

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 1612, 1025 and 646

STATE OF NEW JERSEY

ADOPTED MAY 20, 1996

Sponsored by Assemblywoman HECK, Assemblymen  
O'TOOLE, DiGaetano, Impreveduto and Kelly

1 AN ACT concerning rule-making and the Office of Administrative  
2 Law, amending P.L.1968, c.410, P.L.1978, c.67 and P.L.1981,  
3 c.27, supplementing P.L.1968, c.410 (C.52:14B-1 et seq.) and  
4 repealing parts of P.L.1981, c.27.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. Section 3 of P.L.1968, c.410 (C.52:14B-3) is amended to read  
10 as follows:

11 3. In addition to other rule-making requirements imposed by law,  
12 each agency shall:

13 (1) adopt as a rule a description of its organization, stating the  
14 general course and method of its operations and the methods whereby  
15 the public may obtain information or make submissions or requests;

16 (2) adopt rules of practice setting forth the nature and  
17 requirements of all formal and informal procedures available, including  
18 a description of all forms and instructions used by the agency, and if  
19 not otherwise set forth in an agency's rules, a table of all permits and  
20 their fees, violations and penalties, deadlines, processing times and  
21 appeals procedures;

22 (3) make available for public inspection all final orders, decisions,  
23 and opinions, in accordance with the provisions of chapter 73 of the  
24 laws of 1963 as amended and supplemented (C.47:1A-1 et seq.);

25 (4) publish in the New Jersey Register a quarterly calendar setting  
26 forth a schedule of the agency's anticipated rule-making activities for  
27 the next six months. The calendar shall include the name of the agency  
28 and agency head, a citation to the legal authority authorizing the  
29 rule-making action and a synopsis of the subject matter and the  
30 objective or purpose of the agency's proposed rules. The calendar also  
31 shall indicate where and when interested persons may submit their

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

Matter underlined thus is new matter.

1 comments, orally or in writing, and the dates and locations of any  
2 hearings or other meetings relating to the rule-making process.

3 In a manner prescribed by the Director of the Office of  
4 Administrative Law, each agency shall appropriately publicize that  
5 copies of its calendar are available to interested persons for a  
6 reasonable fee. The amount of the fee shall be set by the director.

7 An agency shall notify the Director of the Office of Administrative  
8 Law when it wishes to amend its calendar of rule-making activities.  
9 Any amendment which involves the addition of any rule-making  
10 activity to an agency's calendar shall provide that the agency shall take  
11 no action on that matter until at least 45 days following the first  
12 publication of the amended calendar in which the announcement of  
13 that proposed rule-making activity first appears.

14 The provisions of this paragraph shall not apply to rule-making:  
15 (a) governed by federal law;  
16 (b) subject to a specific statutory authorization requiring  
17 promulgation in a lesser time period; or  
18 (c) involving an imminent peril subject to provisions of subsection  
19 (c) of section 4 of P.L.1986, c.410 (C.52:14B-4).  
20 (cf: P.L.1968, c.410, s.3)

21  
22 2. Section 4 of P.L.1968, c.410 (C.52:14B-4) is amended to read  
23 as follows:

24 4. (a) Prior to the adoption, amendment, or repeal of any rule,  
25 except as may be otherwise provided, the agency shall:

26 (1) Give at least 30 days' notice of its intended action. The notice  
27 shall include a statement of either the terms or substance of the  
28 intended action or a description of the subjects and issues involved,  
29 and the time when, the place where, and the manner in which  
30 interested persons may present their views thereon. The notice shall  
31 be mailed to all persons who have made timely requests of the agency  
32 for advance notice of its rule-making proceedings and in addition to  
33 other public notice required by law shall be published in the New  
34 Jersey Register [and shall be filed with the President of the Senate and  
35 the Speaker of the General Assembly The notice shall be additionally  
36 publicized in such manner as the agency deems most appropriate in  
37 order to]. Notice shall also be distributed to the news media  
38 maintaining a press office to cover the State House Complex, and  
39 made available electronically through the largest nonproprietary  
40 cooperative public computer network. Each agency shall additionally  
41 publicize the intended action and shall adopt rules to prescribe the  
42 manner in which it will do so, and inform those persons most likely to  
43 be affected by or interested in the intended action. Methods that may  
44 be employed include publication of the notice in newspapers of general  
45 circulation or in trade, industry, governmental or professional  
46 publications, distribution of press releases to the news media and

1 posting of notices in appropriate locations. The rules shall prescribe  
2 the circumstances under which each additional method shall be  
3 employed;

4 (2) Prepare for public distribution at the time the notice appears  
5 in the Register a statement setting forth a summary of the proposed  
6 rule, a clear and concise explanation of the purpose and effect of the  
7 rule, the specific legal authority under which its adoption is  
8 authorized, a [description of the expected socio-economic] regulatory  
9 impact analysis of the rule in accordance with the requirements of  
10 section 8 of P.L. , c. (C. )(now pending before the Legislature  
11 as this bill), a regulatory flexibility analysis, or the statement of finding  
12 that a regulatory flexibility analysis is not required, as provided in  
13 section 4 of P.L.1986, c.169 (C.52:14B-19) and a jobs impact  
14 statement which shall include an assessment of the number of jobs to  
15 be generated or lost if the proposed rule takes effect. If the agency  
16 finds that the substantive matters of a regulatory flexibility analysis or  
17 jobs impact statement are sufficiently covered in the regulatory impact  
18 analysis of the proposed rule, it may provide a statement to that effect  
19 and shall not be required to prepare a separate regulatory flexibility  
20 analysis or jobs impact statement; and

21 (3) Afford all interested persons reasonable opportunity to submit  
22 data, views, or arguments, orally or in writing. The agency shall  
23 consider fully all written and oral submissions respecting the proposed  
24 rule. If within 30 days of the publication of the proposed rule  
25 sufficient public interest is demonstrated in an extension of the time for  
26 submissions , the agency shall provide an additional 30 day period for  
27 the receipt of submissions by interested parties. The agency shall not  
28 adopt the proposed rule until after the end of that 30 day extension.

29 The agency shall conduct a public hearing on the proposed rule at  
30 the request of a committee of the Legislature, or a governmental  
31 agency or subdivision, or if sufficient public interest is shown,  
32 provided such request is made to the agency within [15] 30 days  
33 following publication of the proposed rule in the Register. The agency  
34 shall provide at least 15 days' notice of such hearing, which shall be  
35 conducted in accordance with the provisions of subsection (g) of this  
36 section[;].

37 The head of each agency shall adopt as part of its rules of practice  
38 adopted pursuant to section 3 of P.L.1968, c.410 (C.52:14B-3)  
39 definite standards of what constitutes sufficient public interest for  
40 conducting a public hearing and for granting an extension pursuant to  
41 this paragraph.

42 (4) Prepare for public distribution a report listing all parties  
43 offering written or oral submissions concerning the rule, summarizing  
44 the content of the submissions and providing the agency's response to  
45 the data, views and arguments contained in the submissions.

46 (b) A rule prescribing the organization of an agency may be

1 adopted at any time without prior notice or hearing. Such rules shall  
2 be effective upon filing in accordance with section 5 of this act or  
3 upon any later date specified by the agency.

4 (c) If an agency finds that an imminent peril to the public health,  
5 safety, or welfare requires adoption of a rule upon fewer than 30 days'  
6 notice and states in writing its reasons for that finding, and the  
7 Governor concurs in writing that an imminent peril exists, it may  
8 proceed without prior notice or hearing, or upon any abbreviated  
9 notice and hearing that it finds practicable, to adopt the rule. The rule  
10 shall be effective for a period of not more than 60 days unless each  
11 house of the Legislature passes a resolution concurring in its extension  
12 for a period of not more than 60 additional days. The rule shall not be  
13 effective for more than 120 days unless repromulgated in accordance  
14 with normal rule-making procedures.

15 (d) No rule hereafter adopted is valid unless adopted in substantial  
16 compliance with this act. A proceeding to contest any rule on the  
17 ground of noncompliance with the procedural requirements of this act  
18 shall be commenced within one year from the effective date of the rule.

19 (e) An agency may file a notice of intent with respect to a  
20 proposed rule-making proceeding with the Office of Administrative  
21 Law, for publication in the New Jersey Register at any time prior to  
22 the formal notice of action required in subsection (a) of this section.  
23 The notice shall be for the purpose of eliciting the views of interested  
24 parties on an action prior to the filing of a formal rule proposal. An  
25 agency may use informal conferences and consultations as means of  
26 obtaining the viewpoints and advice of interested persons with respect  
27 to contemplated rule-making. An agency may also appoint committees  
28 of experts or interested persons or representatives of the general  
29 public to advise it with respect to any contemplated rule-making.

30 (f) An interested person may petition an agency to [promulgate]  
31 adopt a new rule, or amend or repeal any existing rule. Each agency  
32 shall prescribe by rule the form for the petition and the procedure for  
33 the submission, consideration and disposition of the petition. The  
34 petition shall state clearly and concisely:

35 (1) The substance or nature of the rule-making which is requested;

36 (2) The reasons for the request and the petitioner's interest in the  
37 request;

38 (3) References to the authority of the agency to take the requested  
39 action.

40 The petitioner may provide the text of the proposed new rule,  
41 amended rule or repealed rule.

42 Within [30] 60 days following receipt of any such petition, the  
43 agency shall either: (i) deny the petition, giving a written statement of  
44 its reasons [, or shall proceed to act on the petition, which action may  
45 include the initiation of a formal rule-making proceeding] ; (ii) grant  
46 the petition and initiate a rule-making proceeding within 90 days; or

1 (iii) refer the matter for further deliberations which shall be concluded  
2 within 90 days. Upon conclusion of such further deliberations, the  
3 agency shall either deny the petition and provide a written statement  
4 of its reasons or grant the petition and initiate a rule-making  
5 proceeding within 90 days. Upon the receipt of the petition, the  
6 agency shall file a notice stating the name of the petitioner and the  
7 nature of the request with the Office of Administrative Law for  
8 publication in the New Jersey Register. Notice of formal agency  
9 action on such petition shall also be filed with the division for  
10 publication in the Register.

11 If an agency fails to act in accordance with the time frame set forth  
12 in the preceding paragraph, upon written request by the petitioner, the  
13 Director of the Office of Administrative Law shall order a public  
14 hearing on the rule-making petition and shall provide the agency with  
15 a notice of the director's intent to hold the public hearing if the agency  
16 does not. If the agency does not provide notice of a hearing within 15  
17 days of the director's notice, the director shall schedule and provide  
18 the public with a notice of that hearing at least 15 days prior thereto.  
19 If the public hearing is held by the Office of Administrative Law, it  
20 shall be conducted by an administrative law judge, a person on  
21 assignment from another agency, a person from the Office of  
22 Administrative Law assigned pursuant to subsection o. of section 5 of  
23 P.L.1978, c.67 (C.52:14F-5), or an independent contractor assigned  
24 by the director. The petitioner and the agency shall participate in the  
25 public hearing and shall present a summary of their positions on the  
26 petition, a summary of the factual information on which their positions  
27 on the petition are based and shall respond to questions posed by any  
28 interested party. The hearing procedure shall otherwise be consistent  
29 with the requirements for the conduct of a public hearing as prescribed  
30 in subsection (g) of section 4 of P.L.1968, c.410 (C.52:14B-4), except  
31 that the person assigned to conduct the hearing shall make a report  
32 summarizing the factual record presented and the arguments for and  
33 against proceeding with a rule proposal based upon the petition. This  
34 report shall be filed with the agency and delivered or mailed to the  
35 petitioner. A copy of the report shall be filed with the Legislature  
36 along with the petition for rule-making. The Legislature, pursuant to  
37 section 8 of P.L. , c. (C. )(now pending before the Legislature  
38 as this bill), shall review those materials forwarded by the office and  
39 may take such action as it deems appropriate.

40 (g) All public hearings shall be conducted by a hearing officer,  
41 who may be an official of the agency, a member of its staff, a person  
42 on assignment from another agency, a person from the Office of  
43 Administrative Law assigned pursuant to subsection o. of section 5 of  
44 P.L.1978, c.67 (C.52:14F-5) or an independent contractor. The  
45 hearing officer shall have the responsibility to make recommendations  
46 to the agency regarding the adoption, amendment or repeal of a rule.

1 These recommendations shall be made public. At the beginning of  
2 each hearing, or series of hearings, the agency, if it has made a  
3 proposal, shall present a summary of the factual information on which  
4 its proposal is based, and shall respond to questions posed by any  
5 interested party. Hearings shall be conducted at such times and in  
6 locations which shall afford interested parties the opportunity to  
7 attend. A verbatim ~~[transcript]~~record of each hearing shall be  
8 maintained, and copies of the ~~[transcript]~~record shall be available to  
9 the public at no more than the actual cost , which shall be that of the  
10 agency where the petition for rule-making originated.

11 (cf: P.L.1995, c.166, s.1)

12

13 3. Section 5 of P.L.1968, c.410 (C.52:14B-5) is amended to read  
14 as follows:

15 5. (a) Each agency shall file with the Director and Chief  
16 Administrative Law Judge of the Office of Administrative Law a  
17 certified copy of each rule adopted by it.

18 (b) ~~[No rule hereafter adopted shall be effective unless it has been~~  
19 ~~deemed to be approved by the Legislature pursuant to section 3 of this~~  
20 ~~amendatory and supplementary act.] Deleted by amendment, P.L. ,~~  
21 ~~c. (C. )(now pending before the Legislature as this bill).~~

22 (c) The director shall: (1) accept for filing or publication any rule  
23 duly adopted and submitted by any agency pursuant to this act and  
24 which meets all of the requirements and standards of P.L. , c.  
25 (C. )(now pending before the Legislature as this bill); (2) endorse  
26 upon the certified copy of each rule accepted for filing pursuant to  
27 this act the date and time upon which such rule was filed; ~~[and]~~ (3)  
28 maintain the certified copy of each rule so filed in a permanent register  
29 open to public inspection; and (4) accept for publication a duly  
30 adopted concurrent resolution of the Legislature finding any rule not  
31 consistent with legislative intent.

32 (d) The filing of a certified copy of any rule shall be deemed to  
33 establish the rebuttable presumptions that: (1) it was duly adopted; (2)  
34 it was duly submitted for prepublication and made available for public  
35 inspection at the hour and date endorsed upon it; (3) all requirements  
36 of this act and of interagency rules of the director relative to such rule  
37 have been complied with; (4) its text is the text of the rule as adopted.  
38 Judicial notice shall be taken of the text of each rule, duly filed.

39 (e) The publication of a rule in the New Jersey Administrative  
40 Code or the New Jersey Register shall be deemed to establish the  
41 rebuttable presumption that the rule was duly filed and that the text of  
42 the rule as so published is the text of the rule adopted. Judicial notice  
43 shall be taken of the text of each rule published in the New Jersey  
44 Administrative Code or the New Jersey Register.

45 (cf: P.L.1993, c.343, s.2)

46

1       4. Section 10 of P.L.1968, c.410 (C.52:14B-10) is amended to  
2 read as follows:

3       10. In contested cases:

4       (a) The parties shall not be bound by rules of evidence whether  
5 statutory, common law, or adopted formally by the Rules of Court. All  
6 relevant evidence is admissible, except as otherwise provided herein.  
7 The administrative law judge may in his discretion exclude any  
8 evidence if he finds that its probative value is substantially outweighed  
9 by the risk that its admission will either (i) necessitate undue  
10 consumption of time or (ii) create substantial danger of undue  
11 prejudice or confusion. The administrative law judge shall give effect  
12 to the rules of privilege recognized by law. Any party in a contested  
13 case may present his case or defense by oral and documentary  
14 evidence, submit rebuttal evidence and conduct such  
15 cross-examination as may be required, in the discretion of the  
16 administrative law judge, for a full and true disclosure of the facts.

17       (b) Notice may be taken of judicially noticeable facts. In addition,  
18 notice may be taken of generally recognized technical or scientific  
19 facts within the specialized knowledge of the agency or administrative  
20 law judge. Parties shall be notified either before or during the hearing,  
21 or by reference in preliminary reports or otherwise, of the material  
22 noticed, including any staff memoranda or data, and they shall be  
23 afforded an opportunity to contest the material so noticed. The  
24 experience, technical competence, and specialized knowledge of the  
25 agency or administrative law judge may be utilized in the evaluation of  
26 the evidence, provided this is disclosed of record.

27       (c) All hearings of a State agency required to be conducted as a  
28 contested case under this act or any other law shall be conducted by  
29 an administrative law judge assigned by the Director and Chief  
30 Administrative Law Judge of the Office of Administrative Law, except  
31 as provided by this amendatory and supplementary act. A  
32 recommended report and decision which contains recommended  
33 findings of fact and conclusions of law and which shall be based upon  
34 sufficient, competent, and credible evidence shall be filed, not later  
35 than 45 days after the hearing is concluded, with the agency in such  
36 form that it may be adopted as the decision in the case and delivered  
37 or mailed, to the parties of record with an indication of the date of  
38 receipt by the agency head; and an opportunity shall be afforded each  
39 party of record to file exceptions, objections, and replies thereto, and  
40 to present argument to the head of the agency or a majority thereof,  
41 either orally or in writing, as the agency may direct. The head of the  
42 agency, upon a review of the record submitted by the administrative  
43 law judge, shall adopt, reject or modify the recommended report and  
44 decision no later than 45 days after receipt of such recommendations.  
45 In reviewing the decision of an administrative law judge, the agency  
46 head may reject or modify conclusions of law or interpretations of

1 agency policy in the decision, but shall state clearly the reasons for  
2 doing so. The agency head may not reject or modify any findings of  
3 fact unless it is first determined from a review of the record that the  
4 findings of fact were not based upon sufficient, competent, and  
5 credible evidence in the record. In reversing or modifying the findings  
6 of fact, the agency head shall state with particularity the reasons for  
7 rejecting the findings and shall make new or modified findings  
8 supported by sufficient, competent, and credible evidence in the  
9 record. Unless the head of the agency modifies or rejects the report  
10 within such period, the decision of the administrative law judge shall  
11 be deemed adopted as the final decision of the head of the agency.  
12 The recommended report and decision shall be a part of the record in  
13 the case. For good cause shown, upon certification by the director  
14 and the agency head, the time limits established herein may be subject  
15 to extension.

16 (d) A final decision or order adverse to a party in a contested case  
17 shall be in writing or stated in the record. A final decision shall  
18 include findings of fact and conclusions of law, separately stated and  
19 shall be based only upon the evidence of record at the hearing, as such  
20 evidence may be established by rules of evidence and procedure  
21 promulgated by the director.

22 Findings of fact, if set forth in statutory language, shall be  
23 accompanied by a concise and explicit statement of the underlying  
24 facts supporting the findings. The final decision may incorporate by  
25 reference any or all of the recommendations of the administrative law  
26 judge. Parties shall be notified either personally or by mail of any  
27 decision or order. Upon request a copy of the decision or order shall  
28 be delivered or mailed forthwith by registered or certified mail to each  
29 party and to his attorney of record.

30 (e) Except where otherwise provided by law, the administrative  
31 adjudication of the agency shall be effective on the date of delivery or  
32 on the date of mailing, of the final decision to the parties of record  
33 whichever shall occur first, or shall be effective on any date after the  
34 date of delivery or mailing, as the agency may provide by general rule  
35 or by order in the case. The date of delivery or mailing shall be  
36 stamped on the face of the decision.

37 (cf: P.L.1993, c.343, s.3)

38 5. Section 9 of P.L.1978, c.67 (C.52:14F-9) is amended to read  
39 as follows:

40 9. a. Nothing in this amendatory and supplementary act shall be  
41 construed to deprive the head of any agency of the authority pursuant  
42 to section 10 of P.L.1968, c.410 (C.52:14B-10) to determine whether  
43 a case is contested or to adopt, reject or modify the findings of fact  
44 and conclusions of law of any administrative law judge consistent with  
45 the standards for the scope of review to be applied by the head of the  
46 agency as set forth in that section and applicable case law.

1        b. Nothing in this amendatory and supplementary act shall be  
2 construed to affect the conduct of any contested case initiated prior to  
3 the effective date of this act, or the making of any administrative  
4 adjudication in such contested case.

5 (cf: P.L.1978, c.67, s.9)

6

7        6. Section 1 of P.L.1981, c.27 (C.52:14B-4.1) is amended to read  
8 as follows:

9        1. Every rule hereafter proposed by a State agency shall be  
10 submitted by the [agency] Office of Administrative Law to the Senate  
11 and General Assembly [prior to its adoption, amendment or repeal on  
12 a day during a regular or special session of the Legislature] within two  
13 business days of its receipt by the office, and the President of the  
14 Senate and the Speaker of the General Assembly shall immediately  
15 refer the proposed rule to the appropriate [standing reference]  
16 committee in each House.

17 (cf: P.L.1981, c.27, s.1)

18

19        7. Section 3 of P.L.1981, c.27 (C.52:14B-4.3) is amended to read  
20 as follows:

21        3. [A rule shall be deemed approved unless within 60 days of the  
22 submission thereof,] If the Senate and General Assembly adopt a  
23 concurrent resolution [disapproving] ~~finding~~ the rule, in whole or in  
24 part, ~~inconsistent with legislative intent~~, [or providing that the rule not  
25 take effect during the 60 days following the date of the adoption of the  
26 resolution, during which time they may nevertheless adopt a  
27 concurrent resolution disapproving the rule] the presiding officer of  
28 the House of final adoption shall cause the concurrent resolution to be  
29 transmitted to the Office of Administrative Law for publication in the  
30 New Jersey Register and the New Jersey Administrative Code as an  
31 annotation to the rule if the rule is adopted. [No action may be taken  
32 by the Legislature under this section until after 1 calendar day from the  
33 date of the standing reference committee's report.]

34 (cf: P.L.1981, c.27, s.3)

- 1       8. (New section) The notice of a proposed rule shall include a  
2 regulatory impact analysis containing each of the following:
- 3       a. an explanation of the necessity, appropriateness and  
4 reasonableness of the rule;
  - 5       b. a description of the current condition that the proposed rule will  
6 address and how that condition will be affected by adoption of the  
7 rule;
  - 8       c. a statement that the rule does not conflict with nor duplicate  
9 any existing rule or an explanation as to why the conflict or  
10 duplication exists;
  - 11       d. a statement as to whether the rule is in accord with or in  
12 conflict with any judicial findings;
  - 13       e. a statement of the factual, scientific or technical basis for the  
14 agency's determination that the regulation will accomplish its intended  
15 purpose;
  - 16       f. a statement of why the rule provides the least costly or least  
17 intrusive approach for meeting the intended purpose;
  - 18       g. an evaluation for the public and regulated parties of the cost  
19 versus the benefits to be derived from the rule, including an evaluation  
20 of how those benefits outweigh the cost. The evaluation shall include  
21 the following, where appropriate:
    - 22       (1) an estimate of the costs to regulated parties for compliance;
    - 23       (2) an estimate of the costs to the agency for implementation and  
24 enforcement of the regulations;
    - 25       (3) an estimate of the nature, number and size of parties to be  
26 regulated or affected by the rule;
    - 27       (4) whether the rule will require on-site inspections;
    - 28       (5) an estimate of the paperwork burden on a regulated or affected  
29 party, such as the number of forms, impact statements, surveys and  
30 other documents to be completed by the party;
    - 31       (6) whether parties will be required to maintain any records which  
32 will be subject to inspection;
    - 33       (7) whether parties will be required to obtain licenses, permits or  
34 other certifications and the associated fees and fines;
    - 35       (8) whether parties will be required to appear in person before the  
36 agency;
    - 37       (9) whether parties will be required to disclose information on  
38 materials or processes, including trade secrets;
    - 39       (10) whether parties will be required to report any particular type  
40 of incidents;
    - 41       (11) whether parties will be required to adhere to either design or  
42 performance standards;
    - 43       (12) whether parties may have to retain or utilize lawyers,  
44 accountants, engineers or other professional consultants in order to  
45 comply with the regulations;
    - 46       (13) how the agency expects to implement the provisions of the

1 proposed rule within current budget appropriations and other financial  
2 resources.

3  
4 9. (New section) a. The director is authorized to refuse to accept  
5 from an agency a notice or preliminary notice of intention to adopt,  
6 readopt or amend a rule or regulation, if the director determines that  
7 the rule or regulation and its accompanying materials do not comply  
8 satisfactorily with the interagency rules of the director. The State  
9 agency shall not be authorized to adopt, readopt or amend a rule or  
10 regulation where notice or preliminary notice of intention is refused by  
11 the director, except by proposing the adoption, readoption or  
12 amendment in compliance with agency rules.

13 b. The Office of Administrative Law, upon its review and  
14 determination, shall not accept for publication any notice of intention  
15 to adopt, readopt or amend a rule or regulation, a proposed rule,  
16 summary of the proposed rule, regulatory impact analysis, or other  
17 accompanying materials which lacks a standard of clarity.

18 As used in this section, "standard of clarity" means the document  
19 is written in a reasonably simple and understandable manner which is  
20 easily readable. The document is drafted to provide adequate notice  
21 to affected persons and interested persons with some subject matter  
22 expertise. The document conforms to commonly accepted principles  
23 of grammar. The document contains sentences that are as short as  
24 practical, and is organized in a sensible manner. The document does  
25 not contain double negatives, confusing cross references, convoluted  
26 phrasing or unreasonably complex language. Terms of art and words  
27 with multiple meanings that may be misinterpreted are defined. The  
28 document is sufficiently complete and informative as to permit the  
29 public to understand accurately and plainly the legal authority,  
30 purposes and expected consequences of the adoption, readoption or  
31 amendment of the rule or regulation.

32 c. The provisions of subsection b. of this section shall not apply  
33 to any administrative rule that a State agency adopts to conform to a  
34 model code, federal rule, interstate agreement or other similar  
35 regulatory measure not written by the State agency but incorporated  
36 into an administrative rule. The State agency shall append to the  
37 proposed rule for publication a written statement describing the rule  
38 which complies with subsection b. of this section.

39 d. The Governor may, upon written request of a State agency,  
40 waive the requirements of this section with respect to the  
41 repromulgation, without amendment, of any rule or provision of a rule.

42  
43 10. (New section) a. Every rule in effect on the enactment date  
44 of P.L. , c. (C. )(now pending before the Legislature as this bill)  
45 shall expire five years following the effective date of this act unless a  
46 sooner expiration date has been established for the rule.

1        b. Every rule adopted on or after the effective date of P.L.     ,  
2        c. (C.     ) (now pending before the Legislature as this bill) shall  
3        expire five years following the effective date of the rule unless a  
4        sooner expiration date has been established for the rule. The  
5        expiration date shall be included in the adoption notice of the rule in  
6        the New Jersey Register and noted in the New Jersey Administrative  
7        Code.

8        c. An agency may continue in effect an expiring rule for a five year  
9        period by duly proposing and readopting the rule prior to its  
10       expiration. Upon the filing of a notice of proposed re adoption, the  
11       expiration date of the rule shall be extended for 180 days, if such  
12       notice is filed prior to the expiration of the rule.

13       d. The Governor may, upon the request of an agency head, and  
14       prior to the expiration date of the rule, continue in effect an expiring  
15       rule for a period to be specified by the Governor.

16       e. This section shall not apply to any rule repealing a rule or any  
17       rule prescribed by federal law or whose expiration would violate any  
18       other federal or State law, in which case the federal or State law shall  
19       be cited in the publication of the rule.

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21       11. Section 2 and sections 4 through 7, inclusive, of P.L.1981,  
22       c.27 (C.52:14B-4.2 and 52:14B-4.4 through 52:14B-4.7) are repealed.

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24       12. This act shall take effect on the first day of the third month  
25       following enactment but shall not apply to any rule proposed in the  
26       New Jersey Register or to any contested case filed prior to the  
27       effective date.

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Revises administrative rule-making process.