

2023 -- H 5187

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADMINISTRATIVE
PROCEDURES

Introduced By: Representatives Corvese, Azzinaro, and Phillips

Date Introduced: January 19, 2023

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-35-4 of the General Laws in Chapter 42-35 entitled
2 "Administrative Procedures" is hereby amended to read as follows:

3 **42-35-4. Filing and taking effect of rules.**

4 (a) An agency shall file each final rule with the secretary of state. An agency may not file
5 a final rule until the public comment period has ended. In filing a final rule, an agency shall use a
6 standardized form and process for submission determined by the secretary of state. The secretary
7 of state shall affix to each final rule a certification of the time and date of filing. The secretary of
8 state may reject the final rule if an agency fails to use the standardized format or fails to adhere to
9 the codification requirements or any other publication requirements or rules promulgated by the
10 secretary of state's office pursuant to § 42-35-5. The secretary of state shall reject the improper
11 final rule by returning it to the director of the agency which submitted the improper form within
12 fifteen (15) days of receipt.

13 (b) The secretary of state, with notification to the agency, may make minor non-substantive
14 corrections in spelling, grammar, and format in a proposed or final rule. The secretary of state shall
15 make a record of the corrections.

16 (c) The agency shall file the rule not later than one hundred eighty (180) days after close
17 of the public-comment period. If that rule is not filed within one hundred eighty (180) days, the
18 agency must restart the rulemaking process pursuant to this chapter.

1 (d) A final rule filed by an agency with the secretary of state under this section must contain
2 the text of the rule and be accompanied by a record that contains:

- 3 (1) The date the final rule was signed by the relevant agency head;
- 4 (2) A reference to the specific statutory or other authority authorizing the rule;
- 5 (3) Any finding required by law as a prerequisite to the proposed rule or effectiveness of
6 the rule;
- 7 (4) The effective date of the rule; and
- 8 (5) A concise explanatory statement as defined by § 42-35-2.6.

9 (e) Each rule hereafter shall be effective twenty (20) days after filing with the secretary of
10 state, except:

11 (1) If a later date is required by statute or specified in the rule, the later date is the effective
12 date;

13 (2) An emergency rule under § 42-35-2.10 becomes effective upon signature by the agency
14 head and the governor, or the governor's designee;

15 (3) A direct final rule under § 42-35-2.11, to which no objection is made, becomes effective
16 thirty (30) days after publication, unless the agency specifies a later effective date;

17 (4) A final rule shall not be effective or enforceable until properly submitted and accepted
18 by the secretary of state; and

19 (5) No rule, promulgated in accordance with this chapter, shall become final, unless it is
20 approved by the general assembly, after the last agency rule making action has been completed, but
21 prior to its filing with the office of the secretary of state, pursuant to § 42-35-4(e), but in no case
22 later than December 31 of the year it was promulgated.

23 (f) The secretary of state shall maintain a permanent register of all filed rules and concise
24 explanatory statements for the rules. The secretary of state shall provide a copy of each certified
25 final rule to an agency upon request. The secretary of state shall publish the notice of each final
26 rule in the state register.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require that all agencies' final rules, promulgated pursuant to the
2 administrative procedures act, be approved by general assembly action, but in no case later than
3 December 31 of the year it is promulgated before it can become effective.

4 This act would take effect upon passage.

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