



Rep. Jack D. Franks

Filed: 11/8/2004

09300SB2234ham001

LRB093 15890 RCE 53948 a

1 AMENDMENT TO SENATE BILL 2234

2 AMENDMENT NO. _____. Amend Senate Bill 2234 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing and reenacting Sections 5-115, 5-120, and
6 5-125 and validating all actions taken thereunder as follows:

7 (5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

8 Sec. 5-115. Other action by the Joint Committee.

9 (a) If the Joint Committee determines that the adoption and
10 effectiveness of a proposed rule, amendment, or repealer or
11 portion of a proposed rule, amendment, or repealer by an agency
12 would be objectionable under any of the standards for the Joint
13 Committee's review specified in Section 5-100, 5-105, 5-110,
14 5-120, or 5-130 and would constitute a serious threat to the
15 public interest, safety, or welfare, the Joint Committee may
16 issue a statement to that effect at any time before the
17 proposed rule, amendment, or repealer takes effect. The
18 statement may be issued by the Joint Committee only upon the
19 affirmative vote of three-fifths of the members appointed to
20 the Joint Committee. The Joint Committee, however, may withdraw
21 a statement within 180 days after it is issued upon the
22 affirmative vote of a majority of the members appointed to the
23 Joint Committee. A certified copy of each statement and
24 withdrawal shall be transmitted to the proposing agency and to

1 the Secretary of State for publication in the next available
2 issue of the Illinois Register.

3 (b) The proposed rule, amendment, or repealer or the
4 portion of the proposed rule, amendment, or repealer to which
5 the Joint Committee has issued a statement under subsection (a)
6 shall not be accepted for filing by the Secretary of State and
7 shall not ~~not~~ take effect unless the statement is withdrawn or
8 a joint resolution is passed as provided in subsection (c). The
9 agency may not enforce or invoke for any reason a proposed
10 rule, amendment, or repealer or any portion thereof that is
11 prohibited from being filed by this subsection.

12 (c) After the issuance of a statement under subsection (a),
13 any member of the General Assembly may introduce in the General
14 Assembly a joint resolution stating that the General Assembly
15 desires to discontinue the prohibition against the proposed
16 rule, amendment, or repealer or the portion thereof to which
17 the statement was issued being filed and taking effect. If the
18 joint resolution is not passed by both houses of the General
19 Assembly within 180 days after receipt of the statement by the
20 Secretary of State or the statement is not withdrawn as
21 provided in subsection (a), the agency shall be prohibited from
22 filing the proposed rule, amendment, or repealer or the portion
23 thereof and the proposed rule, amendment, or repealer or the
24 portion thereof shall not take effect. The Secretary of State
25 shall not accept for filing the proposed rule, amendment, or
26 repealer or the portion thereof with respect to which the Joint
27 Committee has issued a statement under subsection (a) unless
28 that statement is withdrawn or a joint resolution is passed as
29 provided in this subsection. If the 180-day period expires
30 before passage of the joint resolution, the agency may not file
31 the proposed rule, amendment, or repealer or the portion
32 thereof as adopted and it shall not take effect.

33 (d) If a statement is issued under this Section, then, in
34 response to an objection or suggestion of the Joint Committee,

1 the agency may propose changes to the proposed rule, amendment,
2 or repealer or portion of a proposed rule, amendment, or
3 repealer. If the agency proposes changes, it must provide
4 additional notice to the Joint Committee under the same terms
5 and conditions and shall be subject to the same requirements
6 and limitations as those set forth for a second notice period
7 under subsection (c) of Section 5-40.

8 (Source: P.A. 93-1035, eff. 9-10-04.)

9 (5 ILCS 100/5-120) (from Ch. 127, par. 1005-120)

10 Sec. 5-120. Responsibilities of the Joint Committee with
11 respect to emergency, peremptory, and other existing rules.

12 (a) The Joint Committee may examine any rule to determine
13 whether the rule is within the statutory authority upon which
14 it is based and whether the rule is in proper form.

15 (b) If the Joint Committee objects to a rule, it shall,
16 within 5 days of the objection, certify the fact to the
17 adopting agency and include within the certification a
18 statement of its specific objections.

19 (c) Within 90 days after receiving the certification, the
20 agency shall do one of the following:

21 (1) Notify the Joint Committee that it has elected to
22 amend the rule to meet the Joint Committee's objection.

23 (2) Notify the Joint Committee that it has elected to
24 repeal the rule.

25 (3) Notify the Joint Committee that it refuses to amend
26 or repeal the rule.

27 (d) If the agency elects to amend a rule to meet the Joint
28 Committee's objections, it shall notify the Joint Committee in
29 writing and shall initiate rulemaking procedures for that
30 purpose by giving notice as required by Section 5-35. The Joint
31 Committee shall give priority to rules so amended when setting
32 its agenda.

33 (e) If the agency elects to repeal a rule as a result of

1 the Joint Committee's objections, it shall notify the Joint
2 Committee in writing of its election and shall initiate
3 rulemaking procedures for that purpose by giving notice as
4 required by Section 5-35.

5 (f) If the agency elects to amend or repeal a rule as a
6 result of the Joint Committee's objections, it shall complete
7 the process within 180 days after giving notice in the Illinois
8 Register.

9 (g) Failure of the agency to respond to the Joint
10 Committee's objections to a rule within the time prescribed in
11 subsection (c) shall constitute a refusal to amend or repeal
12 the rule.

13 (h) If an agency refuses to amend or repeal a rule to
14 remedy an objection stated by the Joint Committee, it shall
15 notify the Joint Committee in writing of its refusal and shall
16 submit a notice of refusal to the Secretary of State. The
17 notice shall be published in the next available issue of the
18 Illinois Register. If the Joint Committee, in response to an
19 agency refusal, decides to suspend a the rule adopted under
20 Section 5-45 or 5-50, then it may do so pursuant to Section
21 5-125. Any member of the General Assembly may introduce
22 legislation in the General Assembly to implement the
23 recommendations of the Joint Committee concerning emergency,
24 peremptory, and other existing rules.

25 (Source: P.A. 93-1035, eff. 9-10-04.)

26 (5 ILCS 100/5-125) (from Ch. 127, par. 1005-125)

27 Sec. 5-125. Other Joint Committee action with respect to
28 emergency or peremptory rulemaking.

29 (a) If the Joint Committee determines that a rule or
30 portion of a rule adopted under Section 5-45 or 5-50 is
31 objectionable under any of the standards for the Joint
32 Committee's review specified in Section 5-100, 5-105, 5-110,
33 5-120, or 5-130 and constitutes a serious threat to the public

1 interest, safety, or welfare, the Joint Committee may issue a
2 statement to that effect. The statement may be issued by the
3 Joint Committee only upon the affirmative vote of three-fifths
4 of the members appointed to the Joint Committee. The Joint
5 Committee, however, may withdraw a statement within 180 days
6 after it is issued upon the affirmative vote of a majority of
7 the members appointed to the Joint Committee. A certified copy
8 of each statement and withdrawal shall be transmitted to the
9 affected agency and to the Secretary of State for publication
10 in the next available issue of the Illinois Register. Within 30
11 days of transmittal of the statement to the agency, the agency
12 shall notify the Joint Committee in writing whether it has
13 elected to repeal or amend the rule. Failure of the agency to
14 notify the Joint Committee and Secretary of State within 30
15 days constitutes a decision by the agency to not repeal the
16 rule.

17 (b) The effectiveness of the rule or the portion of a rule
18 shall be suspended immediately upon receipt of the certified
19 statement by the Secretary of State. The Secretary of State
20 shall indicate the suspension prominently and clearly on the
21 face of the affected rule or the portion of a rule filed in the
22 Office of the Secretary of State. Rules or portions of rules
23 suspended under this subsection shall not become effective
24 again unless the statement is withdrawn as provided in
25 subsection (a) or unless within 180 days from receipt of the
26 statement by the Secretary of State, the General Assembly
27 discontinues the suspension by joint resolution under
28 subsection (c). The agency may not enforce, or invoke for any
29 reason, a rule or portion of a rule that has been suspended
30 under this subsection. During the 180-day period, the agency
31 may not file, and ~~nor may~~ the Secretary of State may not accept
32 for filing, any rule that (i) has the same purpose and effect
33 as rules or portions of rules suspended under this subsection
34 or (ii) does not substantially address the statement issued

1 under subsection (a), except as otherwise provided in this
2 Section.

3 (c) After the issuance of a statement under subsection (a),
4 any member of the General Assembly may introduce in the General
5 Assembly a joint resolution stating that the General Assembly
6 desires to discontinue the suspension of effectiveness of a
7 rule or the portion of the rule to which the statement was
8 issued. If the joint resolution is not passed by both houses of
9 the General Assembly within the 180-day period provided in
10 subsection (b) or the statement is not withdrawn, the rule or
11 the portion of the rule shall be considered repealed and the
12 Secretary of State shall immediately remove the rule or portion
13 of a rule from the collection of effective rules.

14 (d) If a statement is issued under this Section, then, in
15 response to an objection or suggestion of the Joint Committee,
16 the agency may propose changes to the rule, amendment, or
17 repealer or portion of a rule, amendment, or repealer. If the
18 agency proposes changes, it must provide additional notice to
19 the Joint Committee under the same terms and conditions and
20 shall be subject to the same requirements and limitations as
21 those set forth for a second notice period under subsection (c)
22 of Section 5-40.

23 (Source: P.A. 93-1035, eff. 9-10-04.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."