

FIRST REGULAR SESSION

SENATE BILL NO. 176

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH.

Pre-filed December 17, 1998, and 1,000 copies ordered printed.

S0859.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 536.016, RSMo Supp. 1998, relating to administrative rules, and to enact in lieu thereof one new section, relating to the same subject.

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

Section A. Section 536.016, RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 536.016, to read as follows:

536.016. 1. **Any other provision of law to the contrary notwithstanding, a rule adopted by any state agency shall not be more restrictive than is necessary to carry out the purposes of the statute granting rulemaking authority.**

2. Any state agency shall propose rules based upon substantial evidence on the record **after public hearing** and a finding by the agency that the rule is **significant and** necessary to carry out the purposes of the statute that granted such rulemaking authority. **For purposes of this section, a rule is significant if it is of notable value in the enforcement of the statute authorizing the rule.**

[2.] 3. Each state agency shall adopt procedures, **through formal rulemaking**, by which it will determine whether a rule is **significant and** 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. Upon a challenge to any agency action pursuant to this chapter, or failure to comply with any provision of this chapter, the agency shall have the burden of proving by a preponderance of the evidence that the action taken by the agency was not required to be preceded by the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

adoption of a rule on the subject matter.

4. This section shall become effective only upon the expiration of twenty calendar days following the:

(1) Failure of the executive to sign executive order number 97-97; or

(2) Modification, amendment or rescission of executive order number 97-97; or

(3) An agency's failure to hold the rule in abeyance as required by executive order number 97-97; or

(4) Declaration by a court with jurisdiction that section 536.024 or any portion of executive order number 97-97 is unconstitutional or invalid for any reason. Notwithstanding the provisions of this subsection to the contrary, no modification, amendment or rescission of executive order number 97-97 or failure to hold a rule in abeyance shall make this section effective if the modification, amendment or rescission of the executive order or failure to hold the rule in abeyance is approved by the general assembly by concurrent resolution.]

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Bill

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