



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, Second Regular Session*

**AMENDED**  
**FACT SHEET FOR H.B. 2599**

administrative hearings; GRRC

Purpose

Modifies requirements relating to occupational licensure, the inspection of premises for regulated persons, petitions to the Governor's Regulatory Review Council (GRRC), agency rulemaking approval and appealable agency actions.

Background

Any person may petition an agency to: 1) make, amend or repeal a final rule; or 2) review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule. The agency has 60 days after the submission of the petition to: 1) reject the petition; 2) initiate rulemaking procedures; or 3) make a rule. If the agency rejects the petition, the petitioner has 30 days to appeal to GRRC to review whether the existing agency practice or substantive policy statement constitutes a rule. An appeal of an agency petition must be placed on GRRC's agenda if at least three council members make such a request within two weeks after the filing of the appeal.

A person may petition GRRC to request a review of an existing agency practice, substantive policy statement, final rule or regulatory licensing requirement alleged to not be authorized by statute, is unduly burdensome or is not demonstrated to be necessary to fulfill a public health, safety or welfare concern. At least four GRRC members must request of the chairperson that the matter be heard in a public meeting and make a determination under prescribed timelines and procedures ([A.R.S. § 41-1033](#)).

An agency must serve notice of an appealable agency action or contested case. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within 30 days after receiving the notice. The agency must notify the Office of Administrative Hearings (OAH) of the appeal or request for a hearing and OAH must schedule a hearing. An administrative law judge (ALJ) of OAH must issue a written decision within 20 days after the hearing is concluded. Within 30 days after the date OAH sends a copy of the decision to the agency head, the agency head may review the decision and accept, reject or modify it. The agency head's decision is the final administrative decision with outlined exemptions (A.R.S. §§ [41-1092.03](#) and [41-1092.08](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

***Occupational Licensure***

1. Requires a regulating entity, before taking any official action to deny a professional or occupational license applied for under licensure reciprocity, to submit the application and the reason for denial to the Governor for review.
2. Requires the regulating entity to notify the Governor of any required time frames for approval or denial of the license application by the regulatory agency.
3. Requires, beginning July 1, 2022, all regulating entities that are required to issue occupational or professional licenses applied for under licensure reciprocity to:
  - a) track information about applications received in a format to be determined by the Governor; and
  - b) annually report that information to the Governor.
4. Requires a regulating entity that issues occupational or professional licenses to:
  - a) prominently post on its website home page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using such policies;
  - b) have a designated area on its website home page that includes licensing information specifically for military spouses, active-duty service members and veterans and all policies that make it easier for the applicant groups to receive a license;
  - c) display all information required to be posted on its website homepage in a location that is clear and concise; and
  - d) track, beginning July 1, 2022, whether each applicant is a veteran or military spouse and annually report the information gathered to the Governor.
5. Allows a website home page feature to link to an internal website with more information if a regulating entity deems it necessary.
6. Specifies that policies that ease licensing burdens include the following:
  - a) universal recognition of out-of-state licenses;
  - b) availability of temporary licenses;
  - c) fee waivers;
  - d) examination exemptions; and
  - e) allowing an applicant to substitute military education or experience for licensing requirements.
7. Defines *regulating entity*.

***Inspection of Premises – Regulated Persons***

8. Requires an agency inspector, auditor or regulator who enters any premise of a regulated person for an inspection to offer to review, at the end of the inspection, with an authorized representative of the regulated person the following:
  - a) the findings of the inspection; and
  - b) what agency actions the regulated person can expect.

9. Specifies that deficiencies identified by an inspection are alleged deficiencies.
10. Modifies the criteria in an inspection report that would deny a regulated person an opportunity to correct alleged deficiencies as follows:
  - a) the evidence of a pattern on noncompliance is demonstrated by alleged deficiencies previously identified in an inspection report or other written notice at the same premises; and
  - b) a risk is significant to any person, the public health, safety or welfare or the environment.

***Petitions to GRRC***

11. Deems a rule invalid unless it is:
  - a) consistent with statute; and
  - b) reasonably necessary to carry out statute.
12. Prohibits an agency from making a rule that is not specifically authorized by statute.
13. Lowers, from four to three, the number of GRRC members that may request a petition be placed on an agenda.
14. Authorizes a petition to GRRC to include allegations that a final rule, substantive policy statement, agency practice or regulatory licensing requirement exceeds the agency's statutory authority.
15. Prohibits a petition from being more than five double-spaced pages.
16. Allows GRRC to determine if an existing agency practice, substantive policy statement, final rule or regulatory licensing requirement exceeds the agency's statutory authority or is not specifically authorized by statute.
17. Specifies that a petition is placed on the agenda for consideration on the merits.
18. Limits an agency's response to a petition before GRRC to five double-spaced pages.
19. Requires GRRC, at a hearing, to allocate the petitioner and the agency an equal amount of time for oral comments not including any time spent answering questions raised by council members.
20. Allows GRRC to allocate time for members of the public who have an interest in the issue to provide oral comments.
21. Deems void, on the determination by GRRC, an agency practice, substantive policy statement or regulatory licensing requirement that exceeds the agency's statutory authority or is not authorized by statute.
22. Requires GRRC, rather than allows, to modify, revise or declare an agency practice, substantive policy statement, final rule or licensing requirement void if it is unduly burdensome or is not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern.

23. Specifies that an agency may only further pursue an agency practice, substantive policy statement or licensing requirement that has been declared void or has been modified or revised by GRRC pursuant to new rulemaking.
24. Requires a GRRC decision on a petition to be made by a majority of the council members who are present and voting on the issue.
25. Removes the requirement for:
  - a) a GRRC decision to include findings of fact and conclusions of law, separately stated; and
  - b) conclusions of law to specifically address the agency's authority to act consistent with statutory rulemaking requirements.
26. Prohibits GRRC from basing any decision concerning an agency's compliance with requirements in issuing a final rule or substantive policy statement on whether any party or person commented on the rulemaking or substantive policy statement.

#### *Agency Rulemaking Approval*

27. Prohibits a state agency from conducting any rulemaking, including regular, expedited, informal, formal, emergency or exempt rulemaking, without prior written approval of the Governor.
28. Requires a state agency in seeking approval of rulemaking to address any of the following as justification:
  - a) fulfilling an objective related to job creation, economic development or economic expansion in Arizona;
  - b) reducing or ameliorating a regulatory burden on the public, while achieving the same regulatory objective;
  - c) preventing a significant threat to public health, peace or safety;
  - d) avoiding violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action;
  - e) complying with a new state statutory or regulatory requirement if the compliance is related to a condition for the receiving federal monies or participating in any federal program;
  - f) complying with a new or existing state statutory requirement;
  - g) fulfilling an obligation related to fees or any other action necessary to implement the state budget that is certified by the Governor's Office of Strategic Planning and Budgeting;
  - h) adopting a rule or other item that is exempt from rulemaking requirements;
  - i) matters pertaining to the control, mitigation or eradication of waste, fraud or abuse within a state agency or wasteful, fraudulent or abusive activities perpetuated against a state agency; and
  - j) eliminating rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
29. Prohibits a state agency, after the public comment period and close of rulemaking record, from submitting the proposed rules to GRRC without a written final approval from the Governor.
30. Requires GRRC, before considering rules submitted by a state agency, to obtain from the state agency the initial and final approval of the Governor.

31. Requires a state agency, that submits a rulemaking request, to recommend for consideration by the Governor at least three existing rules to eliminate for every additional rule requested by the agency, except for rules that are necessary to:
  - a) secure or maintain assumption of federal regulatory programs;
  - b) comply with an Auditor General recommendation; or
  - c) address a new statutory requirement.
32. Prohibits a state agency from publicizing any directives, policy statements, documents or forms on its website unless the directive, policy statement, document or form is authorized by statute or rule.
33. Requires a state agency to remove materials not authorized by statute or rule from its website by the effective date.
34. Defines *state agency*.

#### ***Appealable Agency Actions***

35. Specifies that a notice of appealable agency action or contested case must include, rather than is limited to, prescribed criteria.
36. Adds to the items that must be included in a request for a hearing on an appealable agency action or contested case as follows:
  - a) detailed and complete information regarding all questions of law, if applicable, that are the basis for the appeal;
  - b) all relevant supporting documentation; and
  - c) how the party is an adversely affected party, if applicable.
37. Specifies that an agency-issued license that substantially complied with applicable licensing requirements establishes a prima facie demonstration that the license:
  - a) meets all state and federal legal and technical requirements; and
  - b) would protect public health, welfare and the environment.
38. Allows an adversely affected party to rebut a prima facie demonstration by presenting clear and convincing evidence demonstrating that one or more provisions in the license violate a specifically applicable state or federal requirement.
39. Allows the applicant or licensee and the agency director to present additional evidence to support issuing the license, if an adversely affected party rebuts a prima facie demonstration.
40. Requires the ALJ to serve a copy of the final administrative decision to all parties to the appealable agency action or contested case, rather than only to the agency.
41. Expands the exceptions to an agency director's decision being the final administration decision to include when the licensee accepts the ALJ's decision as final for an appeal of a licensing decision.

42. Specifies that a license is not stayed during an appeal unless the affected party that has appealed applies to the superior court for an order requiring a stay pending final disposition of the appeal as necessary to prevent imminent and substantial endangerment to public health and the environment.
43. Allows the licensee, for any appealable agency action or contested case involving a licensing decision, to accept the decision within 10 days after receiving the ALJ's written decision, except for a licensing decision:
  - a) concerning the administrative completeness of an application; or
  - b) where it is determined that the licensee poses a threat of grave harm or danger to the public or has acted with complete disregard for the well-being of the public in engaging or in being allowed to engage in the licensee's regulated business activity.
44. Requires the decision to be certified as the final decision by OAH if the licensee accepts the ALJ's written decision.
45. Allows the agency head to review the decision and accept, reject or modify the decision, if the licensee does not accept the ALJ's written decision as the final decision in the matter.
46. Requires the parties to meet and confer, within 30 days after receiving the ALJ's decision and the agency head intends to reject or modify the decision, concerning the agency's proposed modifications to the findings of fact and conclusions of law.
47. Requires the agency head to file its final decision within 20 days after conferring.
48. Entitles a licensee that prevails in an appeal of an agency's final decision following a conference to recover reasonable attorney fees and costs incurred during all stages of the proceeding.
49. Requires an agency action that is arbitrary, capricious or not in accordance with the law to be appealed within 10 days of written notification of the action, rather than 10 days after the action takes place.
50. Stipulates that the ability of a licensee to accept an ALJ's decision does not apply to any appealable agency action of the Arizona Department of Water Resources (ADWR).
51. Allows a licensee to forgo an administrative appeal and seek judicial review of an agency's grant, denial, modification or revocation of a permit issued under the environment statute.
52. Modifies the definition of *action against the party* to include any notice of violation that results in the expenditure of costs and fees.
53. Defines *adversely affected parties*, *licensee*, and *notice of violation*.

#### ***Miscellaneous***

54. Makes technical and conforming changes
55. Becomes effective of the general effective date.

Amendments Adopted by Committee

1. Removes the requirement for:
  - a) a GRRC decision to include findings of fact and conclusions of law, separately stated; and
  - b) conclusions of law to specifically address the agency's authority to act consistent with statutory rulemaking requirements.
2. Adds complying with an existing statutory requirement to the justifications that a state agency may include when seeking new rulemaking approval.
3. Stipulates that the requirement of a state agency to recommend three existing rules to eliminate for every new rule request does not apply to rules necessary to:
  - a) secure or maintain assumption of federal regulatory programs;
  - b) comply with an Auditor General recommendation; or
  - c) address a new statutory requirement.
4. Prohibits a state agency from publicizing any directive, policy statement, document or form on its website if it is not authorized, rather than not explicitly authorized, by statute.
5. Requires a state agency to remove materials from its website not authorized, rather than not specifically authorized, by statute.
6. Specifies that the definition of *licensee* includes an individual who has applied for a license and appeals a licensing decision, rather than only applied for a license.
7. Specifies that a license is not stayed unless the affected party, rather than the individual, applies for a superior court order requiring a stay.
8. Excludes, from the authorization for a licensee to accept an ALJ's decision, the following:
  - a) a licensing decision concerning the administrative completeness of an application; and
  - b) any appealable agency action of ADWR.

Amendments Adopted by Committee of the Whole

1. Prohibits an agency from making a rule that is not specifically authorized by statute.
2. Specifies that a notice of appeal or request for a hearing must include information regarding questions of law only if applicable.

House Action

COM	2/15/22	DPA	10-0-0-0
3 <sup>rd</sup> Read	2/22/22		59-0-1

Senate Action

COM	3/16/22	DPA	9-0-0
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Prepared by Senate Research

April 25, 2022

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