

ASSEMBLY REGULATORY OVERSIGHT AND GAMING  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 2721**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 17, 2010

The Assembly Regulatory Oversight and Gaming Committee reports favorably and with committee amendments Assembly Bill No. 2721.

This bill amends current law concerning State agency rule-making. This bill, as amended by the committee, would (1) change the chapter expiration dates of rules from five years to 10 years, and (2) establish a new procedure for the readoption of rules without substantive changes.

Under the bill, the change in the chapter expiration date from five years to 10 years would apply to all current rules in effect on the date of enactment of this bill into law and to all rules adopted on or after the date of enactment of this bill into law, unless a sooner expiration date has been established for a particular rule.

In addition, the bill establishes a new procedure for a State agency to follow when readopting rules without changes, or with technical changes only as approved by the Office of Administrative Law (OAL). As used in the bill, “technical changes” means changes to: correct spelling, grammar and punctuation; correct codification; update contact information; or correct cross-references.

Under this new procedure, a State agency would file a public notice with the OAL for publication in the New Jersey Register at least 30 days prior to the expiration date of the rule. Upon receipt of a public notice from a State agency announcing the agency’s intent to readopt an expiring rule without changes, or with technical changes only, the OAL would publish that notice in the New Jersey Register and note the new expiration date for the rule in the New Jersey Administrative Code. The readoption of a rule with substantive changes (i.e., any changes that do not meet the definition of “technical change”) would still need to follow the procedures set forth in current law.

Currently, the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), establishes an expiration date of five years after the chapter's effective date, unless a sooner expiration has been established for the rule. Expiration dates do not apply for those rules

that repeal a rule, rules whose provisions are prescribed by federal law, and for those rules where the expiration of the rules would violate any other federal or State law. An expiration date remains effective, irrespective of any subsequent amendments to the rules, short of a complete repeal and readoption of the whole chapter. In order to maintain the effectiveness of a chapter of rules, the rules must be duly proposed for readoption, adopted and filed prior to the chapter expiration date. This bill provides a new, streamlined process for the extension of chapter expiration dates in the case of rules being readopted without substantive change.

Lastly, current law provides that the Governor may, upon the request of an agency head, and prior to the expiration date of the rule, continue in effect an expiring rule for a period to be specified by the Governor. This bill would also provide that the Governor may, upon the request of an agency head, within five days after the expiration of a rule, restore the effectiveness of an expired rule as of its expiration date, for a period to be specified by the Governor, in order to effect the readoption of the rule.

COMMITTEE AMENDMENTS:

The committee amendments to the bill extend the chapter expiration dates of rules from seven years, as proposed in the bill, to 10 years.