

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1135
96TH GENERAL ASSEMBLY

4770H.05T

2012

AN ACT

To repeal sections 536.041 and 536.325, RSMo, and to enact in lieu thereof four new sections relating to administrative procedures and review.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 536.041 and 536.325, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 536.032, 536.041, 536.175, and 536.325, to read as follows:

536.032. Upon the filing of a request by a state agency with the joint committee on administrative rules and the secretary of state concurrently, and after publication in the Missouri Register, the secretary of state shall have the authority to make nonsubstantive changes to the code of state regulations to update changes in department or division name information in response to statutory changes or executive orders, or to changes in state agency addresses, state agency telephone numbers, email addresses, or state agency website addresses.

536.041. Any person may **file a written** petition **with** an agency requesting the adoption, amendment or repeal of any rule. Any agency receiving such a petition or other request in writing to adopt, amend or repeal any rule shall forthwith furnish a copy thereof to the joint committee on administrative rules and to the commissioner of administration[, together with the action, if any, taken or contemplated by the agency as a result of such petition or request, and the agency's reasons therefor]. **Within sixty days after the receipt of the petition, the agency shall submit a written response to the petitioner and copies of the response, in electronic format,**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 to the joint committee on administrative rules and to the commissioner of administration,
9 containing its determination whether such rule should be adopted, continued without
10 change, amended, or rescinded, together with a concise summary of the state agency's
11 specific facts and findings with respect to the criteria set forth in subsection 4 of section
12 536.175. If the agency determines the rule merits adoption, amendment, or rescission, it
13 shall initiate proceedings in accordance with the applicable requirements of this chapter.
14 The joint committee may refer comments or recommendations concerning such rule to the
15 general assembly for further action. Upon timely application, the joint committee on
16 administrative rules may grant, upon good cause shown, an extension of time to answer a
17 petition. A written petition submitted in accordance with this section shall constitute notice
18 for purposes of subsection 9 of section 536.021.

536.175. 1. Each state agency shall periodically review all of its rules according to
2 the following review schedule:

3 (1) Rules contained in titles 1 through 6 of the code of state regulations shall begin
4 the review process no later than July 1, 2015, and every five years thereafter;

5 (2) Rules contained in titles 7 through 10 of the code of state regulations shall begin
6 the review process no later than July 1, 2016, and every five years thereafter;

7 (3) Rules contained in titles 11 through 14 of the code of state regulations shall
8 begin the review process no later than July 1, 2017, and every five years thereafter;

9 (4) Rules contained in titles 15 through 19 of the code of state regulations shall
10 begin the review process no later than July 1, 2018, and every five years thereafter; and

11 (5) Rules contained in titles 20 and higher of the code of state regulations shall
12 begin the review process no later than July 1, 2019, and every five years thereafter.

13 2. The joint committee on administrative rules shall cause a notification of agency
14 review to be published in the Missouri Register indicating rules being reviewed under this
15 section and shall contain:

16 (1) Which titles of the code of state regulations will be under review;

17 (2) A notice that anyone may file comments concerning the rules being reviewed no
18 later than sixty days after publication of the notice in the Missouri Register;

19 (3) A notice that all comments must identify the commenter, must specify the rule
20 being commented upon, and must contain comments directly associated to that rule;

21 (4) A listing of agency designee assigned to receive comments on rules under
22 review;

23 3. State agencies shall provide the joint committee on administrative rules contact
24 information for the agency designee assigned to receive comments under subsection 2 of
25 this section.

26 **4. Each agency with rules being reviewed, shall prepare a report containing the**
27 **results of its periodic rule review. The report shall consider and include the following:**

28 **(1) Whether the rule continues to be necessary, taking into consideration the**
29 **purpose, scope, and intent of the statute under which the rule was adopted;**

30 **(2) Whether the rule is obsolete, taking into consideration the length of time since**
31 **the rule was modified and the degree to which technology, economic conditions, or other**
32 **relevant factors have changed in the subject area affected by the rule;**

33 **(3) Whether the rule overlaps, duplicates, or conflicts with other state rules, and**
34 **to the extent feasible, with federal and local governmental rules;**

35 **(4) Whether a less restrictive, more narrowly tailored, or alternative rule could**
36 **adequately protect the public or accomplish the same statutory purpose;**

37 **(5) Whether the rule needs amendment or rescission to reduce regulatory burdens**
38 **on individuals, businesses, or political subdivisions or eliminate unnecessary paperwork;**

39 **(6) Whether the rule incorporates a text or other material by reference and, if so,**
40 **whether the text or other material incorporated by reference meets the requirements of**
41 **section 536.031;**

42 **(7) For rules that affect small business, the specific public purpose or interest for**
43 **adopting the rules and any other reasons to justify its continued existence; and**

44 **(8) The nature of the comments received by the agency under subsection 2 of this**
45 **section, a summary of which shall be attached to the report as an appendix and shall**
46 **include the agency's responses thereto.**

47 **5. Each agency with rules subject to review shall cause their report to be filed**
48 **electronically with the joint committee on administrative rules and the small business**
49 **regulatory fairness board no later than June thirtieth of the year after publication of**
50 **agency review in the Missouri Register under subsection 2 of this section. The reports shall**
51 **also be made available on the state agency's website. If the state agency fails to file the**
52 **report as required by this section for any rule and has not received an extension for good**
53 **cause from the joint committee on administrative rules, the joint committee on**
54 **administrative rules shall notify the secretary of state to publish a notice as soon as**
55 **practicable in the Missouri Register as to which rules the delinquency exists. The rule shall**
56 **be void and of no further effect after the first sixty legislative days of the next regular**
57 **session of the general assembly unless the state agency corrects the delinquency by**
58 **providing the required review within ninety days after publication. Upon determination**
59 **that the agency has complied with the requirements of this section regarding any**
60 **delinquency that resulted in notice being published, the joint committee on administrative**

61 **rules shall notify the secretary of state to remove the rule from the notice of rules scheduled**
62 **to become null and void.**

536.325. 1. [Each agency with rules that affect small business shall submit by June
2 thirteenth of each odd-numbered year a list of such rules to the general assembly and the board.
3 The agency shall also submit a report describing the specific public purpose or interest for
4 adopting the respective rules and any other reasons to justify its continued existence. The
5 general assembly may subsequently take such action in response to the report as it finds
6 appropriate.

7 2.] The board shall provide to the head of each agency a list of any rules adopted by the
8 agency that affect small business and have generated complaints or concerns, including any rules
9 that the board determines may duplicate, overlap, or conflict with other rules or exceed statutory
10 authority. Within forty-five days after being notified by the board the list of rules adopted, the
11 agency shall submit a written report to the board in response to the complaints or concerns. The
12 agency shall also state whether the agency has considered the continued need for the rules and
13 the degree to which technology, economic conditions, and other relevant factors may have
14 diminished or eliminated the need for maintaining the rules.

15 [3.] 2. The board may solicit testimony from the public at a public meeting regarding any
16 report submitted by the agency under this section **or section 536.175**. The board shall
17 **electronically** submit an evaluation report to the governor and the general assembly regarding
18 small business comments, agency response, and public testimony on rules in this section **and the**
19 **report shall be maintained on the board's website**. The governor and the general assembly
20 may take such action in response to the report as they find appropriate.

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