

House Engrossed

~~rulemaking; legislative approval~~
(now: rulemaking; legislative authority)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE CONCURRENT RESOLUTION 2052

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to rulemaking, is enacted to become valid
5 as a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 AMENDING SECTION 41-1039, ARIZONA REVISED STATUTES; RELATING
8 TO RULEMAKING.

9 Be it enacted by the Legislature of the State of
10 Arizona:

11 Section 1. Section 41-1039, Arizona Revised Statutes,
12 is amended to read:

13 41-1039. State agency rulemaking; governor approval;
14 submission; legislative rejection;
15 definition

16 A. Notwithstanding any other law, a state agency may
17 not conduct any rulemaking, including regular, expedited,
18 informal, formal, emergency or exempt rulemaking, without
19 prior written approval of the governor. In seeking approval,
20 a state agency shall address any of the following as
21 justification for the rulemaking:

22 1. Fulfilling an objective related to job creation,
23 economic development or economic expansion in this state.

24 2. Reducing or ameliorating a regulatory burden on the
25 public, while achieving the same regulatory objective.

26 3. Preventing a significant threat to public health,
27 peace or safety.

28 4. Avoiding violating a court order or federal law that
29 would result in sanctions by a federal court for failure to
30 conduct the rulemaking action.

31 5. Complying with a new state statutory or regulatory
32 requirement if the compliance is related to a condition for
33 ~~the~~ receiving federal monies or participating in any federal
34 program.

35 6. Complying with a new or existing state statutory
36 requirement.

37 7. Fulfilling an obligation related to fees or any
38 other action necessary to implement the state budget that is
39 certified by the governor's office of strategic planning and
40 budgeting.

41 8. Adopting a rule or other item that is exempt from
42 this chapter.

43 9. Matters pertaining to the control, mitigation or
44 eradication of waste, fraud or abuse within a state agency or
45 wasteful, fraudulent or abusive activities perpetrated against
46 a state agency.

1 10. Eliminating rules that are antiquated, redundant or
2 otherwise no longer necessary for the operation of state
3 government.

4 B. After the public comment period and the close of the
5 rulemaking record, a state agency may not submit the proposed
6 rules to the council without a written final approval from the
7 governor. Before considering rules submitted by a state
8 agency, the council must obtain from the state agency the
9 initial approval pursuant to subsection A of ~~the~~ THIS section
10 and the final approval required by this subsection.

11 C. Notwithstanding any other law, a state agency that
12 submits a rulemaking request shall recommend for consideration
13 by the governor at least three existing rules to eliminate for
14 every additional rule requested by the state agency. The
15 requirements of this subsection do not apply to rules that are
16 necessary to secure or maintain assumption of federal
17 regulatory programs, rules that are necessary to comply with
18 an auditor general recommendation or rules that are necessary
19 to address a new statutory requirement.

20 D. A state agency may not publicize any directives,
21 policy statements, documents or forms on its website unless
22 the directive, policy statement, document or form is
23 authorized by statute or rule. A state agency shall remove
24 material not authorized by statute or rule from its website on
25 September 24, 2022.

26 E. NOTWITHSTANDING ANY OTHER LAW, THE LEGISLATURE MAY
27 REJECT, BY CONCURRENT RESOLUTION, A RULE THAT IS APPROVED BY
28 THE COUNCIL AND THAT BECOMES EFFECTIVE PURSUANT TO THIS
29 ARTICLE. IF THE LEGISLATURE REJECTS THE RULE BY CONCURRENT
30 RESOLUTION, THE RULE IS VOID.

31 ~~E.~~ F. For the purposes of this section, "state
32 agency":

33 1. Includes all executive departments, agencies and
34 offices and all state boards and commissions.

35 2. Does not include:

36 (a) A state agency that is headed by a single elected
37 state official.

38 (b) The corporation commission.

39 (c) Any board or commission established by ballot
40 measure at or after the November 1998 general election.

41 (d) The judiciary.

42 2. The Secretary of State shall submit this proposition to the
43 voters at the next general election as provided by article IV, part 1,
44 section 1, Constitution of Arizona.