

COMMITTEE ON GOVERNMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2594
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Section 1. Section 41-1033, Arizona Revised Statutes, is amended
3 to read:

4 41-1033. Petition for a rule or review of an agency practice.
5 substantive policy statement, final rule or unduly
6 burdensome licensing requirement; notice

7 A. Any person may petition an agency to do either of the following:

8 1. Make, amend or repeal a final rule.

9 2. Review an existing agency practice or substantive policy
10 statement that the petitioner alleges to constitute a rule.

11 B. An agency shall prescribe the form of the petition and the
12 procedures for the petition's submission, consideration and disposition.
13 The person shall state on the petition the rulemaking to review or the
14 agency practice or substantive policy statement to consider revising,
15 repealing or making into a rule.

16 C. Not later than sixty days after submission of the petition, the
17 agency shall either:

18 1. Reject the petition and state its reasons in writing for
19 rejection to the petitioner.

20 2. Initiate rulemaking proceedings in accordance with this chapter.

21 3. If otherwise lawful, make a rule.

22 D. The agency's response to the petition is open to public
23 inspection.

24 E. If an agency rejects a petition pursuant to subsection C of this
25 section, the petitioner has thirty days to appeal to the council to review
26 whether the existing agency practice or substantive policy statement
27 constitutes a rule. The petitioner's appeal may not be more than five
28 double-spaced pages.

1 F. A person may petition the council to request a review of a final
2 rule based on the person's belief that the final rule does not meet the
3 requirements prescribed in section 41-1030. A petition submitted under
4 this subsection may not be more than five double-spaced pages.

5 G. A person may petition the council to request a review of an
6 existing agency practice, substantive policy statement, final rule or
7 regulatory licensing requirement that the petitioner alleges is not
8 specifically authorized by statute, exceeds the agency's statutory
9 authority, is unduly burdensome [, VIOLATES A PERSON'S FUNDAMENTAL LEGAL
10 RIGHTS] or is not demonstrated to be necessary to specifically fulfill a
11 public health, safety or welfare concern. On receipt of a properly
12 submitted petition pursuant to this section, the council shall review the
13 existing agency practice, substantive policy statement, final rule or
14 regulatory licensing requirement as prescribed by this section. A
15 petition submitted under this subsection may not be more than five
16 double-spaced pages. This subsection does not apply to an individual or
17 institution that is subject to title 36, chapter 4, article 10 or
18 chapter 20.

19 H. If the council receives information that alleges an existing
20 agency practice or substantive policy statement may constitute a rule,
21 that a final rule does not meet the requirements prescribed in section
22 41-1030 or that an existing agency practice, substantive policy statement,
23 final rule or regulatory licensing requirement exceeds the agency's
24 statutory authority, is not specifically authorized by statute or does not
25 meet the guidelines prescribed in subsection G of this section, or if the
26 council receives an appeal under subsection E of this section, [~~and at~~
27 ~~least three council members request of the chairperson that~~] the matter
28 [SHALL] be heard in a public meeting [AND THE COUNCIL SHALL NOTIFY THE
29 AGENCY THAT THE MATTER HAS BEEN PLACED ON THE COUNCIL'S AGENDA. BEFORE
30 THE PUBLIC MEETING IS HELD, THE FOLLOWING MUST BE COMPLETED]:

31 1. Within ninety days after [~~receiving the third council member's~~
32 ~~request~~] [RECEIVING THE PETITION], the council shall determine whether any
33 of the following applies:

34 (a) The agency practice or substantive policy statement constitutes
35 a rule.

36 (b) The final rule meets the requirements prescribed in section
37 41-1030.

38 (c) An existing agency practice, substantive policy statement,
39 final rule or regulatory licensing requirement exceeds the agency's
40 statutory authority, is not specifically authorized by statute or [~~meets~~]
41 [DOES NOT MEET] the guidelines prescribed in subsection G of this section.

42 [~~2. Within ten days after receiving the third council member's~~
43 ~~request, the council shall notify the agency that the matter has been or~~
44 ~~will be placed on the council's agenda for consideration on the merits.~~]

45 [~~3.~~] [2.] Not later than thirty days after receiving notice from
46 the council, the agency shall submit a statement of not more than five

1 double-spaced pages to the council that addresses whether any of the
2 following applies:

3 (a) The existing agency practice or substantive policy statement
4 constitutes a rule.

5 (b) The final rule meets the requirements prescribed in section
6 41-1030.

7 (c) An existing agency practice, substantive policy statement,
8 final rule or regulatory licensing requirement exceeds the agency's
9 statutory authority, is not specifically authorized by statute or meets
10 the guidelines prescribed in subsection G of this section.

11 I. At the hearing, the council shall allocate the petitioner and
12 the agency an equal amount of time for oral comments not including any
13 time spent answering questions raised by council members. The council may
14 also allocate time for members of the public who have an interest in the
15 issue to provide oral comments.

16 J. For the purposes of subsection H of this section, the council
17 meeting shall not be scheduled until the expiration of the agency response
18 period prescribed in subsection H, paragraph ~~[8-]~~ [2] of this section.

19 K. An agency practice, substantive policy statement, final rule or
20 regulatory licensing requirement considered by the council pursuant to
21 this section shall remain in effect while under consideration of the
22 council. If the council determines that the agency practice, substantive
23 policy statement or regulatory licensing requirement exceeds the agency's
24 statutory authority, is not authorized by statute or constitutes a rule or
25 that the final rule does not meet the requirements prescribed in section
26 41-1030, the practice, policy statement, rule or regulatory licensing
27 requirement shall be void. If the council determines that the existing
28 agency practice, substantive policy statement, final rule or regulatory
29 licensing requirement is unduly burdensome or is not demonstrated to be
30 necessary to specifically fulfill a public health, safety or welfare
31 concern, the council shall modify, revise or declare void any such
32 existing agency practice, substantive policy statement, final rule or
33 regulatory licensing requirement. If an agency decides to further pursue
34 a practice, substantive policy statement or regulatory licensing
35 requirement that has been declared void or has been modified or revised by
36 the council, the agency may do so only pursuant to a new rulemaking.

37 L. A council decision pursuant to this section shall be made by a
38 majority of the council members who are present and voting on the
39 issue. Notwithstanding any other law, the council may not base any
40 decision concerning an agency's compliance with the requirements of
41 section 41-1030 in issuing a final rule or substantive policy statement on
42 whether any party or person commented on the rulemaking or substantive
43 policy statement.

1 M. A decision by the council pursuant to this section is not
2 subject to judicial review, except that, in addition to the procedure
3 prescribed in this section or in lieu of the procedure prescribed in this
4 section, a person may seek declaratory relief pursuant to section 41-1034.

5 N. Each agency and the secretary of state shall post prominently on
6 their websites notice of an individual's right to petition the council for
7 review pursuant to this section.>>

8 <<Sec. 2. Section 41-1051, Arizona Revised Statutes, is amended to
9 read:

10 41-1051. Governor's regulatory review council; membership;
11 terms; compensation; powers

12 A. The governor's regulatory review council is established
13 consisting of six members who are appointed by the governor pursuant to
14 section 38-211 and who are subject to sections 38-291 and 38-295 and the
15 director of the department of administration or the assistant director of
16 the department of administration who is responsible for administering the
17 council. [THE ASSISTANT DIRECTOR MAY NOT BE THE GENERAL COUNSEL OF THE
18 DEPARTMENT OF ADMINISTRATION.] The director or assistant director is an
19 ex officio member and chairperson of the council [AND SHALL OVERSEE THE
20 LEGAL AND ECONOMIC ANALYSIS OF ANY RULES RECEIVED BY THE COUNCIL]. The
21 council shall elect a [vice-chairperson] [VICE CHAIRPERSON] to serve as
22 chairperson in the chairperson's absence. The governor shall appoint at
23 least one member who represents the public interest, at least one member
24 who represents the business community, at least one member who is a small
25 business owner, one member from a list of three persons who are not
26 legislators submitted by the president of the senate and one member from a
27 list of three persons who are not legislators submitted by the speaker of
28 the house of representatives. At least one member of the council shall be
29 an attorney licensed to practice law in this state. The governor shall
30 appoint the members of the council for staggered terms of three years. A
31 vacancy occurring during the term of office of any member shall be filled
32 by appointment by the governor for the unexpired portion of the term in
33 the same manner as provided in this section.

34 B. The council shall meet at least once a month at a time and place
35 set by the chairperson and at other times and places as the chairperson
36 deems necessary.

37 C. Members of the council are eligible to receive compensation in
38 an amount of [two hundred dollars] [\$200] for each day on which the
39 council meets and reimbursement of expenses pursuant to title 38, chapter
40 4, article 2.

41 D. The chairperson, subject to chapter 4, article 4 and, as
42 applicable, articles 5 and 6 of this title, shall employ, determine the
43 conditions of employment of and specify the duties of administrative,
44 secretarial and clerical employees as the chairperson deems necessary.

45 E. The council may make rules pursuant to this chapter to carry out
46 the purposes of this chapter.

1 F. The council shall make a list of agency rules approved or
2 returned pursuant to sections 41-1027 and 41-1052 and section 41-1056,
3 subsection C for the previous twelve-month period available to the public
4 on request and on the council's website.

5 [G. COUNCIL STAFF SHALL DO BOTH OF THE FOLLOWING:

6 1. INDEPENDENTLY REVIEW THE CONSTITUTION OF THIS STATE AND ANY
7 RELEVANT STATUTES AND ADVISE THE COUNCIL ON THE CONSTITUTIONALITY OF A
8 RULE INDEPENDENT OF AN AGENCY'S STATUTORY JUSTIFICATION FOR THE RULE.

9 2. DISTRIBUTE ALL COUNCIL MEETING MATERIALS TO THE PRESIDENT OF THE
10 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AT THE SAME TIME
11 THE MATERIALS ARE DISTRIBUTED TO THE MEMBERS OF THE COUNCIL.]>>

12 <<Sec. 3. Section 41-1052, Arizona Revised Statutes, is amended to
13 read:

14 41-1052. Council review and approval; rule expiration;
15 definition

16 A. Before filing a final rule subject to this section with the
17 secretary of state, an agency shall prepare, transmit to the council and
18 the committee and obtain the council's approval of the rule and its
19 preamble and economic, small business and consumer impact statement that
20 meets the requirements of section 41-1055. The office of economic
21 opportunity shall prepare the economic, small business and consumer impact
22 statement.

23 B. The council shall accept an early review petition of a proposed
24 rule, in whole or in part, if the proposed rule is alleged to violate any
25 of the criteria prescribed in subsection D of this section and if the
26 early petition is filed by a person who would be adversely impacted by the
27 proposed rule. The council may determine whether the proposed rule, in
28 whole or in part, violates any of the criteria prescribed in subsection D
29 of this section.

30 C. Within one hundred twenty days after receipt of the rule,
31 preamble and economic, small business and consumer impact statement, the
32 council shall review and approve or return, in whole or in part, the rule,
33 preamble or economic, small business and consumer impact statement. An
34 agency may resubmit a rule, preamble or economic, small business and
35 consumer impact statement if the council returns the rule, [PREAMBLE OR]
36 economic, small business and consumer impact statement [or preamble], in
37 whole or in part, to the agency.

38 D. The council shall not approve the rule unless:

39 1. The economic, small business and consumer impact statement
40 contains information from the state, data and analysis prescribed by this
41 article.

42 2. The economic, small business and consumer impact statement is
43 generally accurate.

44 3. The probable benefits of the rule outweigh within this state the
45 probable costs of the rule and the agency has demonstrated that it has
46 selected the alternative that imposes the least burden and costs to

1 persons regulated by the rule, including paperwork and other compliance
2 costs, necessary to achieve the underlying regulatory objective.

3 4. The rule is written in a manner that is clear, concise and
4 understandable to the general public.

5 5. The rule is not illegal, inconsistent with legislative intent or
6 beyond the agency's statutory authority and meets the requirements
7 prescribed in section 41-1030.

8 6. The agency adequately addressed, in writing, the comments on the
9 proposed rule and any supplemental proposals.

10 7. The rule is not a substantial change, considered as a whole,
11 from the proposed rule and any supplemental notices.

12 8. The preamble discloses a reference to any study relevant to the
13 rule that the agency reviewed and either did or did not rely on in the
14 agency's evaluation of or justification for the rule.

15 9. The rule is not more stringent than a corresponding federal law
16 unless there is statutory authority to exceed the requirements of that
17 federal law.

18 10. If a rule requires a permit, the permitting requirement
19 complies with section 41-1037.

20 E. The council shall verify that a rule with new fees does not
21 violate section 41-1008. The council shall not approve a rule that
22 contains a fee increase unless two-thirds of the voting quorum present
23 votes to approve the rule.

24 F. The council shall verify that a rule with an immediate effective
25 date complies with section 41-1032. The council shall not approve a rule
26 with an immediate effective date unless two-thirds of the voting quorum
27 present votes to approve the rule. [THE COUNCIL MAY NOT VOTE TO APPROVE A
28 RULE DURING A STUDY SESSION MEETING AND MAY ONLY VOTE TO APPROVE A RULE AT
29 A COUNCIL MEETING FOLLOWING EACH STUDY SESSION MEETING.]

30 G. If the rule relies on scientific principles or methods,
31 including a study disclosed pursuant to subsection D, paragraph 8 of this
32 section, and a person submits an analysis to the council questioning
33 whether the rule is based on valid scientific or reliable principles or
34 methods, the council shall not approve the rule unless the council
35 determines that the rule is based on valid scientific or reliable
36 principles or methods that are specific and not of a general nature. In
37 making a determination of reliability or validity, the council shall
38 consider the following factors as applicable to the rule:

39 1. The authors of the study, principle or method have subject
40 matter knowledge, skill, experience, training and expertise.

41 2. The study, principle or method is based on sufficient facts or
42 data.

43 3. The study is the product of reliable principles and methods.

44 4. The study and its conclusions, principles or methods have been
45 tested or subjected to peer reviewed publications.

46 5. The known or potential error rate of the study, principle or
47 method has been identified along with its basis.

1 6. The methodology and approach of the study, principle or method
2 are generally accepted in the scientific community.

3 H. The council may require a representative of an agency whose rule
4 is under examination to attend a council meeting and answer
5 questions. The council may also communicate to the agency its comments on
6 any rule, preamble or economic, small business and consumer impact
7 statement and require the agency to respond to its comments in writing.

8 [I. FOR ALL COUNCIL MEETINGS THAT ARE OPEN TO THE PUBLIC FOR
9 COMMENT, THE COUNCIL SHALL ALLOT AN EQUAL AMOUNT OF TIME TO INDIVIDUALS
10 WHO SUPPORT OR OPPOSE A RULE.]

11 ~~[F.]~~ [J.] At any time during the thirty days immediately following
12 receipt of the rule, a person may submit written comments to the council
13 that are within the scope of subsection D, E, F or G of this section. The
14 council may allow testimony at a council meeting within the scope of
15 subsection D, E, F or G of this section.

16 ~~[G.]~~ [K.] If the agency makes a good faith effort to comply with
17 the requirements prescribed in this article and has explained in writing
18 the methodology used to produce the economic, small business and consumer
19 impact statement, the rule may not be invalidated after it is finalized on
20 the ground that the contents of the economic, small business and consumer
21 impact statement are insufficient or inaccurate or on the ground that the
22 council erroneously approved the rule, except as provided by section
23 41-1056.01.

24 ~~[K.]~~ [L.] The absence of comments pursuant to subsection D, E, F
25 or G of this section or article 4.1 of this chapter does not prevent the
26 council from acting pursuant to this section.

27 ~~[L.]~~ [M.] The council shall review and approve or reject a notice
28 of proposed expedited rulemaking pursuant to section 41-1027.

29 ~~[M.]~~ [N.] An agency that seeks to expire a rule or rules may file
30 a notice of intent to expire with the council. The notice shall describe
31 the rule or rules to be expired and the reasons for expiration. The
32 council shall place the notice on the agenda for the next scheduled
33 council meeting for consideration. If a quorum of the council approves
34 the notice, the council shall cause a notice of rule expiration to be
35 prepared and provide the notice of rule expiration to the agency for
36 filing with the secretary of state.

37 [O. FOR THE PURPOSES OF THIS SECTION, "STUDY SESSION MEETING" MEANS
38 A PUBLIC MEETING WHERE COUNCIL MEMBERS MEET WITH AGENCY REPRESENTATIVES.
39 THE PUBLIC AND COUNCIL STAFF TO DISCUSS PROPOSED RULES AND REVIEW
40 REPORTS.]>>

41 Sec. 4. Repeal

42 Section 41-3025.05, Arizona Revised Statutes, is repealed.

1 Sec. 5. Title 41, chapter 27, article 2, Arizona Revised Statutes,
2 is amended by adding section ~~[41-3029.15]~~ [41-3027.09], to read:

3 ~~[41-3029.15.]~~ [41-3027.09.] Governor's regulatory review
4 council; termination July 1, 2027

5 A. THE GOVERNOR'S REGULATORY REVIEW COUNCIL TERMINATES ON JULY 1,
6 ~~[2029]~~ [2027].

7 B. TITLE 41, CHAPTER 6, ARTICLE 5 AND THIS SECTION ARE REPEALED ON
8 JANUARY 1, ~~[2030]~~ [2028].

9 Sec. 6. Purpose

10 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
11 the legislature continues the governor's regulatory review council to
12 review and approve or reject rules, preambles, economic, small business
13 and consumer impact statements and summary rule packages that are
14 submitted by agencies.

15 Sec. 7. Retroactivity

16 Sections ~~[1-]~~ [4] and ~~[2-]~~ [5] of this act apply retroactively to from and
17 after July 1, 2025.

18 Enroll and engross to conform

19 Amend title to conform

And, as so amended, it do pass

WALT BLACKMAN
CHAIRMAN

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C: AH