

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H3/14/17

A Bill

HOUSE BILL 1880

5 By: Representative Dotson
6 By: Senator E. Williams
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A SUNSET DATE FOR STATE AGENCY
10 RULES; TO ESTABLISH A PROCESS FOR A STATE AGENCY RULE
11 TO EXIST BEYOND THE SUNSET DATE; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 TO ESTABLISH A SUNSET DATE FOR STATE
16 AGENCY RULES; AND TO ESTABLISH A PROCESS
17 FOR A STATE AGENCY RULE TO EXIST BEYOND
18 THE SUNSET DATE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 *SECTION 1. DO NOT CODIFY. Legislative findings and determinations.*
25 *The General Assembly finds and determines that it is in the best*
26 *interest of this state to conduct a periodic comprehensive consideration of*
27 *agency rules.*
28

29 *SECTION 2. Arkansas Code Title 25, Chapter 15, is amended to add an*
30 *additional subchapter to read as follows:*

Subchapter 4 – Rule Report, Sunset, and Extension

25-15-401. Definitions.

As used in this subchapter:

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35 *(1)(A) “Agency” means a board, commission, department, office, or*
36 *other authority of the government of the State of Arkansas, whether within or*



1 subject to review by another agency except the General Assembly, the courts,
2 and the Governor.

3 (B) "Agency" includes the Division of Child Care and Early
4 Childhood Education of the Department of Human Services and the Child Care
5 Appeal Review Panel for purposes of administrative appeal;

6 (2)(A) "Rule" means an agency statement of general applicability and
7 future effect that implements, interprets, or prescribes law or policy or
8 describes the organization, procedure, or practice of an agency, including
9 without limitation the amendment or repeal of a prior rule.

10 (B) "Rule" does not mean:

11 (i) A statement that concerns the internal management of
12 an agency and that does not affect the private rights or procedures available
13 to the public;

14 (ii) A declaratory ruling issued under § 25-15-206; or

15 (iii) Intra-agency memoranda; and

16 (3) "Rule making" means an agency process for the formulation,
17 amendment, or repeal of a rule.

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19 25-15-402. Report, sunset, and extension of rules.

20 (a)(1) Except as provided in § 25-15-403 and under subdivision (a)(2)
21 of this section, unless a rule is extended by the Governor and the
22 Legislative Council, an agency rule shall maintain in full force and effect
23 for no more than twenty-four (24) years.

24 (2) However, this section does not prohibit an agency from
25 proposing, amending, or repealing a rule in an ordinary fashion under the
26 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

27 (b)(1) By December 1, 2017, each agency shall file an initial rule
28 report with the Governor and the Legislative Council.

29 (2)(A) The initial rule report shall contain a list of all the
30 rules in effect promulgated by the agency.

31 (B) The list of rules under subdivision (c)(2)(A) of this
32 section shall include:

33 (i) The initial effective date of each rule;

34 (ii) The date that each rule was filed with the
35 Secretary of State;

36 (iii) The authority under which the rule was

1 promulgated; and

2 (iv) If the rule is required under state or federal
3 law, a statement regarding the requirement.

4 (c)(1) By July 1, 2018, each agency shall file a final rule report and
5 shall continue to file a rule report according to the schedule determined
6 under § 25-15-403.

7 (2)(A) The final rule report shall contain:

8 (i) A list of all rules in effect that distinguishes
9 between rules that the agency will continue to enforce and rules that the
10 agency wishes to repeal; and

11 (ii) The date that the agency filed its initial rule
12 report under subdivision (b)(1)(A) of this section.

13 (B) The agency shall provide in writing the legal
14 authority or agency justification for each rule that will continue to be
15 enforced by the agency.

16 (C)(i) If the agency chooses to repeal a rule, the agency
17 shall provide in writing the agency justification for repealing the rule.

18 (ii) A rule that an agency chooses to repeal under
19 subdivision (a)(2)(C)(i) of this section is not subject to the Arkansas
20 Administrative Procedure Act, § 25-15-201 et seq.

21 (3) The final rule report shall be assigned to the subject
22 matter interim committees by the President Pro Tempore of the Senate and the
23 Speaker of the House of Representatives.

24 (d) By December 31, 2018, each of the subject matter interim
25 committees shall:

26 (1) Consider the rules the agency wishes to repeal and the
27 corresponding justifications submitted by the agency under subdivision
28 (c)(2)(C) of this section;

29 (2) Consider the agency rules that will continue to be enforced
30 by the agency and the corresponding justification submitted by the agency
31 under subdivision (c)(2)(B) of this section;

32 (3) Allow an agency representative and the public to speak about
33 the rules at an interim committee meeting;

34 (4) Recommend that the Legislative Council either accept or
35 reject the agency's decision to repeal a rule; and

36 (5) Refer the agency rules that will continue to be enforced by

1 the agency to group consideration under § 25-15-403.

2 (e)(1) Before December 31 of the fourth year of the consideration of a
3 group of agencies under § 25-15-403, the Legislative Council shall meet on a
4 date or dates set by the President Pro Tempore of the Senate and the Speaker
5 of the House of Representatives to consider renewing the rules of the
6 agencies scheduled for consideration.

7 (2) If the Legislative Council does not extend an agency's rules
8 and the result is that the agency has no rules that address an issue that the
9 agency is required by law to address by rule, the agency has sixty (60) days
10 to initiate the rule-making process under the Arkansas Administrative
11 Procedure Act, § 25-15-201 et seq., including without limitation adoption of
12 an emergency rule.

13 (f)(1) If applicable, a final rule report under this section shall be
14 updated by the agency to include and make note of any rule filed, amended, or
15 repealed by the agency during the interim period of time occurring after July
16 1, 2018, and before it is sent to a group under § 25-15-403.

17 (2) An updated final rule report shall include the date the rule
18 was filed, amended, or repealed during the interim.

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20 25-15-403. Order of implementation.

21 (a)(1) The agency rules shall be divided in six (6) groups to be
22 determined by the Governor to ensure that the number of agencies in each
23 group and the number of subject matter areas represented by each group are
24 approximately equal.

25 (2) If the Governor has not determined the groups by January 1,
26 2019, the President Pro Tempore of the Senate and the Speaker of the House of
27 Representatives shall determine the six (6) groups to ensure that the number
28 of agencies in each group and the number of subject-matter areas represented
29 by each group are approximately equal.

30 (3) If neither the Governor nor the President Pro Tempore of the
31 Senate and the Speaker of the House of Representatives have determined the
32 groups by April 1, 2019, all of the state agencies shall be subject to
33 immediate evaluation in one (1) group and:

34 (A) Except as provided in § 25-15-402 concerning an
35 initial rule report, a final rule report shall be filed by an agency:

36 (i) No earlier than May 1, 2019, and no later than

1 July 1, 2019; and

2 (ii) No earlier than May 1 of every twenty-fourth
3 year after May 1, 2019, and no later than July 1 of every twenty-fourth year
4 after July 1, 2019; and

5 (B) The evaluation shall be completed no later than:

6 (i) December 31, 2042; and

7 (ii) December 31 of every twenty-fourth year after
8 December 31, 2042.

9 (b)(1) Each group of agencies assigned under subdivision (a)(1) or
10 subdivision (a)(2) of this section shall be evaluated in a four-year time
11 period.

12 (2) Group 1 shall file a report:

13 (A) No earlier than May 1, 2019, and no later than July 1,
14 2019; and

15 (B) No earlier than May 1 of every twenty-fourth year
16 after May 1, 2019, and no later than July 1 of every twenty-fourth year after
17 July 1, 2019.

18 (3) Group 2 shall file a report:

19 (A) No earlier than May 1, 2023, and no later than July 1,
20 2023; and

21 (B) No earlier than May 1 of every twenty-fourth year
22 after May 1, 2023, and no later than July 1 of every twenty-fourth year after
23 July 1, 2023.

24 (4) Group 3 shall file a report:

25 (A) No earlier than May 1, 2027, and no later than July 1,
26 2027; and

27 (B) No earlier than May 1 of every twenty-fourth year
28 after May 1, 2027, and no later than January 1 of every twenty-fourth year
29 after July 1, 2027.

30 (5) Group 4 shall file a report:

31 (A) No earlier than May 1, 2031, and no later than July 1,
32 2031; and

33 (B) No earlier than May 1 of every twenty-fourth year
34 after May 1, 2031, and no later than July 1 of every twenty-fourth year after
35 July 1, 2031.

36 (6) Group 5 shall file a report:

1 (A) No earlier than May 1, 2035, and no later than July 1,
2 2035; and

3 (B) No earlier than May 1 of every twenty-fourth year
4 after May 1, 2035, and no later than July 1 of every twenty-fourth year after
5 July 1, 2035.

6 (7) Group 6 shall file a report:

7 (A) No earlier than May 1, 2039, and no later than July 1,
8 2039; and

9 (B) No earlier than May 1 of every twenty-fourth year
10 after May 1, 2039, and no later than January 1 of every twenty-fourth year
11 after July 1, 2039.

12 (c) Agency rules that have been in effect for twenty-four (24) years
13 or longer on the enactment date of this act shall remain in effect until the
14 date of their first scheduled evaluation as provided under this section
15 unless otherwise approved or rejected in accordance with the Arkansas
16 Administrative Procedure Act, § 25-15-201 et seq.

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/s/Dotson

APPROVED: 03/31/2017