

REFERENCE TITLE: rulemaking; legislative approval

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

HCR 2052

Introduced by
Representatives McGarr: Gillette, Griffin, Heap, Jones, Kolodin, Parker B,
Smith

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 Arizona:

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

12 41-1039. State agency rulemaking; governor approval;
13 submission; legislative approval; definition

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

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

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

24 3. Preventing a significant threat to public health,
25 peace or safety.

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

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

33 6. Complying with a new or existing state statutory
34 requirement.

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

39 8. Adopting a rule or other item that is exempt from
40 this chapter.

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

45 10. Eliminating rules that are antiquated, redundant or
46 otherwise no longer necessary for the operation of state
47 government.

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

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

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

23 E. NOTWITHSTANDING ANY OTHER LAW, AFTER APPROVAL BY THE
24 GOVERNOR'S REGULATORY REVIEW COUNCIL, THE COUNCIL SHALL SUBMIT
25 ANY RULEMAKING, INCLUDING REGULAR, EXPEDITED, INFORMAL,
26 FORMAL, EMERGENCY OR EXEMPT RULEMAKING, TO THE LEGISLATURE FOR
27 FINAL APPROVAL. IF THE LEGISLATURE APPROVES THE RULE BY A
28 MAJORITY VOTE IN EACH CHAMBER, THE RULE BECOMES EFFECTIVE. IF
29 THE LEGISLATURE DOES NOT APPROVE THE RULE BY A MAJORITY VOTE
30 IN EACH CHAMBER, THE RULE DOES NOT BECOME EFFECTIVE.

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.