
2 1972, TO REVISE THE ADMINISTRATIVE PROCEDURES ACT TO PROVIDE THAT
3 AN AGENCY MUST REPEAL TWO ADOPTED RULES FOR EVERY NEW RULE THAT
4 THE AGENCY ADOPTS; TO AMEND SECTION 25-43-3.103, MISSISSIPPI CODE
5 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 25-43-3.106, Mississippi Code of 1972, is
9 amended as follows:

10 25-43-3.106. **Time and manner of rule adoption.**

11 (1) An agency may not adopt a rule until the period for
12 making written submissions and oral presentations has expired.

13 (2) Following the proper filing with the Secretary of State
14 of the notice of proposed rule adoption, an agency shall adopt a
15 rule pursuant to the rule-making proceeding or terminate the
16 proceeding by proper filing with the Secretary of State of a
17 notice to that effect for publication in the administrative
18 bulletin.

19 (3) Before the adoption of a rule, an agency shall consider
20 the written submissions, oral submissions or any memorandum



21 summarizing oral submissions, and any economic impact statement,
22 provided for by this Article III.

23 (4) Within the scope of its delegated authority, an agency
24 may use its own experience, technical competence, specialized
25 knowledge and judgment in the adoption of a rule.

26 (5) For every new rule that an agency adopts under the
27 provisions of this chapter, that agency must repeal two (2) rules
28 that have been adopted as provided in this chapter. When an
29 agency provides notice of a proposed rule adoption to the
30 Secretary of State, the agency must also provide a notice of the
31 two (2) rules to be repealed when the new rule is finally adopted,
32 or a detailed explanation as to why two (2) rules cannot be
33 repealed. The provisions of this subsection (5) shall not apply
34 to rules adopted as a result of an emergency situation.

35 **SECTION 2.** Section 25-43-3.103, Mississippi Code of 1972, is
36 amended as follows:

37 25-43-3.103. (1) At least twenty-five (25) days before the
38 adoption of a rule an agency shall cause notice of its
39 contemplated action to be properly filed with the Secretary of
40 State for publication in the administrative bulletin. The notice
41 of proposed rule adoption must include:

42 (a) A short explanation of the purpose of the proposed
43 rule and the agency's reasons for proposing the rule;

44 (b) The specific legal authority authorizing the
45 promulgation of rules;



46 (c) A reference to all rules repealed, amended or
47 suspended by the proposed rule;

48 (d) Subject to Section 25-43-2.101(5), the text of the
49 proposed rule;

50 (e) Where, when and how persons may present their views
51 on the proposed rule; * * *

52 (f) Where, when and how persons may demand an oral
53 proceeding on the proposed rule if the notice does not already
54 provide for one * * *; and

55 (g) The two (2) rules to be repealed when the proposed
56 rule is finally adopted as provided in Section 25-43-3.106.

57 (2) Within three (3) days after its proper filing with the
58 Secretary of State for publication in the administrative bulletin,
59 the agency shall cause a copy of the notice of proposed rule
60 adoption to be provided to each person who has made a timely
61 request to the agency to be placed on the mailing list maintained
62 by the agency of persons who have requested notices of proposed
63 rule adoptions. An agency may mail the copy to the person and may
64 charge the person a reasonable fee for such service, which fee may
65 be in excess of the actual cost of providing the person with a
66 mailed copy. Alternatively, the agency may provide the copy via
67 the Internet or by transmitting it to the person by electronic
68 means, including, but not limited to, facsimile transfer or e-mail
69 at no charge to the person, if the person consents to this form of
70 delivery.



71 **SECTION 3.** This act shall take effect and be in force from
72 and after July 1, 2018.

