

52:14B-22 to 52:14B-24

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 52:14B-22 to 52:14B-24

LAWS OF: 1995 **CHAPTER:** 65

BILL NO: A1577

SPONSOR(S): Catania and Crecco

DATE INTRODUCED: March 21, 1994

COMMITTEE: **ASSEMBLY:** Regulatory Oversight
SENATE: ---

AMENDED DURING PASSAGE: Yes
Assembly Committee Substitute
A1577/S231 (1R) enacted

DATE OF PASSAGE: **ASSEMBLY:** June 27, 1994 Re-enacted 12-1-94
SENATE: September 19, 1994 Re-enacted 3-30-95

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1577 and SENATE, No. 231

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1994

Sponsored by Assemblyman CATANIA,
Assemblywoman CRECCO and Senator SCOTT

1 AN ACT concerning the adoption, readoption¹[, expiration]¹ or
2 amendment of rules and regulations and supplementing
3 P.L.1968, c. 410 (52:14B-1 et seq.).
4

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. ¹[The Legislature declares that where the authority of State
8 agencies to regulate derives from limited delegation of
9 legislative powers, it is the intent of the Legislature that
10 regulatory authority be exercised in a manner conducive to
11 compliance by the regulated public. To that end, it] It¹ is the
12 ¹declared¹ policy of the ¹[Legislature] State¹ to reduce,
13 wherever practicable, confusion and costs involved in complying
14 with State regulations. Confusion and costs are increased when
15 there are multiple regulations of various governmental entities
16 imposing ¹unwarranted¹ differing standards in the same area of
17 regulated activity. It is in the public interest that State agencies
18 ¹[adopt and enforce federal standards wherever those standards
19 exist for the same or a substantially similar purpose in an area of
20 regulated activity, unless another standard has been set by
21 statute or has been publicly justified as in the public interest of
22 the State of New Jersey] consider applicable federal standards
23 when adopting, readopting or amending regulations with
24 analogous federal counterparts and determine whether these
25 federal standards sufficiently protect the health, safety and
26 welfare of New Jersey citizens¹.

27 2. ¹[Except as authorized in section 3 of this act, P.L. ,
28 c. (C.) (now pending before the Legislature as
29 this bill), no State agency shall adopt, readopt or amend, pursuant
30 to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.), a rule or regulation on or after the effective
32 date of this act, which imposes standards or requirements for an
33 activity which differ from the minimum standards or
34 requirements established for the same or a substantially similar
35 purpose under federal law for that activity, unless the specific
36 standards or requirements imposed by the rule or regulation are
37 set by State statute. If a State agency adopts, readopts or
38 amends a rule or regulation authorized by this section which
39 imposes a standard or requirement for an activity for which a
40 standard or requirement is established under federal law for the
41 same or a substantially similar purpose, the agency shall publish
42 in the New Jersey Register, along with the notice required

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly amendments adopted in accordance with Governor's
recommendations December 1, 1994.

1 pursuant to paragraph (1) of subsection (a) of section 4 of
2 P.L.1968, c.410 (C.52:14B-4), a notice that the State rule or
3 regulation would impose a standard or requirement for an activity
4 for which a federal standard or requirement is established, and
5 either: a. a statement that the standard or requirement in the
6 State rule or regulation is the same as the minimum standard or
7 requirement in the federal law; or, b. a statement of the
8 statutory authority for the differing standard or requirement.] On
9 or after the effective date of this act, each administrative
10 agency that adopts, readopts or amends any rule or regulation
11 described in section 3 of this act shall, in addition to all the
12 requirements imposed by existing law and regulation, include as
13 part of the initial publication and all subsequent publications of
14 such rule or regulation, a statement as to whether the rule or
15 regulation in question contains any standards or requirements
16 which exceed the standards or requirements imposed by federal
17 law. Such statement shall include a discussion of the policy
18 reasons and a cost-benefit analysis that supports the agency's
19 decision to impose the standards or requirements and also
20 supports the fact that the State standard or requirement to be
21 imposed is achievable under current technology, notwithstanding
22 the federal government's determination that lesser standards or
23 requirements are appropriate.¹

24 3. ¹[On and after the effective date of this act, P.L. ,
25 c. (C.) (now pending before the Legislature as
26 this bill), no State agency may adopt, readopt or amend a rule or
27 regulation, which imposes standards or requirements for an
28 activity which differ from the minimum standards or
29 requirements established for the same or a substantially similar
30 purpose under federal law for that activity, and which standards
31 and requirements are not set by State statute, except as follows:

32 a. At least 45 days prior to providing notice of intent to adopt,
33 readopt or amend pursuant to section 4 of P.L.1968, c.410
34 (C.52:14B-4) the rule or regulation in which the standard or
35 requirement is contained, the State agency shall publish in the
36 New Jersey Register a preliminary notice that the State agency
37 intends to propose to adopt, readopt or amend the rule or
38 regulation containing the standard or requirement, along with a
39 written explanation of the public policy reasons respecting the
40 public health, safety and welfare for differing from the minimum
41 federal standard or requirement, an analysis of the economic
42 costs and benefits for differing from the minimum federal
43 standard or requirement, and factual findings that the minimum
44 federal standard or requirement is not scientifically, legally or
45 technically accurate or is not protective of the public health,
46 safety or welfare of citizens of New Jersey. The State agency
47 shall at the same time transmit, on a day when one or both
48 Houses of the Legislature are meeting, a copy of the preliminary
49 notice and statement required by this section to the Governor,
50 the presiding officer of each House of the Legislature and the
51 standing committee in each House of the Legislature responsible
52 for oversight of regulations.

53 b. After expiration of 45 days from the date of transmittal of
54 the preliminary notice to the Governor and the Legislature, the

1 State agency may give notice of intent to adopt, readopt or
2 amend pursuant to the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.) the rule or regulation for
4 which a preliminary notice was provided pursuant to subsection a.
5 of this section, unless within that 45 days, the Governor and the
6 Legislature approve a joint resolution objecting to the standard or
7 requirement which differs from the minimum federal standard or
8 requirement. If a joint resolution is so approved, the State
9 agency is authorized to adopt, readopt or amend the rule or
10 regulation only with the standard or requirement to which the
11 joint resolution pertains set at the minimum federal standard or
12 requirement.] This act shall apply to any rule or regulation that is
13 adopted, readopted or amended under the authority of or in order
14 to implement, comply with or participate in any program
15 established under federal law or under a State statute that
16 incorporates or refers to federal law, federal standards or federal
17 requirements.¹

18 ¹[4. a. Every rule or regulation in effect on the effective date
19 of this act, P.L. , c. (C.) (now pending before the
20 Legislature as this bill), shall expire five years following the
21 effective date of the rule or regulation unless a sooner expiration
22 date has been established for the rule or regulation. Every rule
23 or regulation in effect on the effective date of this act for which
24 no effective date or expiration date has been previously
25 established, shall expire three years following the effective date
26 of this act.

27 b. Every rule or regulation adopted on or after the effective
28 date of this act, P.L. , c. (C.) (now pending before the
29 Legislature as this bill), shall expire five years following the
30 effective date of the rule or regulation unless a sooner expiration
31 date has been established for the rule or regulation. The
32 expiration date shall be included in the adoption notice of the
33 rule or regulation in the New Jersey Register and noted in the
34 New Jersey Administrative Code.

35 c. A State agency may continue in effect an expiring rule or
36 regulation for a five-year period by duly proposing and readopting
37 the rule or regulation prior to its expiration. Upon the filing of a
38 notice of proposed re-adoption, the expiration date of the rule or
39 regulation shall be extended for 180 days, if such notice is filed
40 prior to the expiration of the rule or regulation.

41 d. The Governor may, upon the request of an agency head, and
42 prior to the expiration date of the rule or regulation, continue in
43 effect an expiring rule or regulation for a period not exceeding 90
44 days.

45 e. The provisions of this section shall not apply to any rule or
46 regulation repealing a rule or regulation or any rule or regulation
47 prescribed by federal law or whose expiration would violate any
48 other federal or State law, in which case the federal or State law
49 shall be cited in the publication of the rule or regulation.]¹

50 ¹[5. The Director of the Office of Administrative Law shall
51 within one year after the effective date of this act, P.L. ,
52 c. (C.) (now pending before the Legislature as
53 this bill), promulgate and enforce interagency rules for:

54 a. Reduction of regulatory duplication among State agencies

1 and among various levels of government in the regulation of
2 activity. The goal of the interagency rules shall be to reduce
3 wherever practicable the number of governmental entities and
4 agencies involved in the regulation of an activity, the number of
5 standards and requirements used in the regulation of an activity,
6 and the number of applications, permits and other compliance
7 documents and papers used in the regulation of an activity. The
8 interagency rules may require each State agency, as the director
9 determines necessary, to submit periodic plans and strategies for
10 adopting, readopting or amending rules and regulations of the
11 State agency to accomplish regulatory reduction.

12 b. Assurance that statements, information, analyses and other
13 materials required to be submitted when a State agency proposes
14 to adopt, readopt or amend a rule or regulation are sufficiently
15 complete and informative as to permit the public to understand
16 accurately and plainly the legal authority, purposes and expected
17 consequences of the adoption, readoption or amendment of the
18 rule or regulation.

19 c. Requirements that, where practicable, State agencies
20 consult with the public, the regulated community, other State
21 agencies and other governmental entities, and agencies and
22 persons with expertise in the regulated area, in development and
23 drafting of rules and regulations prior to providing notice or
24 preliminary notice of intent to adopt, readopt or amend a rule or
25 regulation. The interagency rules may require or provide
26 guidelines for the establishment of advisory committees, conduct
27 of regulatory workshops, or other methods to encourage broad
28 participation of the interested public in the development of rules
29 and regulations.

30 On and after the promulgation of the interagency rules
31 required by this section, the director is authorized to refuse to
32 accept from a State agency a notice or preliminary notice of
33 intention to adopt, readopt or amend a rule or regulation, if the
34 director determines that the rule or regulation and its
35 accompanying materials do not comply satisfactorily with the
36 interagency rules of the director. The State agency shall not be
37 authorized to adopt, readopt or amend a rule or regulation where
38 notice or preliminary notice of intention is refused by the
39 director, except by proposing the adoption, readoption or
40 amendment in compliance with the interagency rules.]¹

41 ¹[6. This act shall take effect immediately.] 4. This act
42 shall take effect 60 days from the date of enactment.¹

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47 Establishes in statute administrative rule-making procedures to
48 reduce regulatory duplication and to strengthen regulatory
49 oversight by the public, Governor, the Legislature and the OAL.

ASSEMBLY, No. 1577

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1994

By Assemblyman CATANIA
and Assemblywoman CRECCO

1 AN ACT concerning the adoption, readoption, expiration or
2 amendment of rules and regulations and the implementation of
3 certain policies or imposition of certain requirements and
4 supplementing Title 52 of the Revised Statutes.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. a. If a State agency adopts, readopts or amends, pursuant to
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
10 et seq.), any rule or regulation on or after the effective date of
11 this act, P.L. , c. (C.) (now pending before the
12 Legislature as this bill), which exceeds standards or requirements
13 mandated by federal law, the agency shall publish in the New
14 Jersey Register, along with the notice required pursuant to
15 paragraph (1) of subsection (a) of section 4 of P.L.1968, c.410
16 (C.52:14B-4), a written explanation for its decision which shall
17 include: (1) the legal authority for adopting, readopting or
18 amending the rule or regulation; (2) the legal authority for
19 exceeding federal standards or requirements; (3) public policy
20 reasons for exceeding federal standards or requirements; and (4)
21 the economic costs and benefits for exceeding federal standards
22 or requirements.

23 In the case of such a rule or regulation, the report required
24 pursuant to paragraph (4) of subsection (a) of section 4 shall be
25 transmitted to the Legislative Oversight Committee in each
26 House.

27 b. If a State agency applies or implements, or intends to apply
28 or implement, in any way other than the adoption of a rule or
29 regulation a policy which exceeds standards or requirements
30 mandated by federal law, or imposes or intends to impose
31 requirements, other than through rules and regulations, which
32 exceed such standards or requirements, the agency shall publish
33 in the New Jersey Register a written explanation for its policy or
34 requirements which shall include: (1) the legal authority for such
35 a policy or such requirements; (2) the legal authority for
36 exceeding federal standards or requirements; (3) public policy
37 reasons for exceeding federal standards or requirements; and (4)
38 the economic costs for exceeding federal standards or
39 requirements.

40 No later than the 30th day after publication in the Register, all
41 interested persons shall submit to the agency data, views, or
42 arguments, orally or in writing, respecting the policy or
43 requirement. In addition, the agency shall conduct a public
44 hearing at the request of a committee of the Legislature or a
45 governmental agency or subdivision, provided such a request is

1 made within 15 days after publication of the explanation in the
2 Register. The agency shall provide at least 15 days' notice of
3 the hearing and shall conduct the hearing no later than 20 days
4 after the date of the initial request. The hearing shall be
5 conducted in the same manner as a public hearing on a proposed
6 rule pursuant to section 4 of P.L.1968, c.410 (C.52:14B-4). No
7 later than the 10th day after the 30-day period or the public
8 hearing, whichever is later, the agency shall transmit a report to
9 the Legislative Oversight Committee in each House listing all
10 parties offering written or oral submissions concerning the policy
11 or requirement, summarizing the content of the submissions, and
12 providing the agency's response to the data, views, and
13 arguments contained in the submissions.

14 2. a. Every rule or regulation in effect on the effective date
15 of this act, P.L. , c. (C.)(now pending before the
16 Legislature as this bill), shall expire five years following the
17 effective date of this act unless a sooner expiration date has been
18 established for the rule or regulation.

19 b. Every rule or regulation adopted on or after the effective
20 date of this act, P.L. c. (C.) (now pending before the
21 Legislature as this bill), shall expire five years following the
22 effective date of the rule or regulation unless a sooner expiration
23 date has been established for the rule or regulation. The
24 expiration date shall be included in the adoption notice of the
25 rule or regulation in the New Jersey Register and noted in the
26 New Jersey Administrative Code.

27 c. A State agency may continue in effect an expiring rule or
28 regulation for a five-year period by duly proposing and readopting
29 the rule or regulation prior to its expiration. Upon the filing of a
30 notice of proposed re adoption, the expiration date of the rule or
31 regulation shall be extended for 180 days, if such notice is filed
32 prior to the expiration of the rule or regulation.

33 d. The Governor may, upon the request of an agency head, and
34 prior to the expiration date of the rule or regulation, continue in
35 effect an expiring rule or regulation for a period not exceeding 90
36 days.

37 e. The provisions of this section shall not apply to any rule or
38 regulation repealing a rule or regulation or any rule or regulation
39 prescribed by federal law or whose expiration would violate any
40 other federal or State law, in which case the federal or State law
41 shall be cited in the publication of the rule or regulation.

42 3. This act shall take effect immediately.

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STATEMENT

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47 The purpose of this bill is to: (1) ensure that State agencies
48 which promulgate rules or regulations establishing standards or
49 requirements that exceed standards or requirements mandated by
50 federal law or which in other ways implement policies or impose
51 requirements which exceed such standards or requirements justify
52 the establishment, implementation, or imposition of those
53 standards or requirements; and (2) provide that a rule or
54 regulation shall expire after five years unless re adopted.

1 If a State agency adopts, readopts or amends any rule or
2 regulation on or after the effective date of this act which
3 exceeds standards or requirements mandated by federal law, the
4 agency shall publish in the New Jersey Register a written
5 explanation for its decision which shall include: (1) the legal
6 authority for adopting, readopting or amending the rule or
7 regulation; (2) the legal authority for exceeding federal standards
8 or requirements; (3) public policy reasons for exceeding federal
9 standards or requirements; and (4) the economic costs and
10 benefits for exceeding federal standards or requirements. If the
11 agency prepares a report on the rule or regulation as provided
12 under the "Administrative Procedure Act" (P.L.1968, c.410;
13 C.52:14B-1 et seq.), a copy of the report shall be transmitted to
14 the Legislative Oversight Committee in each House of the
15 Legislature.

16 Likewise, if a State agency applies or implements, or intends to
17 apply or implement, in any way other than the adoption of a rule
18 or regulation a policy which exceeds standards or requirements
19 mandated by federal law, or imposes or intends to impose
20 requirements, other than through rules and regulations, which
21 exceed such standards or requirements, the agency shall publish
22 in the New Jersey Register a written explanation for its policy or
23 requirements which shall include: (1) the legal authority for such
24 a policy or such requirements; (2) the legal authority for
25 exceeding federal standards or requirements; (3) public policy
26 reasons for exceeding federal standards or requirements; and (4)
27 the economic costs for exceeding federal standards or
28 requirements. Interested parties may respond and the agency is
29 obligated to hold a public hearing if a committee of the
30 Legislature or a governmental agency or subdivision requests it.
31 A report shall be transmitted to the Legislative Oversight
32 Committee in each House providing information on the response
33 to the agency's policy or requirement & the agency's rebuttal.

34 The bill also codifies the provisions of Executive Order No. 66
35 of 1978 which provides that a rule or regulation shall expire after
36 five years unless readopted.

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41 Requires State agencies to justify the promulgation of regulations
42 and other actions that exceed standards mandated by federal law;
43 provides for expiration of regulations.

SENATE, No. 231

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senator SCOTT

1 AN ACT concerning the adoption, readoption or amendment of
2 certain rules and regulations and supplementing Title 52 of the
3 Revised Statutes.

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5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. a. Notwithstanding any other law, rule or regulation to the
8 contrary, within 90 days after the effective date of this act,
9 P.L. , c. (C.) (now pending before the Legislature as this
10 bill), each State agency shall compile and make public a list of
11 rules and regulations adopted, readopted or amended by that
12 agency prior to the effective date of this act which establish
13 standards or requirements that exceed standards or requirements
14 mandated by federal law.

15 b. Within 120 days after the effective date of this act, each
16 agency shall conduct a public hearing to determine whether such
17 State agency rules or regulations should be amended to conform
18 to the applicable federal standards or requirements. A State
19 agency shall provide at least 15 days' notice of the hearing.

20 c. Within 180 days after the effective date of this act, each
21 State agency shall determine whether these rules and regulations
22 should be amended, in accordance with the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to conform
24 to the applicable federal standards or requirements. If a State
25 agency decides not to amend such rules and regulations to
26 conform to applicable federal standards or requirements, it shall
27 publish in the New Jersey Register a written explanation for its
28 decision which shall include: (1) the legal authority for adopting,
29 readopting or amending the rule or regulation; (2) the legal
30 authority for exceeding federal standards or requirements; (3)
31 public policy reasons for exceeding federal standards or
32 requirements; and (4) the economic costs for exceeding federal
33 standards or requirements.

34 2. If a State agency adopts, readopts or amends, pursuant to
35 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
36 et seq.), any rule or regulation on or after the effective date of
37 this act, P.L. , c. (C.) (now pending before the
38 Legislature as this bill), which exceeds standards or requirements
39 mandated by federal law, the agency shall publish in the New
40 Jersey Register a written explanation for its decision which shall
41 include: a. the legal authority for adopting, readopting or
42 amending the rule or regulation; b. the legal authority for
43 exceeding federal standards or requirements; c. public policy
44 reasons for exceeding federal standards or requirements; and d.
45 the economic costs for exceeding federal standards or
46 requirements.

1 3. This act shall take effect immediately.

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STATEMENT

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6 The purpose of this bill is to ensure that State agencies which
7 promulgate rules or regulations establishing standards or
8 requirements that exceed standards or requirements mandated by
9 federal law justify the establishment of those standards or
10 requirements. The bill provides that within 90 days after the
11 effective date of this act, each State agency shall compile and
12 make public a list of rules and regulations adopted, readopted or
13 amended by that agency which establish standards or
14 requirements that exceed standards or requirements mandated by
15 federal law. Within 120 days after the effective date of this act,
16 each agency shall conduct a public hearing to determine whether
17 such State agency rules or regulations should be amended to
18 conform to the applicable federal standards or requirements. A
19 State agency shall provide at least 15 days' notice of the
20 hearing. Within 180 days after the effective date of this act,
21 each State agency shall determine whether these rules and
22 regulations should be amended to conform to the applicable
23 federal standards or requirements. If a State agency decides not
24 to amend these rules and regulations to conform to applicable
25 federal standards or requirements, it shall publish in the New
26 Jersey Register a written explanation for its decision which shall
27 include: (1) the legal authority for adopting, readopting or
28 amending the rule or regulation; (2) the legal authority for
29 exceeding federal standards or requirements; (3) public policy
30 reasons for exceeding federal standards or requirements; and (4)
31 the economic costs for exceeding federal standards or
32 requirements.

33 If a State agency adopts, readopts or amends any rule or
34 regulation on or after the effective date of this act which
35 exceeds standards or requirements mandated by federal law, the
36 agency shall publish in the New Jersey Register a written
37 explanation for its decision which shall include: (1) the legal
38 authority for adopting, readopting or amending the rule or
39 regulation; (2) the legal authority for exceeding federal standards
40 or requirements; (3) public policy reasons for exceeding federal
41 standards or requirements; and (4) the economic costs for
42 exceeding federal standards or requirements.

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47 Requires State agencies to justify the promulgation of regulations
48 that exceed standards mandated by federal law.

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1577 and SENATE, No. 231

STATE OF NEW JERSEY

DATED: JUNE 9, 1994

The Assembly Regulatory Oversight Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1577 and Senate Bill No. 231.

This committee substitute for Assembly Bill No. 1577 and Senate Bill No. 231 revises the administrative rule-making process in order to reduce duplication in regulations, strengthen regulatory oversight by the public, the Governor, the Legislature, and the Office of Administrative Law, codify in statute the sunset of rules and regulations, and extend sunset requirements to pre-1978 rules and regulations.

The committee substitute would require that where pertinent, standards and requirements in State rules and regulations for a regulated activity be the same as the minimum standards and requirements in federal law, unless the State standard or requirement is set by State statute, or is justified publicly pursuant to a preliminary notice procedure.

Under the preliminary notice procedure, the State agency would be permitted to adopt, readopt or amend rules and regulations to establish a standard or requirement which differs from the federal minimum standard or requirement only by providing 45 days preliminary notice to the public, the Governor, and the Legislature of the agency's intention to adopt a differing standard or requirement. The preliminary notice would be required to state the public policy reasons for the differing standard or requirement, an analysis of the economic costs and benefits of the standard or requirement, and factual findings that the federal standard or requirement is not scientifically, legally or technically accurate or is not protective of the public health, safety or welfare of New Jersey citizens. After the 45 day waiting period, the State agency would be permitted to propose the rule or regulation under the normal administrative rule-making procedure if the Governor and the Legislature do not within the 45 day period approve a joint resolution objecting to the differing standard or requirement.

The committee substitute strengthens the authority of OAL to enforce its interagency rules by refusing to accept a State agency's proposed rules or regulations. The OAL is authorized to:

a. Reduce duplication among State agencies and levels of government in regulation. The OAL would require State agencies to submit plans and strategies to reduce regulatory paperwork and the number of agencies involved in regulating an activity.

b. Assure that statements, information and analyses required to be submitted by State agencies in rule-making are sufficiently complete and informative to permit the public to understand accurately and plainly the legal authority, purposes, and expected consequences of a rule or regulation.

c. Require that State agencies engage in consultations with the public, the regulated community, other State agencies and other levels of government in developing and drafting rules and regulations.

The committee substitute codifies in statute the sunset requirements of Executive Order No. 66 of 1978 that rules and regulations expire five years after adoption and extends the requirements to rules and regulations adopted prior to that executive order. Since many pre-1978 rules and regulations, which do not currently have sunset dates, are quite dated and require revision, the committee substitute requires that these expire three years from the effective date of the act.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 1577 AND SENATE BILL NO. 231

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 1577 and Senate Bill No. 231 with my recommendations for reconsideration.

Summary of Bill

This bill requires State agencies to adopt and enforce federal standards unless another standard has been set by State Statute or has been justified as being in the public interest. The bill requires that State agencies fulfill additional, extensive procedural and substantive obligations where State rules and regulations exceed minimum federal standards. Further, the bill "sunsets" all agency regulations and imposes new responsibilities on the Office of Administrative Law to promulgate and coordinate interagency rules. The bill would take effect immediately.

Recommended Action

I am supportive of the sponsors' efforts to streamline and bring consistency to the regulatory framework under which New Jersey's citizens live. At my direction, many State agencies already have begun this process as evidenced by the creation of the Business Ombudsman in the Department of State. I have urged all agencies to continue their efforts in this regard.

Although the goals of the legislation are meritorious, certain concerns have been identified. I am advised by my Chief Counsel that the bill may infringe upon executive rulemaking in contravention of the separation-of-powers doctrine established by our State Constitution. If this bill is overturned because of constitutional infirmities, the net effect would be no bill at all. Moreover, the bill imposes substantial new obligations upon State

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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agencies that are unfunded, the costs of which may, ultimately, be passed onto others, including New Jersey taxpayers.

To address these concerns, I am recommending the deletion of certain provisions detailed below. I am also recommending changes to ensure that all administrative agencies, when engaging in rulemaking in connection with a program established under federal law or under a State statute that incorporates federal standards, justify any decision to adopt a standard or requirement that exceeds the minimum federal standards. If accepted, my proposed changes would ensure the enactment of rules and regulations that are protective of citizens but not unduly burdensome. I am also recommending that the law take effect 60 days from the date of enactment to allow agencies to prepare for its implementation.

Lastly, I wish to reiterate my firm commitment to the goals of this bill. There is no better way for me to put actions behind my words than by issuing an executive order that mirrors my recommendations. Such an order is being signed concurrent with these recommendations. The executive order also contains a provision, which is in addition to my recommendations here, that will require the head of a State agency, upon submission by the agency of the required explanation or analysis of the rule or regulation, to certify in writing that such submission permits the public to understand accurately and plainly the purposes and expected consequences of the adoption, readoption or amendment of the rule or regulation in question. This will ensure that any explanation for exceedance of federal standards in State rules and regulations is set forth in plain language for the benefit of all affected parties.

Accordingly, I am returning Assembly Committee Substitute for Assembly Bill No. 1577 and Senate Bill No. 231 and recommend that it be amended as follows:

<u>Page 1, Line 1:</u>	After "readoption" delete ", expiration"
<u>Page 1, Section 1, Lines 7-10:</u>	After "1." delete in entirety

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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- Page 1, Section 1, Line 11: Delete "compliance by the regulated public. To that end,"
- Page 1, Section 1, Line 11: After "end," delete "i" from "it" and insert "I"
- Page 1, Section 1, Line 11: After "is the" insert "declared"
- Page 1, Section 1, Line 12: After "of the" delete "Legislature" and insert "State"
- Page 1, Section 1, Line 15: After "imposing" insert "unwarranted"
- Page 1, Section 1, Line 17: After "agencies" delete "adopt and enforce federal standards wherever"
- Page 1, Section 1, Lines 18-21: Delete in entirety
- Page 1, Section 1, Line 17: After "agencies" insert "consider applicable federal standards when adopting, readopting or amending regulations with analogous federal counterparts and determine whether those federal standards sufficiently protect the health, safety and welfare of New Jersey citizens."
- Page 1, Section 2, Lines 22-45: After "2." delete in entirety
- Page 1, Section 2, Line 22: After "2." insert "On or after the effective date of this Act, each administrative agency that adopts, readopts or amends any rule or regulation described in section 3 of this Act shall, in addition to all the requirements imposed by existing law and regulation, include as part of the initial publication and all subsequent publications of such rule or regulation, a statement as to whether the rule or regulation in question contains any standards or requirements which exceed the standards or requirements imposed by federal law. Such statement shall include a discussion of the policy reasons and a cost-benefit analysis that supports the agency's decision to impose the standards or requirements and also supports the fact that the State standard or requirement to be imposed is achievable under current technology, notwithstanding the federal government's determination that lesser standards or requirements are appropriate."
- Page 2, Section 3, Lines 1-43: After "3." delete in entirety
- Page 2, Section 3, Line 1: After "3." insert "This Act shall apply to any rule or regulation that is adopted, readopted or amended under the authority of or in order to implement, comply with or participate in any program established under federal law or

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under a State statute that incorporates or refers to federal law, federal standards or federal requirements."

Page 2, Section 4, Lines 44-54: After "4." delete in entirety

Page 2, Section 4, Line 44: After "4." insert "This Act shall take effect 60 days from the date of enactment."

Page 3, Section 4, Lines 1-21: Delete in entirety

Page 3, Section 5, Lines 22-54: Delete in entirety

Page 4, Section 5, Lines 1-12: Delete in entirety

Page 4, Section 6, Line 13: Delete in entirety.

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Peter Verniero

Chief Counsel to the Governor