

By: Senator(s) Seymour

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2843

1 AN ACT TO CREATE THE MISSISSIPPI LEGISLATIVE REGULATORY
2 OVERSIGHT ACT; TO ESTABLISH THE JOINT STANDING COMMITTEE ON
3 LEGISLATIVE REGULATORY OVERSIGHT; TO AMEND SECTIONS 25-43-3.105,
4 25-43-3.112 AND 25-43-3.113, MISSISSIPPI CODE OF 1972, TO CONFORM;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** This act may be cited as the "Mississippi
8 Legislative Regulatory Oversight Act."

9 **SECTION 2.** It is the intent of the Mississippi Legislature
10 to exercise rigorous oversight of the various administrative
11 agencies to whom rulemaking powers have been delegated in order to
12 ensure accountability to the people of the State of Mississippi.
13 To that end, this act establishes a formal system by which the
14 Legislature shall review, analyze and potentially overturn any
15 agency rulemaking that runs contrary to the will of the people as
16 exercised through the Legislature.

17 **SECTION 3.** (1) For the purposes of this act, unless the
18 context requires otherwise, the following terms shall have the
19 meanings ascribed herein:



20 (a) "Rule" means the whole or part of an agency
21 regulation or other statement of general applicability that
22 implements, interprets, or prescribes:

23 (i) Law or policy; or

24 (ii) The organization, procedure or practice
25 requirements of an agency. The term "rule" includes the
26 amendment, repeal, or suspension of an existing rule but does not
27 include those regulations or statements enumerated in Section
28 25-43-1.101, Mississippi Code of 1972.

29 (b) "Agency" means a board, commission, department,
30 officer or other administrative unit of this state. The term
31 "agency" does not include the Legislature or any of its component
32 units, the judiciary or any of its component units or the
33 Governor. The term "agency" does not include a political
34 subdivision of the state or any of the administrative units of a
35 political subdivision.

36 (c) "Committee" means the Joint Standing Committee on
37 Legislative Regulatory Oversight as established in this chapter.

38 **SECTION 4.** (1) There is hereby established within the
39 Mississippi Legislature a Joint Standing Committee on Legislative
40 Regulatory Oversight. The committee shall consist of nine (9)
41 members, four (4) from the Senate and five (5) from the House of
42 Representatives. The Lieutenant Governor shall select the Senate
43 members, and the Speaker of the House shall select the House
44 members.



45 (2) (a) Beginning July 1, 2023, the committee shall meet
46 quarterly to review all agency rules that were adopted in the
47 preceding three-month period. If a simple majority of five (5) of
48 the nine (9) committee members object to the rule, then the rule
49 shall be put before the full Legislature to be overturned by
50 general law during the next regular legislative session, with at
51 least one (1) member of the committee serving as the sponsor of
52 the bill.

53 (b) If the Legislature is not convened in regular
54 session at the time of the committee's initial objection to the
55 rule, the rule shall take effect until such time as it is
56 overturned by the passage of a general law or appropriations bill
57 which is signed by the Governor. If the Legislature is convened
58 in regular session at the time of the committee's initial
59 objection to the rule, the rule shall not take effect unless and
60 until the bill to overturn it should fail.

61 (c) No agency rule shall be issued the subject matter
62 of which is substantially the same as any bill introduced and
63 pending during the legislative session. Any such rule or
64 regulation shall not be issued until after the conclusion of the
65 legislative session.

66 (d) If an agency rule is overturned pursuant to this
67 chapter, the agency shall be barred from adopting the same rule in
68 the future. The only way in which the provisions of the
69 overturned rule shall take effect is enactment by general law.



70 (e) If, in the interim time period between an agency's
71 adoption of a rule and the passage of a general law overturning
72 that rule, a court of law should determine the rule to be invalid
73 under either the Constitution of the United States or the
74 Mississippi Constitution, that court's ruling shall govern, and
75 the Legislature shall not proceed with a general law overturning
76 the rule.

77 **SECTION 5.** Section 25-43-3.105, Mississippi Code of 1972, is
78 amended as follows:

79 25-43-3.105. (1) Prior to giving the notice required in
80 Section 25-43-3.103, each agency proposing the adoption of a rule
81 or significant amendment of an existing rule imposing a duty,
82 responsibility or requirement on any person shall consider the
83 economic impact the rule will have on the citizens of our state
84 and the benefits the rule will cause to accrue to those citizens.
85 For purposes of this section, a "significant amendment" means any
86 amendment to a rule for which the total aggregate cost to all
87 persons required to comply with that rule exceeds One Hundred
88 Thousand Dollars (\$100,000.00).

89 (2) Each agency shall prepare a written report providing an
90 economic impact statement for the adoption of a rule or
91 significant amendment to an existing rule imposing a duty,
92 responsibility or requirement on any person, except as provided in
93 subsection (7) of this section. The economic impact statement
94 shall include the following:



95 (a) A description of the need for and the benefits
96 which will likely accrue as the result of the proposed action;

97 (b) An estimate of the cost to the agency, and to any
98 other state or local government entities, of implementing and
99 enforcing the proposed action, including the estimated amount of
100 paperwork, and any anticipated effect on state or local revenues;

101 (c) An estimate of the cost or economic benefit to all
102 persons directly affected by the proposed action;

103 (d) An analysis of the impact of the proposed rule on
104 small business;

105 (e) A comparison of the costs and benefits of the
106 proposed rule to the probable costs and benefits of not adopting
107 the proposed rule or significantly amending an existing rule;

108 (f) A determination of whether less costly methods or
109 less intrusive methods exist for achieving the purpose of the
110 proposed rule where reasonable alternative methods exist which are
111 not precluded by law;

112 (g) A description of reasonable alternative methods,
113 where applicable, for achieving the purpose of the proposed action
114 which were considered by the agency and a statement of reasons for
115 rejecting those alternatives in favor of the proposed rule; and

116 (h) A detailed statement of the data and methodology
117 used in making estimates required by this subsection.

118 (3) No rule or regulation shall be declared invalid based on
119 a challenge to the economic impact statement for the rule unless



120 the issue is raised in the agency proceeding. No person, except
121 for the Mississippi Legislature through the Joint Standing
122 Committee on Legislative Regulatory Oversight, shall have standing
123 to challenge a rule, based upon the economic impact statement or
124 lack thereof, unless that person provided the agency with
125 information sufficient to make the agency aware of specific
126 concerns regarding the statement in an oral proceeding or in
127 written comments regarding the rule. The grounds for invalidation
128 of an agency action, based upon the economic impact statement, are
129 limited to the agency's failure to adhere to the procedure for
130 preparation of the economic impact statement as provided in this
131 section, or the agency's failure to consider information submitted
132 to the agency regarding specific concerns about the statement, if
133 that failure substantially impairs the fairness of the rule-making
134 proceeding.

135 (4) A concise summary of the economic impact statement must
136 be properly filed with the Secretary of State for publication in
137 the administrative bulletin and the period during which persons
138 may make written submissions on the proposed rule shall not expire
139 until at least twenty (20) days after the date of such proper
140 filing. The summary must be concurrently filed with the Office of
141 the Lieutenant Governor, the Speaker of the House of
142 Representatives, the Secretary of the Senate and the Clerk of the
143 House of Representatives.



144 (5) The properly filed summary of the economic impact
145 statement must also indicate where persons may obtain copies of
146 the full text of the economic impact statement and where, when and
147 how persons may present their views on the proposed rule and
148 demand an oral proceeding on the proposed rule if one is not
149 already provided.

150 * * *

151 (* * *6) This section does not apply to the adoption of:

152 (a) Any rule which is required by the federal
153 government pursuant to a state/federal program delegation
154 agreement or contract;

155 (b) Any rule which is expressly required by state law;
156 and

157 (c) A temporary rule adopted pursuant to Section
158 25-43-3.108.

159 **SECTION 6.** Section 25-43-3.112, Mississippi Code of 1972, is
160 amended as follows:

161 25-43-3.112. (1) An agency shall file in the Office of the
162 Secretary of State each rule it adopts and all rules existing on
163 July 1, 2005, that have not previously been filed. The filing
164 must be done as soon after adoption of the rule as is practicable.
165 At the time of filing, each rule adopted after July 1, 2005, must
166 have included in or attached to it the material set out in Section
167 25-43-3.109. The Secretary of State shall affix to each rule and
168 statement a certification of the date of filing and keep a



169 permanent register open to public inspection of all filed rules
170 and attached material. In filing a rule, each agency shall use a
171 standard format prescribed by the Secretary of State.

172 (2) An agency shall file each rule it adopts beginning on
173 July 1, 2023, with the Joint Standing Committee on Legislative
174 Regulatory Oversight in the Mississippi Legislature by delivering
175 a copy to the Office of the Lieutenant Governor, the Office of the
176 Speaker of the House of Representatives, the Secretary of the
177 Senate and the Clerk of the House of Representatives at the same
178 time the rule is filed with the Secretary of State.

179 **SECTION 7.** Section 25-43-3.113, Mississippi Code of 1972, is
180 amended as follows:

181 25-43-3.113. (1) Except to the extent subsection (2) or (3)
182 of this section or the Mississippi Legislative Regulatory
183 Oversight Act provides otherwise, each rule adopted after July 1,
184 2005, becomes effective thirty (30) days after its proper filing
185 in the Office of the Secretary of State.

186 (2) (a) A rule becomes effective on a date later than that
187 established by subsection (1) of this section if a later date is
188 required by another statute or specified in the rule.

189 (b) A rule may become effective immediately upon its
190 filing or on any subsequent date earlier than that established by
191 subsection (1) of this section if the agency establishes such an
192 effective date and finds that:



193 (i) It is required by Constitution, statute or
194 court order;
195 (ii) The rule only confers a benefit or removes a
196 restriction on the public or some segment thereof;
197 (iii) The rule only delays the effective date of
198 another rule that is not yet effective; or
199 (iv) The earlier effective date is necessary
200 because of imminent peril to the public health, safety or welfare.

201 (c) The finding and a brief statement of the reasons
202 therefor required by paragraph (b) of this subsection must be made
203 a part of the rule. In any action contesting the effective date
204 of a rule made effective under paragraph (b) of this subsection,
205 the burden is on the agency to justify its finding.

206 (d) A temporary rule may become effective immediately
207 upon its filing or on any subsequent date earlier than that
208 established by subsection (1) of this section.

209 (e) Each agency shall make a reasonable effort to make
210 known to persons who may be affected by it a rule made effective
211 before any date established by subsection (1) of this section.

212 (3) This section does not relieve an agency from compliance
213 with any provision of law requiring that some or all of its rules
214 be approved by other designated officials or bodies, including the
215 Joint Standing Committee on Legislative Regulatory Oversight,
216 before they become effective.



217 **SECTION 8.** This act shall take effect and be in force from
218 and after July 1, 2023.

