



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5253

by Rep. Carol Sente

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-30

from Ch. 127, par. 1005-30

Amends the Illinois Administrative Procedure Act. Modifies the provisions requiring State agencies to issue an economic impact analysis when proposing new rules or amendments to rules that affect small businesses. Provides, among other requirements, that the economic impact analysis shall include: (1) a list of the industries that will have to comply with the proposed rule or amendment; (2) a statement of the impact on small businesses having less than 100 employees, and comparing specified cost factors; and (3) a description of the actions taken by the State agency to mitigate the costs to small businesses created by the proposed rule or amendment, and a description of the involvement of small business advocates in the development of the proposed rule or amendment. Provides that when any rule or amendment to an existing rule is proposed for which a small business economic impact analysis is required, the adopting State agency must provide notice to affected small businesses of the proposed rule through specified means. Makes conforming changes.

LRB100 17050 RJF 32201 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-30 as follows:

6 (5 ILCS 100/5-30) (from Ch. 127, par. 1005-30)

7 Sec. 5-30. Regulatory flexibility. When an agency proposes
8 a new rule or an amendment to an existing rule that may have an
9 impact on small businesses, not for profit corporations, or
10 small municipalities, the agency shall do each of the
11 following:

12 (a) The agency shall consider each of the following
13 methods for reducing the impact of the rulemaking on small
14 businesses, not for profit corporations, or small
15 municipalities. The agency shall reduce the impact by
16 utilizing one or more of the following methods if it finds
17 that the methods are legal and feasible in meeting the
18 statutory objectives that are the basis of the proposed
19 rulemaking.

20 (1) Establish less stringent compliance or
21 reporting requirements in the rule for small
22 businesses, not for profit corporations, or small
23 municipalities.

1 (2) Establish less stringent schedules or
2 deadlines in the rule for compliance or reporting
3 requirements for small businesses, not for profit
4 corporations, or small municipalities.

5 (3) Consolidate or simplify the rule's compliance
6 or reporting requirements for small businesses, not
7 for profit corporations, or small municipalities.

8 (4) Establish performance standards to replace
9 design or operational standards in the rule for small
10 businesses, not for profit corporations, or small
11 municipalities.

12 (5) Exempt small businesses, not for profit
13 corporations, or small municipalities from any or all
14 requirements of the rule.

15 (b) Before or during the notice period required under
16 subsection (b) of Section 5-40, the agency shall provide an
17 opportunity for small businesses, not for profit
18 corporations, or small municipalities to participate in
19 the rulemaking process. The agency shall utilize one or
20 more of the following techniques. These techniques are in
21 addition to other rulemaking requirements imposed by this
22 Act or by any other Act.

23 (1) The inclusion in any advance notice of possible
24 rulemaking of a statement that the rule may have an
25 impact on small businesses, not for profit
26 corporations, or small municipalities.

1 (2) The publication of a notice of rulemaking in
2 publications likely to be obtained by small
3 businesses, not for profit corporations, or small
4 municipalities.

5 (3) The direct notification of interested small
6 businesses, not for profit corporations, or small
7 municipalities.

8 (4) The conduct of public hearings concerning the
9 impact of the rule on small businesses, not for profit
10 corporations, or small municipalities.

11 (5) The use of special hearing or comment
12 procedures to reduce the cost or complexity of
13 participation in the rulemaking by small businesses,
14 not for profit corporations, or small municipalities.

15 (c) Prior to the filing for publication in the Illinois
16 Register of any proposed rule or amendment affecting ~~that~~
17 ~~may have an adverse impact on~~ small businesses, each agency
18 must prepare an economic impact analysis. The economic
19 impact analysis shall include the following:

20 (1) an identification of the types and estimate of
21 the number of the small businesses subject to the
22 proposed rule or amendment, including a list of the
23 industries that will have to comply with the proposed
24 rule or amendment;

25 (2) the projected reporting, recordkeeping, and
26 other administrative costs required for compliance

1 with the proposed rule or amendment, including the type
2 of professional skills necessary for preparation of
3 the report or record;

4 (3) a statement of the probable positive or
5 negative economic effect on impacted small businesses;
6 ~~and~~

7 (3.5) a statement of the impact on small businesses
8 having less than 100 employees, taking into account the
9 cost per employee, cost per hour of labor, and cost per
10 \$100 of sale, and comparing those cost factors to the
11 costs of businesses in the top 10% in size;

12 (4) a description of any less intrusive or less
13 costly alternative methods of achieving the purpose of
14 the proposed rule or amendment. The alternatives must
15 be consistent with the stated objectives of the
16 applicable statutes and the proposed rulemaking; ~~and.~~

17 (5) a description of the actions taken by the State
18 agency to mitigate the costs to small businesses
19 created by the proposed rule or amendment, and a
20 description of the involvement of small business
21 advocates in the development of the proposed rule or
22 amendment.

23 When any rule or amendment to an existing rule is
24 proposed for which a small business economic impact
25 analysis is required under this subsection (c), the
26 adopting State agency must provide notice to affected small

1 businesses of the proposed rule through: (i) direct
2 notification of known interested small businesses or trade
3 organizations affected by the proposed rule or amendment;
4 (ii) providing information of the proposed rulemaking to
5 publications likely to be obtained by small businesses of
6 the types affected by the proposed rule or amendment; and
7 (iii) posting on the State agencies Internet website.

8 The Business Assistance Office shall prepare an impact
9 analysis of the rule or amendment describing its effect on
10 small businesses whenever the Office believes, in its
11 discretion, that an analysis is warranted or whenever
12 requested to do so by 25 interested persons, an association
13 representing at least 100 interested persons, the
14 Governor, a unit of local government, or the Joint
15 Committee on Administrative Rules. The impact analysis
16 shall be completed before or within the notice period as
17 described in subsection (b) of Section 5-40. Upon
18 completion of any analysis in accordance with this
19 subsection (c), the preparing agency or the Business
20 Assistance Office shall submit the analysis to the Joint
21 Committee on Administrative Rules, to any interested
22 person who requested the analysis, and, if the agency
23 prepared the analysis, to the Business Assistance Office.

24 This subsection does not apply to rules and standards
25 described in paragraphs (1) through (5) of subsection (c)
26 of Section 1-5.

1 (Source: P.A. 96-1448, eff. 1-1-11.)