

1 AN ACT concerning access to data.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-40 as follows:

6 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

7 Sec. 5-40. General rulemaking.

8 (a) In all rulemaking to which Sections 5-45 and 5-50 do
9 not apply, each agency shall comply with this Section.

10 (b) Each agency shall give at least 45 days' notice of
11 its intended action to the general public. This first notice
12 period shall commence on the first day the notice appears in
13 the Illinois Register. The first notice shall include all
14 the following:

15 (1) The text of the proposed rule, the old and new
16 materials of a proposed amendment, or the text of the
17 provision to be repealed.

18 (2) The specific statutory citation upon which the
19 proposed rule, the proposed amendment to a rule, or the
20 proposed repeal of a rule is based and by which it is
21 authorized.

22 (3) A complete description of the subjects and
23 issues involved.

24 (3.5) A descriptive title or other description of
25 any published study or research report used in developing
26 the rule, the identity of the person who performed such
27 study, and a description of where the public may obtain a
28 copy of any such study or research report. If the study
29 was performed by an agency or by a person or entity that
30 contracted with the agency for the performance of the
31 study, the agency shall also make copies of the

1 underlying data available to members of the public upon
2 request if the data are not protected from disclosure
3 under the Freedom of Information Act.

4 (4) For all proposed rules and proposed amendments
5 to rules, an initial regulatory flexibility analysis
6 containing a description of the types of small businesses
7 subject to the rule; a brief description of the proposed
8 reporting, bookkeeping, and other procedures required for
9 compliance with the rule; and a description of the types
10 of professional skills necessary for compliance.

11 (5) The time, place, and manner in which interested
12 persons may present their views and comments concerning
13 the proposed rulemaking.

14 During the first notice period, the agency shall accept
15 from any interested persons data, views, arguments, or
16 comments. These may, in the discretion of the agency, be
17 submitted either orally or in writing or both. The notice
18 published in the Illinois Register shall indicate the manner
19 selected by the agency for the submissions. The agency shall
20 consider all submissions received.

21 The agency shall hold a public hearing on the proposed
22 rulemaking during the first notice period if (i) during the
23 first notice period, the agency finds that a public hearing
24 would facilitate the submission of views and comments that
25 might not otherwise be submitted or (ii) the agency receives
26 a request for a public hearing, within the first 14 days
27 after publication of the notice of proposed rulemaking in the
28 Illinois Register, from 25 interested persons, an association
29 representing at least 100 interested persons, the Governor,
30 the Joint Committee on Administrative Rules, or a unit of
31 local government that may be affected. At the public
32 hearing, the agency shall allow interested persons to present
33 views and comments on the proposed rulemaking. A public
34 hearing in response to a request for a hearing may not be

1 held less than 20 days after the publication of the notice of
2 proposed rulemaking in the Illinois Register unless notice of
3 the public hearing is included in the notice of proposed
4 rulemaking. A public hearing on proposed rulemaking may not
5 be held less than 5 days before submission of the notice
6 required under subsection (c) of this Section to the Joint
7 Committee on Administrative Rules. Each agency may prescribe
8 reasonable rules for the conduct of public hearings on
9 proposed rulemaking to prevent undue repetition at the
10 hearings. The hearings must be open to the public and
11 recorded by stenographic or mechanical means. At least one
12 agency representative shall be present during the hearing who
13 is qualified to respond to general questions from the public
14 regarding the agency's proposal and the rulemaking process.

15 (c) Each agency shall provide additional notice of the
16 proposed rulemaking to the Joint Committee on Administrative
17 Rules. The period commencing on the day written notice is
18 received by the Joint Committee shall be known as the second
19 notice period and shall expire 45 days thereafter unless
20 before that time the agency and the Joint Committee have
21 agreed to extend the second notice period beyond 45 days for
22 a period not to exceed an additional 45 days or unless the
23 agency has received a statement of objection from the Joint
24 Committee or notification from the Joint Committee that no
25 objection will be issued. The written notice to the Joint
26 Committee shall include (i) the text and location of any
27 changes made to the proposed rulemaking during the first
28 notice period in a form prescribed by the Joint Committee;
29 (ii) for all proposed rules and proposed amendments to rules,
30 a final regulatory flexibility analysis containing a summary
31 of issues raised by small businesses during the first notice
32 period and a description of actions taken on any alternatives
33 to the proposed rule suggested by small businesses during the
34 first notice period, including reasons for rejecting any

1 alternatives not utilized; and (iii) if a written request has
2 been made by the Joint Committee within 30 days after initial
3 notice appears in the Illinois Register under subsection (b)
4 of this Section, an analysis of the economic and budgetary
5 effects of the proposed rulemaking. After commencement of the
6 second notice period, no substantive change may be made to a
7 proposed rulemaking unless it is made in response to an
8 objection or suggestion of the Joint Committee. The agency
9 shall also send a copy of the final regulatory flexibility
10 analysis to each small business that has presented views or
11 comments on the proposed rulemaking during the first notice
12 period and to any other interested person who requests a
13 copy. The agency may charge a reasonable fee for providing
14 the copies to cover postage and handling costs.

15 (d) After the expiration of the second notice period,
16 after notification from the Joint Committee that no objection
17 will be issued, or after a response by the agency to a
18 statement of objections issued by the Joint Committee,
19 whichever is applicable, the agency shall file, under Section
20 5-65, a certified copy of each rule, modification, or repeal
21 of any rule adopted by it. The copy shall be published in
22 the Illinois Register. Each rule hereafter adopted under
23 this Section is effective upon filing unless a later
24 effective date is required by statute or is specified in the
25 rulemaking.

26 (e) No rule or modification or repeal of any rule may be
27 adopted, or filed with the Secretary of State, more than one
28 year after the date the first notice period for the
29 rulemaking under subsection (b) commenced. Any period during
30 which the rulemaking is prohibited from being filed under
31 Section 5-115 shall not be considered in calculating this
32 one-year time period.

33 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)