



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1343

agency review; rules; automatic expiration

Purpose

Requires any rule regarding occupational licenses to automatically expire at the conclusion of the five-year review unless certain requirements are met by the rulemaking agency.

Background

At least once every five years, each agency must review all of its rules, including rules made in accordance with an exemption from statutory rulemaking requirements, to determine whether any rule should be amended or repealed. The agency must prepare and obtain the Governor's Regulatory Review Council's (GRRC) approval of a written report summarizing its findings, its supporting reasons and any proposed course of action. For each rule, the report must include: 1) the rule's effectiveness in achieving objectives; 2) written criticisms of the rule received during the previous five years; 3) authorization of the rule by existing statutes; 4) whether the rule is consistent with statutes or other rules made by the agency and current agency enforcement policy; 5) the clarity, conciseness and understandability of the rule; 6) the estimated economic, small business and consumer impact of the rules as compared to the previous analysis prepared for rulemaking; 7) any analysis submitted to the agency by another person regarding the rule's impact on Arizona's business competitiveness as compared to other states; 8) that the agency completed the previous five-year review process, if applicable; 9) a determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs to a person regulated by the rule; 10) a determination that the rule is not more stringent than a corresponding federal law unless there is a statutory exemption; and 11) whether rules adopted after July 29, 2010, comply with the statutory general permit requirements.

GRRC must schedule the periodic review of each agency's rules and approve or return, in whole or in part, the agency's report for corrections. GRRC may require the agency to propose an amendment or repeal of the rule by a date not earlier than six months after the date of the meeting at which GRRC considers the agency's report on its rules if it is determined that the agency's analysis demonstrates that the rule is materially flawed. If an agency fails to submit its report, including a revised report, or fails to file an extension with GRRC and does not submit its report within the extension period then the rules expire and GRRC must: 1) cause notice to be published in the next register that states the rules have expired and are no longer enforceable; 2) notify the Secretary of State (SOS) that the rules have expired and that the rules are to be removed from the code; and 3) notify the agency that the rules have expired and are no longer enforceable ([A.R.S. § 41-1056](#)).

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

Provisions

1. Requires, to the greatest extent possible, any analysis that is performed in accordance with the five-year review and that examines the economic impact, compliance, implementation or other costs of a rule to use actual impacts and cost from the last five years that the rule has been in effect as the basis for any calculation, rather than only using estimated impacts and costs.
2. Requires any rule regarding occupational licenses adopted by an agency in accordance with statutory authority to automatically expire at the conclusion of the five-year review unless the agency performs a five-year review and does all of the following:
 - a) readopts the code chapter in accordance with statutory rulemaking requirements;
 - b) publishes an evaluation of the burdens on similar occupational licenses in all states that border Arizona and justifies any instance where Arizona imposes a greater burden on a licensee than any neighboring states; and
 - c) publishes a report available on the agency's website that includes analysis and responses to public comments.
3. Stipulates that the automatic expiration of a rule regarding an occupational license does not apply to rules that are required to comply with federal law or receive federal monies.
4. Stipulates that rules scheduled for a five-year review expire if an occupational licensing agency has not timely adopted it rules in accordance with the automatic expiration requirements.
5. Requires GRRC, if the rules expire in accordance with the automatic expiration requirement, to:
 - a) cause notice to be published in the next register that states the rules have expired and are no longer enforceable;
 - b) notify the SOS that the rules have expired and that the rules are to be removed from the code; and
 - c) notify the agency that the rules have expired and are no longer enforceable.
6. Makes technical and conforming changes.
7. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Eliminates the exemption to the automatic expiration requirement for rules that are adopted:
 - a) in accordance with rulemaking authority under the Arizona Constitution; or
 - b) by a regulating entity that is directly managed by an elected official in Arizona.

Senate Action

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Prepared by Senate Research

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JT/slp