

1 State of Arkansas
2 88th General Assembly
3 First Extraordinary Session, 2012

A Bill

SENATE BILL 879

4
5 By: Senator Maloch
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For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR THE EXPIRATION OF LEGISLATIVE
9 AUTHORITY TO PROMULGATE CERTAIN RULES UNLESS
10 CONTINUED BY THE GENERAL ASSEMBLY; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO PROVIDE FOR THE EXPIRATION OF
15 LEGISLATIVE AUTHORITY TO PROMULGATE
16 CERTAIN RULES UNLESS CONTINUED BY THE
17 GENERAL ASSEMBLY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 10-3-309(d), concerning the review of
24 administrative rules by the Legislative Council, is amended to add an
25 additional subdivision to read as follows:

26 (6)(A) On or before January 1 preceding a regular session of the
27 General Assembly, the Legislative Council shall present to the Speaker of the
28 House of Representatives and the President Pro Tempore of the Senate draft
29 legislation representing its recommendations concerning those rules becoming
30 void on July 1 of that year under § 25-15-204 for which the General Assembly
31 should grant continued legislative authority.

32 (B) The draft legislation may be in substantially the
33 following form: "All rules of Arkansas state agencies for which legislative
34 authority will expire on July 1 of [insert year] under § 25-15-204 are
35 granted continued legislative authority and shall continue in effect except
36 for the following:".



1 (C) The draft legislation may specify that continued
2 legislative authority for a rule:

3 (i) Has no expiration; or

4 (ii) Expires on a date certain.

5 (D) The granting of continued legislative authority for a
6 rule does not constitute legislative approval of the rule.

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8 SECTION 2. Arkansas Code § 25-15-204(f), concerning the procedures for
9 adopting an administrative rule, is amended to read as follows and the
10 remaining subsections are redesignated accordingly:

11 (f)(1) Except as provided in subdivision (f)(2) of this section,
12 the legislative authority to promulgate a rule filed under subsection (e) of
13 this section expires on July 1 of the next odd-numbered year following the
14 filing of the final rule, and the rule shall become void unless the General
15 Assembly provides continued legislative authority for the rule.

16 (2) The legislative authority to promulgate a rule filed
17 under subsection (e) of this section does not expire on July 1 of the next
18 following odd-numbered year if:

19 (A) The rule is explicitly mandated by a federal law
20 or regulation; or

21 (B) A provision of the Arkansas Constitution vests
22 the agency with specific constitutional authority to regulate.

23 (g) No rule adopted after June 30, 1967, is valid unless adopted and
24 filed in substantial compliance with this section.

25 ~~(g)~~(h)(1) In any proceeding brought that questions the existence of
26 imminent peril to the public health, safety, or welfare, a written finding by
27 an agency that adoption of any emergency rule was necessary to avoid the loss
28 of federal funding or certification establishes a prima facie case of the
29 existence of imminent peril to the public health, safety, or welfare.

30 (2) The burden of proof shifts to the challenger to rebut the
31 existence of the condition by a preponderance of the evidence.

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