

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

# SENATE BILL 1348

## AN ACT

AMENDING SECTIONS 20-181 AND 20-182, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-183; AMENDING SECTIONS 41-1011, 41-1027, 41-1051, 41-1052, 41-1055, 41-1056 AND 41-1056.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 25, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2754; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3020.01; AMENDING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 7, SECTION 28; RELATING TO REGULATORY REVIEW.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-181, Arizona Revised Statutes, is amended to  
3 read:

4 20-181. Mandated health coverage; report

5 An organization or individual advocating a legislative proposal ~~which~~  
6 ~~THAT~~ would mandate a health coverage or offering of a health coverage by an  
7 insurer, hospital, medical, dental or optometric service corporation, health  
8 care services organization or any other health care service contractor as a  
9 component of individual or group policies shall submit a report ~~to the~~  
10 ~~standing committee of the legislature that has been assigned to consider the~~  
11 ~~proposal and the joint legislative budget committee before the committee~~  
12 ~~considers the proposal~~ PURSUANT TO SECTION 20-183. The report shall assess  
13 both the social and financial impacts of such coverage, including the  
14 effectiveness of the treatment or service proposed, according to the factors  
15 prescribed in section 20-182. ~~The legislature is not responsible for the~~  
16 ~~cost of preparing the report.~~

17 Sec. 2. Section 20-182, Arizona Revised Statutes, is amended to read:

18 20-182. Factors for assessing impact; certification of report

19 A. To the extent that information is available, the report prescribed  
20 by section 20-181 shall include, but not be limited to, the following:

21 1. The social impact:

22 (a) The extent to which the treatment or service is generally utilized  
23 by a significant portion of the population.

24 (b) The extent to which the insurance coverage is already generally  
25 available.

26 (c) If coverage is not generally available, the extent to which the  
27 lack of coverage results in persons avoiding necessary health care  
28 treatments.

29 (d) If the coverage is not generally available, the extent to which  
30 the lack of coverage results in unreasonable financial hardship to a patient.

31 (e) The level of public demand for the treatment or service.

32 (f) The level of public demand for insurance coverage of the treatment  
33 or service.

34 (g) The level of interest of collective bargaining agents in  
35 negotiating privately for inclusion of this coverage in group contracts.

36 2. The financial impact:

37 (a) The extent to which the coverage will increase or decrease the  
38 cost of the treatment or service.

39 (b) The extent to which the coverage will increase the appropriate use  
40 of the treatment or service.

41 (c) The extent to which the mandated treatment or service will be a  
42 substitute for a more expensive treatment or service.

43 (d) The extent to which the coverage will increase or decrease the  
44 administrative expenses of insurers and the premium and administrative  
45 expenses of policyholders.

46 (e) The impact of this coverage on the total cost of health care.

1 B. An actuary who is a member of the American academy of actuaries  
2 shall prepare the financial impact analysis required by subsection A,  
3 paragraph 2 of this section and certify that the analysis is consistent with  
4 accepted actuarial techniques.

5 C. The report required by section 20-181 shall address the specific  
6 language of the proposed mandate. A report on a similar proposal in a  
7 different jurisdiction is insufficient and does not meet the requirements of  
8 section 20-181.

9 D. An organization, ~~or~~ individual OR LEGISLATOR that does not submit a  
10 report required by section 20-181 is not subject to any civil sanction or  
11 criminal penalty.

12 Sec. 3. Title 20, chapter 1, article 3, Arizona Revised Statutes, is  
13 amended by adding section 20-183, to read:

14 20-183. Report procedures and deadlines

15 A PERSON OR A LEGISLATOR ADVOCATING A LEGISLATIVE PROPOSAL PURSUANT TO  
16 SECTION 20-181 SHALL SUBMIT A WRITTEN REPORT EXPLAINING THE FACTORS  
17 PRESCRIBED IN SECTION 20-182 TO THE JOINT LEGISLATIVE AUDIT COMMITTEE  
18 ESTABLISHED BY SECTION 41-1279. THE REPORT MUST BE SUBMITTED ON OR BEFORE  
19 SEPTEMBER 1 BEFORE THE START OF THE LEGISLATIVE SESSION FOR WHICH THE  
20 LEGISLATION IS PROPOSED. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL ASSIGN  
21 THE WRITTEN REPORT TO THE APPROPRIATE LEGISLATIVE COMMITTEE OF REFERENCE  
22 ESTABLISHED PURSUANT TO SECTION 41-2954. THE LEGISLATIVE COMMITTEE OF  
23 REFERENCE SHALL HOLD AT LEAST ONE HEARING AND TAKE PUBLIC TESTIMONY AFTER  
24 RECEIVING THE REPORT. THE LEGISLATIVE COMMITTEE OF REFERENCE SHALL STUDY THE  
25 WRITTEN REPORT AND DELIVER A REPORT OF ITS RECOMMENDATIONS TO THE JOINT  
26 LEGISLATIVE AUDIT COMMITTEE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE  
27 PRESIDENT OF THE SENATE, THE GOVERNOR AND THE DIRECTOR OF THE DEPARTMENT OF  
28 INSURANCE ON OR BEFORE DECEMBER 1 OF THE YEAR IN WHICH THE REPORT IS  
29 SUBMITTED.

30 Sec. 4. Section 41-1011, Arizona Revised Statutes, is amended to read:

31 41-1011. Publication and distribution of code and register;  
32 online databases

33 A. The secretary of state is responsible for the publication and  
34 distribution of the code and the register.

35 B. The secretary of state shall prescribe a uniform numbering system,  
36 form and style for all rules filed with and published by that office. The  
37 secretary of state shall reject rules if they are not in compliance with the  
38 prescribed numbering system, form and style.

39 C. The secretary of state shall prepare, arrange and correlate all  
40 rules and other text as necessary for the publication of the code and the  
41 register. The secretary of state may not alter the sense, meaning or effect  
42 of any rule but may renumber rules and parts of rules, rearrange rules,  
43 change reference numbers to agree with renumbered rules and parts of rules,  
44 substitute the proper rule number for "the preceding rule" and similar terms,  
45 delete figures if they are merely a repetition of written words, change  
46 capitalization for the purpose of uniformity and correct manifest clerical or

1 typographical errors. With the consent of the attorney general the secretary  
2 of state may remove from the code a provision of a rule that a court of final  
3 appeal declares unconstitutional or otherwise invalid and a rule made by an  
4 agency that is abolished if the rule is not transferred to a successor  
5 agency.

6 D. ON OR BEFORE DECEMBER 31, 2013, THE SECRETARY OF STATE SHALL  
7 ESTABLISH AN ONLINE DATABASE OF RULES THAT IS SEARCHABLE BY AGENCY, DATE,  
8 TOPIC, RULE NUMBER, TYPE OF BUSINESS FOR COMPLIANCE AND TYPE OF ACTIVITY FOR  
9 COMPLIANCE.

10 E. ON OR BEFORE DECEMBER 31, 2014, THE SECRETARY OF STATE SHALL  
11 ESTABLISH AN ONLINE DATABASE OF CODES, ORDINANCES AND BUSINESS LICENSE  
12 REQUIREMENTS FOR EACH COUNTY THAT IS SEARCHABLE BY AGENCY, DATE, TOPIC, RULE  
13 NUMBER, TYPE OF BUSINESS FOR COMPLIANCE AND TYPE OF ACTIVITY FOR  
14 COMPLIANCE. THE SECRETARY OF STATE SHALL LINK THE COUNTY INFORMATION TO THE  
15 SEARCHABLE DATABASE PRESCRIBED IN SUBSECTION D. EACH COUNTY SHALL SUPPLY  
16 INFORMATION TO THE SECRETARY OF STATE IN A MANNER AND FORMAT PRESCRIBED BY  
17 THE SECRETARY OF STATE.

18 F. ON OR BEFORE DECEMBER 31, 2015, THE SECRETARY OF STATE SHALL  
19 ESTABLISH AN ONLINE DATABASE OF CODES, ORDINANCES AND BUSINESS LICENSE  
20 REQUIREMENTS FOR EACH CITY AND TOWN THAT IS SEARCHABLE BY AGENCY, DATE,  
21 TOPIC, RULE NUMBER, TYPE OF BUSINESS FOR COMPLIANCE AND TYPE OF ACTIVITY FOR  
22 COMPLIANCE. THE SECRETARY OF STATE SHALL LINK THE CITY OR TOWN INFORMATION  
23 TO THE SEARCHABLE DATABASE PRESCRIBED IN SUBSECTION D. EACH CITY OR TOWN  
24 SHALL SUPPLY INFORMATION TO THE SECRETARY OF STATE IN A MANNER AND FORMAT  
25 PRESCRIBED BY THE SECRETARY OF STATE.

26 Sec. 5. Section 41-1027, Arizona Revised Statutes, is amended to read:  
27 41-1027. Summary rule making

28 A. An agency may use the summary rule making procedure set forth in  
29 this section in place of the rule making procedure set forth in sections  
30 41-1021 through 41-1024 for the following actions:

31 1. Repeals of rules made obsolete by repeal or supersession of an  
32 agency's statutory authority.

33 2. Making, amendment and repeal of rules that repeat verbatim existing  
34 statutory authority granted to the agency.

35 3. REPEAL OF OTHER OBSOLETE RULES OR RULES DEEMED BY THE AGENCY TO BE  
36 INEFFECTIVE AS LONG AS THE REPEAL DOES NOT INCREASE THE COST OF COMPLIANCE OR  
37 REDUCE PROCEDURAL RIGHTS OF THE ENTITY REGULATED.

38 B. An agency shall initiate summary rule making by filing the proposed  
39 summary rule with the council and the secretary of state for publication in  
40 the next register. The notice filed with the secretary of state shall  
41 include the preamble.

42 C. The agency shall forward copies of the notice filed with the  
43 secretary of state pursuant to subsection B of this section to the council.

44 D. The proposed summary rule takes interim effect on the date of  
45 publication in the register.

1 E. Within ninety days after publication in the register, after  
2 consideration of any comments, the agency shall submit to the council a  
3 summary rule, preamble, concise explanatory statement and economic, small  
4 business and consumer impact statement.

5 F. The summary rule making procedures of this section are not  
6 available for rules exempted from council approval pursuant to section  
7 41-1057.

8 Sec. 6. Section 41-1051, Arizona Revised Statutes, is amended to read:

9 41-1051. Governor's regulatory review council; membership;  
10 terms; compensation; powers

11 A. A governor's regulatory review council is established that consists  
12 of six members who are appointed by the governor ~~and who serve at the~~  
13 ~~pleasure of the governor~~ PURSUANT TO SECTION 38-211, and the director of the  
14 department of administration or the assistant director of the department of  
15 administration who is responsible for administering the council. The  
16 director or assistant director is an ex officio member and chairperson of the  
17 council. The council shall elect a vice-chairperson to serve as chairperson  
18 in the chairperson's absence. The governor shall appoint at least one member  
19 who represents the public interest, at least one member who represents the  
20 business community, one member from a list of three persons who are not  
21 legislators submitted by the president of the senate and one member from a  
22 list of three persons who are not legislators submitted by the speaker of the  
23 house of representatives. At least one member of the council shall be an  
24 attorney licensed to practice law in this state. The governor shall appoint  
25 the members of the council for staggered terms of three years. A vacancy  
26 occurring during the term of office of any member shall be filled by  
27 appointment by the governor for the unexpired portion of the term in the same  
28 manner as provided in this section.

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

32 C. Members of the council are eligible to receive compensation in an  
33 amount of two hundred dollars for each day on which the council meets and  
34 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

35 D. The chairperson, subject to chapter 4, articles 5 and 6 of this  
36 title, shall employ, determine the conditions of employment OF and specify  
37 the duties of administrative, secretarial and clerical employees as the  
38 chairperson deems necessary.

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

41 F. The council shall make the following information available to the  
42 public on request and on the council's ~~web-site~~ WEBSITE:

43 1. A list of agency rules approved or returned pursuant to section  
44 41-1052.

45 2. A list of agencies not certifying compliance as provided in section  
46 41-1091.

1           3. A list of agencies that report a lack of progress pursuant to  
2 section 41-1056, subsection H.

3           Sec. 7. Section 41-1052, Arizona Revised Statutes, is amended to read:  
4 41-1052. Council review and approval

5           A. Before filing a final rule with the secretary of state, an agency  
6 shall prepare, transmit to the council and the committee and obtain the  
7 council's approval of the rule and its preamble and economic, small business  
8 and consumer impact statement ~~which~~ THAT meets the requirements of section  
9 41-1055.

10          B. Within ninety days of receipt of the rule, preamble and economic,  
11 small business and consumer impact statement, the council shall review and  
12 approve or return, in whole or in part, the rule, preamble or economic, small  
13 business and consumer impact statement. An agency may resubmit a rule,  
14 preamble or economic, small business and consumer impact statement if the  
15 council returns the rule, economic, small business and consumer impact  
16 statement or preamble, in whole or in part, to the agency.

17          C. The council shall not approve the rule unless:

18           1. The economic, small business and consumer impact statement contains  
19 ~~the~~ information FROM THIS STATE, data and analysis prescribed by this  
20 article.

21           2. The economic, small business and consumer impact statement is  
22 generally accurate.

23           3. BY CLEAR AND CONVINCING EVIDENCE, the probable benefits of the rule  
24 outweigh the probable costs of the rule.

25           4. The rule is WRITTEN IN A MANNER THAT IS clear, concise and  
26 understandable TO THE GENERAL PUBLIC.

27           5. The rule is not illegal, inconsistent with legislative intent or  
28 beyond the agency's statutory authority.

29           6. The agency adequately addressed the comments on the proposed rule  
30 and any supplemental proposals.

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

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

36           9. THE RULE IS NOT MORE STRINGENT THAN A FEDERAL LAW UNLESS THERE IS  
37 STATUTORY AUTHORITY TO EXCEED THE REQUIREMENTS OF THAT FEDERAL LAW.

38          D. The council shall verify that a rule with new fees does not violate  
39 section 41-1008. The council shall not approve a rule that contains a fee  
40 increase unless two-thirds of the voting quorum present vote to approve the  
41 rule.

42          E. The council shall verify that a rule with an immediate effective  
43 date complies with section 41-1032. The council shall not approve a rule  
44 with an immediate effective date unless two-thirds of the voting quorum  
45 present vote to approve the rule.

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

6 G. A person may submit written comments to the council that are within  
7 the scope of subsection C, D or E of this section. The council may permit  
8 oral comments at a council meeting within the scope of subsection C, D or E  
9 of this section.

10 H. If the agency makes a good faith effort to comply with the  
11 requirements prescribed in this article and has explained in writing the  
12 methodology used to produce the economic, small business and consumer impact  
13 statement, the rule may not be invalidated after it is finalized on the  
14 ground that the contents of the economic, small business and consumer impact  
15 statement are insufficient or inaccurate or on the ground that the council  
16 erroneously approved the rule, except as provided for by section 41-1056.01.

17 I. The absence of comments pursuant to subsection C, D or E of this  
18 section or article 4.1 of this chapter does not prevent the council from  
19 acting pursuant to this section.

20 Sec. 8. Section 41-1055, Arizona Revised Statutes, is amended to read:

21 41-1055. Economic, small business and consumer impact statement

22 A. The economic, small business and consumer impact summary shall  
23 include:

24 1. An identification of the proposed rule making.

25 2. A brief summary of the information included in the economic, small  
26 business and consumer impact statement.

27 3. If the economic, small business and consumer impact summary  
28 accompanies a proposed rule or a proposed summary rule, the name and address  
29 of agency employees who may be contacted to submit or request additional data  
30 on the information included in the economic, small business and consumer  
31 impact statement.

32 B. The economic, small business and consumer impact statement shall  
33 include:

34 1. An identification of the proposed rule making.

35 2. An identification of the persons who will be directly affected by,  
36 bear the costs of or directly benefit from the proposed rule making.

37 3. A cost-benefit analysis of the following:

38 (a) The probable costs and benefits to the implementing agency and  
39 other agencies directly affected by the implementation and enforcement of the  
40 proposed rule making.

41 (b) The probable costs and benefits to a political subdivision of this  
42 state directly affected by the implementation and enforcement of the proposed  
43 rule making.

44 (c) The probable costs and benefits to businesses directly affected by  
45 the proposed rule making, including any anticipated effect on the revenues or

1 payroll expenditures of employers who are subject to the proposed rule  
2 making.

3 4. A general description of the probable impact on private and public  
4 employment in businesses, agencies and political subdivisions of this state  
5 directly affected by the proposed rule making.

6 5. A statement of the probable impact of the proposed rule making on  
7 small businesses. The statement shall include:

8 (a) An identification of the small businesses subject to the proposed  
9 rule making.

10 (b) The administrative and other costs required for compliance with  
11 the proposed rule making.

12 (c) A description of the methods that the agency may use to reduce the  
13 impact on small businesses. These methods may include:

14 (i) Establishing less costly compliance requirements in the proposed  
15 rule making for small businesses.

16 (ii) Establishing less costly schedules or less stringent deadlines  
17 for compliance in the proposed rule making.

18 (iii) Exempting small businesses from any or all requirements of the  
19 proposed rule making.

20 (d) The probable cost and benefit to private persons and consumers who  
21 are directly affected by the proposed rule making.

22 6. A statement of the probable effect on state revenues.

23 7. A description of any less intrusive or less costly alternative  
24 methods of achieving the purpose of the proposed rule making.

25 C. If for any reason adequate data are not reasonably available to  
26 comply with the requirements of subsection B of this section, the agency  
27 shall explain the limitations of the data and the methods that were employed  
28 in the attempt to obtain the data and shall characterize the probable impacts  
29 in qualitative terms. The absence of adequate data, if explained in  
30 accordance with this subsection, shall not be grounds for a legal challenge  
31 to the sufficiency of the economic, small business and consumer impact  
32 statement.

33 D. An agency is not required to prepare an economic, small business  
34 and consumer impact statement pursuant to this chapter for the following rule  
35 makings:

36 1. Initial making, but not renewal, of an emergency rule pursuant to  
37 section 41-1026.

38 2. Summary rule makings pursuant to section 41-1027 that only repeal  
39 existing rule language.

40 3. Any rule making that decreases monitoring, record keeping or  
41 reporting burdens on agencies, political subdivisions, businesses or persons,  
42 unless the agency determines that increased costs of implementation or  
43 enforcement may equal or exceed the reduction in burdens.

44 E. The economic, small business and consumer impact statement for a  
45 rule making that is exempt pursuant to subsection D of this section shall  
46 state that the proposed rule making is exempt.



1 F. THE COST-BENEFIT ANALYSIS REQUIRED BY SUBSECTION B OF THIS SECTION  
2 SHALL CALCULATE ONLY THE COSTS THAT OCCUR IN THIS STATE.

3 Sec. 9. Section 41-1056, Arizona Revised Statutes, is amended to read:  
4 41-1056. Review by agency

5 A. At least once every five years, each agency shall review all of its  
6 rules to determine whether any rule should be amended or repealed. The  
7 agency shall prepare and obtain council approval of a written report  
8 summarizing its findings, its supporting reasons and any proposed course of  
9 action. For each rule, the report shall include a concise analysis of all of  
10 the following:

11 1. The rule's effectiveness in achieving its objectives, including a  
12 summary of any available data supporting the conclusions reached.

13 2. Written criticisms of the rule received during the previous five  
14 years.

15 3. Authorization of the rule by existing statutes.

16 4. Whether the rule is consistent with other rules made by the agency,  
17 current agency enforcement policy and current agency views regarding the  
18 wisdom of the rule.

19 5. The clarity, conciseness and understandability of the rule TO THE  
20 GENERAL PUBLIC.

21 6. The estimated economic, small business and consumer impact of the  
22 rules as compared to the economic, small business and consumer impact  
23 statement prepared on the last making of the rules.

24 7. IF APPLICABLE, THAT THE AGENCY COMPLETED THE PREVIOUS FIVE-YEAR  
25 REVIEW PROCESS.

26 B. The council shall schedule the periodic review of each agency's  
27 rules and shall approve or return, in whole or in part, the agency's report  
28 on its review. If the council returns an agency's report, in whole or in  
29 part, the council shall inform the agency of the manner in which its report  
30 is inadequate and, in consultation with the agency, shall schedule submission  
31 of a revised report. The council shall not approve a report unless the  
32 report complies with ~~the provisions of~~ subsection A.

33 C. The council may reschedule a report or portion of a report for any  
34 rule that is scheduled for review and that was initially made or  
35 substantially revised within two years before the due date of the report as  
36 scheduled by the council.

37 D. If an agency finds that it cannot provide the written report to the  
38 council by the date it is due, the agency may file an extension with the  
39 council before the due date indicating the reason for the extension. The  
40 timely filing for an extension permits the agency to submit its report not  
41 more than one hundred twenty days after the due date.

42 E. If an agency fails to submit its report, including a revised report  
43 pursuant to subsection B, or file an extension before the due date of the  
44 report or if it files an extension and does not submit its report within the  
45 extension period, the rules scheduled for review expire and the council  
46 shall:

1 1. Cause a notice to be published in the next register that states the  
2 rules have expired and are no longer enforceable.

3 2. Notify the secretary of state that the rules have expired and that  
4 the rules are to be removed from the code.

5 3. Notify the agency that the rules have expired and are no longer  
6 enforceable.

7 F. If a rule expires as provided in subsection E and the agency wishes  
8 to reestablish the rule, the agency shall comply with **ARTICLE 3 OF** this  
9 chapter.

10 G. Not less than ninety days ~~prior to~~ **BEFORE** the due date of a report,  
11 the council shall send a written notice to the head of the agency whose  
12 report is due, the governor and the director of the department of  
13 administration. The notice shall list the rules to be reviewed and the date  
14 the report is due.

15 H. On or before June 30 of each year, each agency shall report to the  
16 council the agency's progress toward completion of the course of action  
17 established in all reports submitted to the council during the previous five  
18 years. The annual report prescribed by this subsection shall be on a form  
19 developed by the council.

20 Sec. 10. Section 41-1056.01, Arizona Revised Statutes, is amended to  
21 read:

22 **41-1056.01. Impact statements; appeals**

23 A. Within two years after a rule is finalized, a person who is or may  
24 be affected by the rule may file a written petition with an agency objecting  
25 to all or part of a rule on ~~the~~ **ANY OF THE FOLLOWING** grounds ~~that either~~:

26 1. The actual economic, small business or consumer impact  
27 significantly exceeded the impact estimated in the economic, small business  
28 and consumer impact statement submitted during the making of the rule.

29 2. The actual economic, small business or consumer impact was not  
30 estimated in the economic, small business and consumer impact statement  
31 submitted during the making of the rule and that actual impact imposes a  
32 significant burden on persons subject to the rule.

33 **3. THE ACTUAL BENEFIT OF THE RULE DID NOT BY CLEAR AND CONVINCING**  
34 **EVIDENCE OUTWEIGH THE COST OF THE RULE TO THE REGULATED ENTITY.**

35 B. The burden of proof is on the petitioner to show that either or  
36 both of the provisions set forth in subsection A of this section are met.

37 C. Within thirty days after receiving the copy of the petition, the  
38 agency shall reevaluate the rule and its economic impacts and publish notice  
39 of the petition in the register. For at least thirty days after publication  
40 of the notice the agency shall afford persons the opportunity to submit in  
41 writing statements, arguments, data and views on the rule and its impacts.  
42 Within thirty days after the close of comment, the agency shall publish a  
43 written summary of comments received, the agency's response to those  
44 comments, and the final decision of the agency on whether to initiate a rule  
45 making or to amend or repeal the rule. The agency shall initiate any such  
46 rule making within forty-five days after publication of its final decision.

1 D. Any person who is or may be affected by the agency's final decision  
2 on whether to initiate a rule making pursuant to subsection C of this section  
3 may appeal that decision to the council within thirty days after publication  
4 of the agency's final decision.

5 E. The council shall place on its agenda the appeal if at least three  
6 council members make such a request of the council chairman within two weeks  
7 after the filing of the appeal with the council.

8 F. If the appeal is placed on the council's agenda, the council  
9 chairman shall provide a copy of the appeal and written notice to the agency  
10 that the council will consider the appeal. The agency shall provide the  
11 council with a copy of the written summary described in subsection C of this  
12 section.

13 G. The council shall require an agency to promptly initiate a rule  
14 making or to amend or repeal the rule or the rule package, as prescribed by  
15 section 41-1024, subsection E, objected to in the petition if the council  
16 finds that either or both of the provisions set forth in subsection A of this  
17 section are met.

18 H. This section shall not apply to a rule for which there is a final  
19 judgment of a court of competent jurisdiction based on the grounds of whether  
20 the contents of the economic, small business and consumer impact statement  
21 were insufficient or inaccurate.

22 Sec. 11. Title 41, chapter 25, article 1, Arizona Revised Statutes, is  
23 amended by adding section 41-2754, to read:

24 41-2754. Commission on privatization, efficiency and  
25 competition; members; terms; compensation; duties;  
26 staff; judicial review

27 A. THE COMMISSION ON PRIVATIZATION, EFFICIENCY AND COMPETITION IS  
28 ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

29 1. THE CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF ONE STATE AGENCY  
30 WHO IS APPOINTED BY THE GOVERNOR OR THE EXECUTIVE'S OR OFFICER'S DESIGNEE.

31 2. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO BE THE  
32 REPRESENTATIVE OF THE COMMUNITY COLLEGES.

33 3. ONE MEMBER WHO IS APPOINTED BY THE ARIZONA BOARD OF REGENTS.

34 4. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO BE THE  
35 REPRESENTATIVE OF STATE EMPLOYEES COVERED UNDER CHAPTER 4, ARTICLES 5 AND 6  
36 OF THIS TITLE.

37 5. SIX MEMBERS WHO ARE ENGAGED IN PRIVATE ENTERPRISE, AT LEAST THREE  
38 OF WHOM REPRESENT THE SMALL BUSINESS COMMUNITY. THE SPEAKER OF THE HOUSE OF  
39 REPRESENTATIVES, THE PRESIDENT OF THE SENATE AND THE GOVERNOR SHALL EACH  
40 APPOINT TWO MEMBERS, AND OF THE TWO APPOINTED BY EACH AT LEAST ONE SHALL BE  
41 REPRESENTATIVE OF THE SMALL BUSINESS COMMUNITY.

42 B. TERMS OF APPOINTMENT TO THE COMMISSION ARE FOR TWO YEARS UNLESS THE  
43 CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF A STATE AGENCY CEASES TO HOLD  
44 SUCH OFFICE. IN THAT CASE, THE GOVERNOR SHALL APPOINT A REPLACEMENT MEMBER  
45 FOR THE REMAINDER OF THE UNEXPIRED TERM.

1 C. MEMBERS OF THE COMMISSION APPOINTED PURSUANT TO SUBSECTION A,  
2 PARAGRAPH 5 OF THIS SECTION ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE  
3 ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4,  
4 ARTICLE 2.

5 D. THE COMMISSION SHALL:

6 1. SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS.

7 2. MEET AT LEAST FOUR TIMES EACH YEAR AT THE STATE CAPITOL AND HOLD  
8 ADDITIONAL HEARINGS AS MAY BE NECESSARY ON THE CALL OF THE CHAIRPERSON.

9 3. RECEIVE WRITTEN COMPLAINTS OF VIOLATIONS OF THIS ARTICLE.

10 4. TRANSMIT COMPLAINTS RECEIVED UNDER PARAGRAPH 3 OF THIS SUBSECTION  
11 TO THE STATE AGENCY, UNIVERSITY OR COMMUNITY COLLEGE DISTRICT ALLEGED TO BE  
12 IN VIOLATION.

13 5. HOLD PUBLIC HEARINGS ON COMPLAINTS AND DETERMINE WHETHER THE  
14 AGENCY, UNIVERSITY OR COMMUNITY COLLEGE DISTRICT IS IN VIOLATION OF THIS  
15 ARTICLE.

16 6. WITHIN NINETY DAYS AFTER RECEIVING THE STATE AGENCY'S RESPONSE,  
17 ISSUE A WRITTEN REPORT OF ITS FINDINGS TO THE COMPLAINANT.

18 7. TRANSMIT A COMPLETE REPORT OF EACH MEETING TO THE LEGISLATURE AND  
19 THE GOVERNOR, INCLUDING RECOMMENDATIONS TO REMEDY VIOLATIONS OF PROHIBITIONS  
20 ON COMPETITION WITH PRIVATE ENTERPRISE AND FINDINGS ON NECESSARY EXCEPTIONS  
21 TO THE PROHIBITIONS.

22 E. THE COMMISSION MAY RECEIVE, BUT SHALL NOT CONSIDER, A COMPLAINT  
23 RELATING TO A UNIVERSITY OR COMMUNITY COLLEGE DISTRICT UNTIL THE COMPLAINT  
24 HAS BEEN FILED WITH THE STATE GOVERNING BOARD UNDER SECTION 41-2753,  
25 SUBSECTION D AND THE STATE GOVERNING BOARD HAS RENDERED A DECISION.

26 F. THE STATE AGENCY, UNIVERSITY OR COMMUNITY COLLEGE DISTRICT SHALL  
27 RESPOND TO THE COMMISSION IN WRITING WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF  
28 A COMPLAINT TRANSMITTED UNDER SUBSECTION D, PARAGRAPH 4 OF THIS SECTION AND  
29 SHALL EITHER DENY OR CONCUR WITH THE COMPLAINT AND INDICATE ANY NECESSARY AND  
30 CONTEMPLATED REMEDIAL MEASURES. WHEN A SPECIFIC COMPLAINT CONCERNING SECTION  
31 41-2753, SUBSECTION A, PARAGRAPH 1 IS RECEIVED BY THE COMMISSION REGARDING  
32 THE PROVIDING OF GOODS, SERVICES OR FACILITIES AS A VALUABLE EDUCATIONAL OR  
33 RESEARCH EXPERIENCE FOR ITS STUDENTS OR TO FULFILL ITS PUBLIC SERVICE  
34 MISSION, A COMMUNITY COLLEGE DISTRICT OR UNIVERSITY SHALL FILE WITH THE  
35 RESPONSE TO THE COMMISSION EITHER A WRITTEN DESCRIPTION OF WHAT IT BELIEVES  
36 IS THE VALUABLE EDUCATIONAL OR RESEARCH EXPERIENCE FOR ITS STUDENTS OR A  
37 WRITTEN DESCRIPTION OF THIS PUBLIC SERVICE MISSION, AS APPLICABLE.

38 G. THE COMMISSION MAY EVALUATE AND REVIEW OPPORTUNITIES TO CONTRACT  
39 WITH PRIVATE ENTERPRISE THAT ARE DEEMED TO BE IN THE PUBLIC INTEREST. THE  
40 PUBLIC AGENCIES OFFERING SERVICES SUBJECT TO REVIEW SHALL BE INVOLVED AS  
41 PARTICIPANTS IN THE EVALUATION PROCESS. THE COMMISSION MAY HOLD PUBLIC  
42 HEARINGS AS A PART OF ITS EVALUATION PROCESS AND SHALL REPORT ITS  
43 RECOMMENDATIONS TO THE LEGISLATURE AND THE GOVERNOR.

44 H. THE COMMISSION SHALL SOLICIT PETITIONS OF INTEREST FROM PRIVATE  
45 SECTOR SERVICE PROVIDERS AS THE COMMISSION DEEMS APPROPRIATE. THE COMMISSION  
46 MAY EVALUATE AND REVIEW THE PETITIONS AND MAY HOLD PUBLIC HEARINGS AS PART OF

1 THE EVALUATION PROCESS. THE COMMISSION MAY RECOMMEND SOME OR ALL OF THE  
2 PETITIONS TO THE GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET FOR FURTHER  
3 REVIEW PURSUANT TO SECTION 41-2773. A PERSON DOES NOT HAVE A CAUSE OF ACTION  
4 BASED ON THE FAILURE OF THE COMMISSION TO CONSIDER A PETITION OF INTEREST OR  
5 TO MAKE A RECOMMENDATION. THIS SUBSECTION DOES NOT APPLY TO THE ARIZONA  
6 BOARD OF REGENTS, THE UNIVERSITIES UNDER ITS JURISDICTION OR COMMUNITY  
7 COLLEGE DISTRICTS.

8 I. THE COMMISSION MAY EVALUATE AND REVIEW ALL STATE AGENCY EXEMPTIONS  
9 AND EXCEPTIONS TO THE RESTRICTIONS ON COMPETITION WITH PRIVATE ENTERPRISE IN  
10 THIS ARTICLE AND MAY DETERMINE THAT ANY FUNCTION OR FUNCTIONS OF A STATE  
11 AGENCY, UNIVERSITY OR COMMUNITY COLLEGE DISTRICT ARE A VIOLATION OF THIS  
12 ARTICLE. THE COMMISSION SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE  
13 LEGISLATURE AND THE GOVERNOR.

14 J. AT THE REQUEST OF THE COMMISSION, THE OFFICE FOR EXCELLENCE IN  
15 GOVERNMENT, ESTABLISHED BY EXECUTIVE ORDER, OR ITS SUCCESSOR, SHALL PROVIDE  
16 SUCH STAFF SUPPORT AS IS FUNDED BY LEGISLATIVE APPROPRIATION TO THE OFFICE TO  
17 CARRY OUT THE COMMISSION'S DUTIES PURSUANT TO THIS SECTION. THE AUDITOR  
18 GENERAL SHALL PROVIDE PERFORMANCE AUDIT INFORMATION RELATING TO STATE AGENCY,  
19 UNIVERSITY AND COMMUNITY COLLEGE DISTRICT BUDGETS AND FUNCTIONS THAT THE  
20 AUDITOR GENERAL HAS AVAILABLE WITHOUT ADDITIONAL CONTACT WITH STATE AGENCIES  
21 THROUGH THE LEGISLATIVE REVIEW OF AGENCIES PURSUANT TO CHAPTER 27 OF THIS  
22 TITLE.

23 K. EXCEPT AS PROVIDED BY SECTION 41-2753, SUBSECTION D, ANY AGGRIEVED  
24 PERSON MAY ELECT TO DIRECTLY SEEK JUDICIAL RELIEF, INCLUDING RELIEF UNDER  
25 SECTION 12-2030.

26 Sec. 12. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
27 amended by adding section 41-3020.01, to read:

28 41-3020.01. Commission on privatization, efficiency and  
29 competition; termination July 1, 2020

30 A. THE COMMISSION ON PRIVATIZATION, EFFICIENCY AND COMPETITION  
31 TERMINATES ON JULY 1, 2020.

32 B. SECTION 41-2754 IS REPEALED ON JANUARY 1, 2021.

33 Sec. 13. Laws 2009, third special session, chapter 7, section 28 is  
34 amended to read:

35 Sec. 28. Moratorium on rule making relating to increased  
36 monetary or regulatory costs; exceptions;  
37 definitions

38 A. Notwithstanding any other law, for fiscal ~~year~~ YEARS 2009-2010 AND  
39 2010-2011, an agency shall not conduct any rule making, including an informal  
40 rule making process, that would impose increased monetary or regulatory costs  
41 on other state agencies, political subdivisions of this state, persons or  
42 individuals or would not reduce the regulatory burden on the persons or  
43 individuals so regulated.

44 B. Subsection A of this section does not apply to rule making for any  
45 of the following:

1           1. An authorization or requirement enacted by the legislature after  
2 January 1, 2009 or as authorized by the governor after January 22, 2009.

3           2. To avoid a violation of a court order or federal law that would  
4 result in sanctions by the court or federal government to an agency in fiscal  
5 ~~year~~ YEARS 2009-2010 AND 2010-2011 for failure to conduct the rule making  
6 action.

7           3. To prevent a threat to the public health, peace or safety.

8           4. To fulfill an obligation related to fees, rates, fines or  
9 regulations that are expressly delineated in the constitution of this state.

10          5. To implement or comply with the fiscal ~~year~~ YEARS 2009-2010 AND  
11 2010-2011 state budget or the American recovery and reinvestment act of 2009  
12 (P.L. 111-5).

13          6. A rule or other item that is exempt from title 41, chapter 6,  
14 Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised  
15 Statutes.

16          7. To eliminate or replace archaic or illegal rules.

17          C. An agency shall not conduct any informal or formal rule making  
18 pursuant to this section without the prior written approval of the office of  
19 the governor. This subsection does not apply to any agency that is  
20 independent of the office of the governor, including any agency that is  
21 headed by a single elected official or the corporation commission.

22          D. For the purposes of this section, "agency", "person", "rule" and  
23 "rule making" have the same meanings prescribed in section 41-1001, Arizona  
24 Revised Statutes.

25          Sec. 14. Purpose

26          Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,  
27 the legislature establishes the commission on privatization, efficiency and  
28 competition to limit government competition with private enterprise in the  
29 offering of goods and services, to provide additional economic opportunities  
30 to private industry and to address issues and complaints concerning  
31 government competition with private industry.

32          Sec. 15. Retention of members

33          Notwithstanding section 41-1051, Arizona Revised Statutes, as amended  
34 by this act, all persons serving as members of the governor's regulatory  
35 review council on the effective date of this act may continue to serve until  
36 the expiration of their normal terms. The governor shall make subsequent  
37 appointments as prescribed by statute.