
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE RULEMAKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that according to a 2023
2 report published by the George Mason University Mercatus Center,
3 Hawaii ranks as the twenty-eighth most regulated state in the
4 nation. As of 2023, the Hawaii Code of Rules contains 108,741
5 restrictions. The top three policy areas targeted by these
6 state regulations include: health services; social assistance
7 and; industry, commerce, and development. The report went on to
8 share that growth in regulations is correlated with increased
9 poverty rates, lost jobs, and higher inflation.

10 On the federal level, the U.S. Code of Federal Regulations
11 contains 1,097,563 regulatory restrictions as of 2023, creating
12 challenges for businesses and individuals striving for legal
13 compliance. According to a Mercatus Center report, "the growth
14 in federal regulations between 1997 and 2015 is associated with
15 the following effects on the Hawaii economy: seventeen thousand
16 and twenty-eight additional people living in poverty, four
17 hundred ninety-one lost jobs annually, and a 7.35 per cent



1 increase in overall pricing." Congress has introduced a
2 Regulations from the Executive in Need of Scrutiny (REINS) Act
3 every year since 2009. This legislative proposal increases
4 congressional oversight and requires legislative approval for
5 major agency rules which carry a financial impact of one hundred
6 million dollars or more. The REINS Act seeks to hold the
7 executive branch of administrative rulemaking accountable with
8 legislative preemptive authority to halt agency rules and
9 regulations before they are enacted. Kentucky, Florida, Utah,
10 Oklahoma, Kansas, Indiana, Wisconsin, Louisiana, and North
11 Carolina have successfully instituted REINS-style laws
12 increasing oversight on administrative rules that carry the
13 potential of large economic impacts to their states.
14 Furthermore, this legislation ensures that taxpayers and even
15 small businesses are not left bearing the brunt of a regulation
16 with a hefty price tag. Hawaii should follow suit and take
17 tangible steps to counteract the burden of accumulated
18 regulations with a measure that balances power and increases
19 accountability.

20 The purpose of this Act is to establish a cost-benefit
21 analysis requirement that defines a specific financial impact



1 threshold and establishes proactive legislative action through
2 concurrent resolution on an agency's major rule change above the
3 threshold of one million dollars before that rule can be
4 adopted.

5 SECTION 2. Hawaii Revised Statutes Chapter 91, is amended
6 by adding a new definition to be appropriately inserted and to
7 read as follows:

8 ""Major rule" means any administrative rule, whether
9 emergency or permanent in nature, that will result in or is
10 likely to result in one million dollars or more over the initial
11 five-year period in implementation and compliance costs that are
12 reasonably expected to be incurred by or passed along to
13 businesses, local government units, and individuals as a result
14 of the proposed rule and regulation following the adoption of
15 such rule.

16 "Implementation and compliance costs" means direct costs
17 that are readily ascertainable based upon standard business
18 practices, including but not limited to, fees, the cost to
19 obtain a license or registration, the cost of equipment required
20 to be installed or used, additional operating costs incurred,
21 the cost of monitoring and reporting, and any other costs to



1 comply with the requirements of the proposed rule and
2 regulation."

3 SECTION 3. Section 91-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§91-3 Procedure for adoption, amendment, or repeal of**
6 **rules.** (a) Except as otherwise provided in this section, prior
7 to the adoption of any rule authorized by law, or the amendment
8 or repeal thereof, the adopting agency shall:

9 (1) Give at least thirty days' notice for a public
10 hearing. The notice shall include:

11 (A) A statement of the topic of the proposed rule
12 adoption, amendment, or repeal or a general
13 description of the subjects involved;

14 (B) A statement that a copy of the proposed rule to
15 be adopted, the proposed rule amendment, or the
16 rule proposed to be repealed will be mailed to
17 any interested person who requests a copy, pays
18 the required fees for the copy and the postage,
19 if any, together with a description of where and
20 how the requests may be made;



- (C) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and
- (D) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, given at least once statewide for state agencies and in the county for county agencies. Proposed state agency rules shall also be posted on the Internet as provided in section 91-2.6; and

16 (2) Afford all interested persons opportunity to submit
17 data, views, or arguments, orally or in writing. The
18 agency shall fully consider all written and oral
19 submissions respecting the proposed rule. The agency
20 may make its decision at the public hearing or
21 announce then the date when it intends to make its



1 decision. Upon adoption, amendment, or repeal of a
2 rule, the agency, if requested to do so by an
3 interested person, shall issue a concise statement of
4 the principal reasons for and against its
5 determination.

6 (b) Notwithstanding the requirements of subsection (a), if
7 an agency finds that an imminent peril to the public health,
8 safety, or morals, to livestock and poultry health, or to
9 natural resources requires adoption, amendment, or repeal of a
10 rule upon less than thirty days' notice of hearing, and states
11 in writing its reasons for such finding, it may proceed without
12 prior notice or hearing or upon such abbreviated notice and
13 hearing, including posting the abbreviated notice and hearing on
14 the Internet as provided in section 91-2.6, as it finds
15 practicable to adopt an emergency rule to be effective for a
16 period of not longer than one hundred twenty days without
17 renewal.

18 (c) In addition to emergency rules adopted pursuant to
19 subsection (b), an agency may, in a similar manner, adopt
20 emergency rules where new federal legislation or federal and
21 state court decisions disrupt prior practice under any statute



1 administered by the agency and adoption of an emergency rule is
2 urgently needed to:

3 (1) Conform existing rules to new requirements;

4 (2) Implement newly-established rights;

5 (3) Clarify existing rules and prevent confusion among
6 those covered by existing statutes;

7 (4) Stabilize a regulated industry or endeavor;

8 (5) Avoid disruption of governmental or industrial
9 operations;

10 (6) Facilitate orderly agency or legislative study of the
11 consequences of the new federal legislation or a
12 federal or state court decision;

13 (7) Reinforce or preserve the unmodified goals of a
14 statute administered by the agency; or

15 (8) Temporarily resolve any practical problems created by
16 the new federal legislation or federal and state court
17 decisions;

18 provided that an agency shall not adopt any emergency rule
19 pursuant to this subsection without conducting a public hearing;
20 provided further that an agency shall give no less than thirty
21 days' notice of the hearing; provided further that any emergency



1 rule adopted pursuant to this subsection shall be effective
2 until no later than adjournment sine die of the next regular
3 legislative session following adoption of the emergency rule.

4 (d) The adoption, amendment, or repeal of any rule by any
5 state agency shall be subject to the approval of the governor.
6 The adoption, amendment, or repeal of any rule by any county
7 agency shall be subject to the approval of the mayor of the
8 county. This subsection shall not apply to the adoption,
9 amendment, and repeal of the rules of the county boards of water
10 supply.

11 (e) The requirements of subsection (a) may be waived by
12 the governor in the case of the State, or by the mayor in the
13 case of a county, whenever a state or county agency is required
14 by federal provisions to adopt rules as a condition to receiving
15 federal funds and the agency is allowed no discretion in
16 interpreting the federal provisions as to the rules required to
17 be adopted; provided that the agency shall make the adoption,
18 amendment, or repeal known to the public by:

19 (1) Giving public notice of the substance of the proposed
20 rule at least once statewide prior to the waiver of
21 the governor or the mayor; and



(2) Posting the full text of the proposed rulemaking action on the Internet as provided in section 91-2.6.

(f) No adoption, amendment, or repeal of any rule shall be
invalidated solely because of:

(1) The inadvertent failure to mail an advance notice of rulemaking proceedings;

(2) The inadvertent failure to mail or the nonreceipt of requested copies of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed; or

(3) The inadvertent failure on the part of a state agency to post on the website of the office of the lieutenant governor all proposed rulemaking actions of the agency and the full text of the agency's proposed rules as provided in section 91-2.6.

16 Any challenge to the validity of the adoption, amendment, or
17 repeal of an administrative rule on the ground of noncompliance
18 with statutory procedural requirements shall be forever barred
19 unless the challenge is made in a proceeding or action,
20 including an action pursuant to section 91-7, that is begun



1 within three years after the effective date of the adoption,
2 amendment, or repeal of the rule.

3 (g) Whenever an agency seeks only to repeal one or more
4 sections, chapters, or subchapters of the agency's rules because
5 the rules are either null and void or unnecessary, and not
6 adopt, amend, or compile any other rules:

7 (1) The agency shall give thirty days' public notice at
8 least once statewide of the proposed date of repeal
9 and of:

10 (A) A list of the sections, chapters, or subchapters,
11 as applicable, being repealed; and

12 (B) A statement of when, where, and during what times
13 the sections, chapters, or subchapters proposed
14 to be repealed may be reviewed in person;

15 (2) The agency shall post the full text of the proposed
16 sections, chapters, or subchapters to be repealed on
17 the Internet as provided in section 91-2.6; and

18 (3) Any interested person may petition the agency
19 regarding the sections, chapters, or subchapters
20 proposed to be repealed, pursuant to section 91-6.



1 This subsection does not apply to the repeal of one or more
2 subsections, paragraphs, subparagraphs, clauses, words, phrases,
3 or other material within a section that does not constitute the
4 entire section to be repealed.

5 (h) In addition to the procedural requirements outlined in
6 this section, a major rule shall be subject to the following
7 requirements:

8 (1) Each adopting state agency promulgating a major rule
9 shall provide:

10 (A) Whether the proposed rule is mandated by federal
11 law as a requirement for participating in or
12 implementing a federally subsidized or assisted
13 program and whether the proposed rule exceeds the
14 requirements of the applicable federal law;

15 (B) An analysis specifically addressing the following
16 components:

17 (i) A comprehensive analysis of the rule's
18 economic impact, including a detailed
19 quantification of implementation and
20 compliance costs, on the specific
21 businesses, business sectors, public utility



17 (iv) A statement of the need for the rule and the
18 legal basis supporting it;

19 (v) Any measures taken by the agency to minimize
20 the cost and impact of the proposed rule on
21 business and economic development within the





1 (4) A major rule shall not take effect unless specifically
2 approved by the legislature through a concurrent
3 resolution receiving a majority in each chamber."

4 SECTION 4. Section 91-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§91-4 Filing and taking effect of rules.** (a) Each
7 agency adopting, amending, or repealing a rule, upon approval
8 thereof by the governor or the mayor of the county, shall file
9 forthwith certified copies thereof with the lieutenant governor
10 in the case of the State, or with the clerk of the county in the
11 case of a county. In addition, the clerks of all of the
12 counties shall file forthwith certified copies thereof with the
13 lieutenant governor. A permanent register of the rules, open to
14 public inspection, shall be kept by the lieutenant governor and
15 the clerks of the counties.

16 (b) Each rule hereafter adopted, amended, or repealed
17 shall become effective ten days after filing with the lieutenant
18 governor in the case of the State, or with the respective county
19 clerks in the case of the counties; provided that:

20 (1) If a later effective date is required by statute or
21 specified in the rule, the later date shall be the



1 effective date; provided further that no rule shall
2 specify an effective date in excess of thirty days
3 after the filing of the rule as provided herein;
4 (2) An emergency rule adopted pursuant to section 91-3(b)
5 shall become effective upon filing with the lieutenant
6 governor in the case of the State, or with the
7 respective county clerks in the case of the counties,
8 for a period of not longer than one hundred twenty
9 days without renewal unless extended in compliance
10 with section 91-3(b) if the agency finds that
11 immediate adoption of the rule is necessary because of
12 imminent peril to the public health, safety, or
13 morals, or to natural resources. The agency's finding
14 and brief statement of the reasons therefor shall be
15 incorporated in the rule as filed. The agency shall
16 make an emergency rule adopted pursuant to section 91-
17 3(b) known to persons who will be affected by it by
18 publication at least once in a newspaper of general
19 circulation in the State for state agencies and in the
20 county for county agencies within five days from the
21 date of filing of the rule; [and]



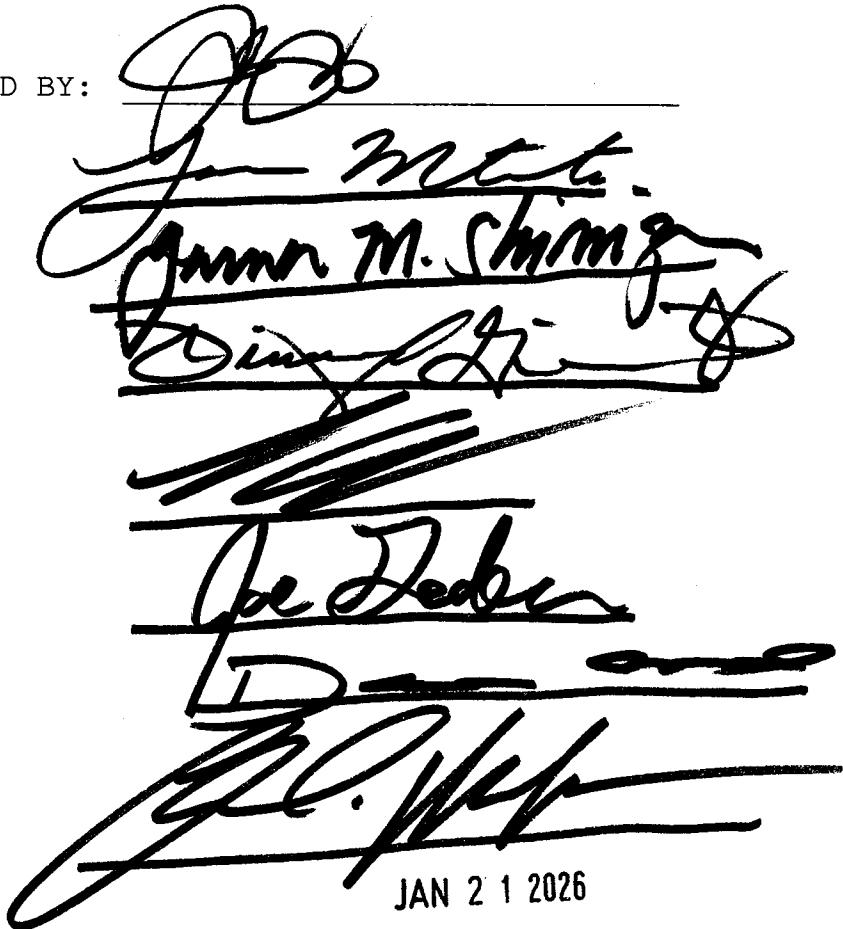


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2 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

A stack of handwritten signatures in black ink, each with a horizontal line underneath. The signatures are: "John M. McLean", "Gunn M. Shimizu", "Dina Titus", "Becky Decker", "Dana Rohrabacher", and "Zev Yaroslavsky".

JAN 21 2026



H.B. NO. 1762

Report Title:

Administrative Rulemaking Process; Economic Impact Analysis; Legislative Approval; Minority Caucus Package

Description:

Establishes a cost-benefit analysis requirement that defines a specific financial impact threshold for administrative rules. Requires legislative action through concurrent resolution to approve an agency's major rule change above the threshold of one million dollars.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

