

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 891 & 877

AN ACT

To repeal section 536.016, RSMo, and to enact in lieu thereof four new sections relating to administrative rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 536.016, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 536.016, 536.180, 536.185, and 536.340, to read as follows:

536.016. 1. Any state agency shall propose rules based upon substantial evidence on the record and a finding by the agency that the rule is specifically authorized by a statute and necessary to carry out the purposes of the statute that granted such rulemaking authority. A state agency shall not rely on a general grant of rulemaking authority to supplement a specific grant of rulemaking authority and shall not rely on a specific grant of rulemaking authority to adopt a rule that exceeds or expands the subject matter expressly authorized in the statute granting such authority.

2. Each state agency shall adopt procedures by which it will determine whether a rule is necessary to carry out the purposes of the statute authorizing the rule. Such criteria and rulemaking shall be based upon reasonably available empirical data and shall include an assessment of the effectiveness and the cost of rules both to the state and to any private or public person or entity affected by such rules.

3. Each state agency shall make publicly available proposed rules on the home page of its official internet

website by providing a hyperlink entitled "proposed rules". This hyperlink shall grant access to an internet page which shall provide the following information for each proposed rule within one business day of when such rule is published in the Missouri Register:

(1) The text of the proposed rule as filed with the secretary of state pursuant to section 536.021, including any fiscal notes;

(2) A summary which shall be a concise statement not exceeding one hundred words using language neither intentionally argumentative nor likely to create prejudice either for or against the proposed rule; and

(3) A direct hyperlink to the full text of the proposed rule located in the Missouri Register and all material incorporated by reference on the secretary of state's website.

536.180. 1. Any state agency filing a notice of proposed rulemaking, as required by section 536.021, wherein the adoption, amendment, or rescission of the rule would require or result in an expenditure of public funds by that agency, any other state agency, or any political subdivision of the state in excess of two hundred fifty thousand dollars per year, or would require or result in an expenditure of money by or a reduction in income for individuals or businesses in excess of two hundred fifty thousand dollars per year shall, in addition to the requirements of section 536.200, file notification with the joint committee on administrative rules of such proposed rule. The committee may hold hearings on any proposed rule or portion thereof at any time.

2. Any proposed rule subject to the provisions of this section shall not be subject to section 536.021 and shall

not become effective until the provisions of this section have been satisfied.

3. A proposed rule subject to the provisions of this section shall not become effective unless and until the general assembly adopts a concurrent resolution in accordance with the provisions of Article IV, Section 8 of the Missouri Constitution to approve such proposed rule.

4. Upon adoption of such concurrent resolution as provided in subsection 3 of this section, the secretary of state shall not publish the order of rulemaking until the expiration of time necessary for such resolution to be signed by the governor or vetoed and subsequently acted upon by the general assembly as provided in Article III, Section 32 of the Missouri Constitution. If such concurrent resolution is adopted and signed by the governor or otherwise reconsidered under Article III, Section 32 of the Missouri Constitution, the secretary of state shall publish in the Missouri register, as soon as practicable, the order of rulemaking along with notice of the proposed rules or portions thereof that were approved by the general assembly.

5. Except for rules adopted pursuant to section 536.025 or required to be adopted to conform with federal law or for federal funding, any proposed rule shall be null, void, and unenforceable unless made in accordance with the provisions of this section.

536.185. A state agency shall not file any notice of proposed rulemaking with the secretary of state without first receiving from and including a copy of the written approval by the governor.

536.340. 1. As used in this section, the term "substantive policy statement" shall mean a written expression that informs the public of a state agency's current interpretation of, or opinion concerning, the

requirements of the federal or Missouri constitution, a federal or state statute, an administrative rule or regulation, or a final judgment of a court of competent jurisdiction. The term shall include the state agency's current practice, procedure, or method of action based on that interpretation or opinion.

2. A state agency shall post all substantive policy statements on its publicly accessible website and maintain a complete and current record of such statements for public inspection.