



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3649

Introduced 2/22/2021, by Rep. Dave Severin

SYNOPSIS AS INTRODUCED:

5 ILCS 100/1-33 new

5 ILCS 100/5-30

5 ILCS 100/5-60

from Ch. 127, par. 1005-30

from Ch. 127, par. 1005-60

Amends the Illinois Administrative Procedure Act. Requires an agency that proposes a new rule or an amendment to an existing rule that may have an impact on persons or entities in downstate Illinois to consider specified methods for reducing the impact of that rulemaking and provide an opportunity to participate in the rulemaking process before or during the notice period utilizing specified techniques. Requires each agency to include in its regulatory agenda summary a statement of whether a rule will affect persons or entities in downstate Illinois. Defines "downstate Illinois". Effective immediately.

LRB102 14135 RJF 19487 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 Sections 5-30 and 5-60 and by adding
6 Section 1-33 as follows:

7 (5 ILCS 100/1-33 new)

8 Sec. 1-33. "Downstate Illinois" means all counties in this
9 State other than the counties of Cook, DuPage, Kane, Kendall,
10 Lake, McHenry, and Will. For the purposes of a specific rule,
11 an agency may define a region as encompassing downstate
12 Illinois if it finds that the rule affects persons or entities
13 both within and without downstate Illinois and such definition
14 is necessary to adapt the rule to address the needs and
15 concerns of downstate Illinois.

16 (5 ILCS 100/5-30) (from Ch. 127, par. 1005-30)

17 Sec. 5-30. Regulatory flexibility. When an agency proposes
18 a new rule or an amendment to an existing rule that may have an
19 impact on small businesses, not for profit corporations, ~~or~~
20 small municipalities, or persons or entities in downstate
21 Illinois, the agency shall do each of the following:

22 (a) The agency shall consider each of the following

1 methods for reducing the impact of the rulemaking on small
2 businesses, not for profit corporations, ~~or~~ small
3 municipalities, or persons or entities in downstate
4 Illinois. The agency shall reduce the impact by utilizing
5 one or more of the following methods if it finds that the
6 methods are legal and feasible in meeting the statutory
7 objectives that are the basis of the proposed rulemaking.

8 (1) Establish less stringent compliance or
9 reporting requirements in the rule for small
10 businesses, not for profit corporations, ~~or~~ small
11 municipalities, or persons or entities in downstate
12 Illinois.

13 (2) Establish less stringent schedules or
14 deadlines in the rule for compliance or reporting
15 requirements for small businesses, not for profit
16 corporations, ~~or~~ small municipalities, or persons or
17 entities in downstate Illinois.

18 (3) Consolidate or simplify the rule's compliance
19 or reporting requirements for small businesses, not
20 for profit corporations, ~~or~~ small municipalities, or
21 persons or entities in downstate Illinois.

22 (4) Establish performance standards to replace
23 design or operational standards in the rule for small
24 businesses, not for profit corporations, ~~or~~ small
25 municipalities, or persons or entities in downstate
26 Illinois.

1 (5) Exempt small businesses, not for profit
2 corporations, ~~or~~ small municipalities, or persons or
3 entities in downstate Illinois from any or all
4 requirements of the rule.

5 (b) Before or during the notice period required under
6 subsection (b) of Section 5-40, the agency shall provide
7 an opportunity for small businesses, not for profit
8 corporations, ~~or~~ small municipalities, or persons or
9 entities in downstate Illinois to participate in the
10 rulemaking process. The agency shall utilize one or more
11 of the following techniques. These techniques are in
12 addition to other rulemaking requirements imposed by this
13 Act or by any other Act.

14 (1) The inclusion in any advance notice of
15 possible rulemaking of a statement that the rule may
16 have an impact on small businesses, not for profit
17 corporations, ~~or~~ small municipalities, or persons or
18 entities in downstate Illinois.

19 (2) The publication of a notice of rulemaking in
20 publications likely to be obtained by small
21 businesses, not for profit corporations, ~~or~~ small
22 municipalities, or persons or entities in downstate
23 Illinois.

24 (3) The direct notification of interested small
25 businesses, not for profit corporations, ~~or~~ small
26 municipalities, or persons or entities in downstate

1 Illinois.

2 (4) The conduct of public hearings concerning the
3 impact of the rule on small businesses, not for profit
4 corporations, ~~or~~ small municipalities, or persons or
5 entities in downstate Illinois.

6 (5) The use of special hearing or comment
7 procedures to reduce the cost or complexity of
8 participation in the rulemaking by small businesses,
9 not for profit corporations, ~~or~~ small municipalities,
10 or persons or entities in downstate Illinois,
11 including the use of audio-visual technology to enable
12 downstate Illinois witnesses to submit comments by
13 electronic moving image to any hearing conducted in
14 Chicago by a rulemaking agency under this Act.

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

22 (1) An identification of the types and estimate of
23 the number of the small businesses subject to the
24 proposed rule or amendment. The agency shall identify
25 the types of businesses subject to the proposed rule
26 using the following 2-digit codes from the North

1 American Industry Classification System (NAICS):
2 11 Agriculture, Forestry, Fishing and Hunting.
3 21 Mining.
4 22 Utilities.
5 23 Construction.
6 31-33 Manufacturing.
7 42 Wholesale Trade.
8 44-45 Retail Trade.
9 48-49 Transportation and Warehousing.
10 51 Information.
11 52 Finance and Insurance.
12 53 Real Estate Rental and Leasing.
13 54 Professional, Scientific, and Technical
14 Services.
15 55 Management of Companies and Enterprises.
16 56 Administrative and Support and Waste
17 Management and Remediation Services.
18 61 Educational Services.
19 62 Health Care and Social Assistance.
20 71 Arts, Entertainment, and Recreation.
21 72 Accommodation and Food Services.
22 81 Other Services (except Public
23 Administration).
24 92 Public Administration.

25 The agency shall also identify the impact of the
26 proposed rule by identifying as many of the following

1 categories that the agency reasonably believes the
2 proposed rule will impact:

3 A. Hiring and additional staffing.

4 B. Regulatory requirements.

5 C. Purchasing.

6 D. Insurance changes.

7 E. Licensing fees.

8 F. Equipment and material needs.

9 G. Training requirements.

10 H. Recordkeeping.

11 I. Compensation and benefits.

12 J. Other potential impacted categories.

13 (2) The projected reporting, recordkeeping, and
14 other administrative costs required for compliance
15 with the proposed rule or amendment, including the
16 type of professional skills necessary for preparation
17 of the report or record.

18 (3) A statement of the probable positive or
19 negative economic effect on impacted small businesses.

20 (4) A description of any less intrusive or less
21 costly alternative methods of achieving the purpose of
22 the proposed rule or amendment. The alternatives must
23 be consistent with the stated objectives of the
24 applicable statutes and the proposed rulemaking.

25 The Department of Commerce and Economic Opportunity
26 shall place notification of all proposed rules affecting

1 small business on its website. The notification shall
2 include the information provided by the agency under this
3 subsection (c) together with the summary of the proposed
4 rule published by the Joint Committee on Administrative
5 Rules in the Flinn Report.

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

22 For purposes of this subsection (c), "small business"
23 means a business with fewer than 50 full-time employees or
24 less than \$4,000,000 in gross annual sales.

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

1 of Section 1-5.

2 (Source: P.A. 100-688, eff. 1-1-19; 101-81, eff. 7-12-19.)

3 (5 ILCS 100/5-60) (from Ch. 127, par. 1005-60)

4 Sec. 5-60. Regulatory agenda. An agency shall submit for
5 publication in the Illinois Register by January 1 and July 1 of
6 each year a regulatory agenda to elicit public comments
7 concerning any rule that the agency is considering proposing
8 but for which no notice of proposed rulemaking activity has
9 been submitted to the Illinois Register. A regulatory agenda
10 shall consist of summaries of those rules. Each summary shall,
11 in less than 2,000 words, contain the following when
12 practicable:

13 (1) A description of the rule.

14 (2) The statutory authority the agency is exercising.

15 (3) A schedule of the dates for any hearings,
16 meetings, or other opportunities for public participation
17 in the development of the rule.

18 (4) The date the agency anticipates submitting a
19 notice of proposed rulemaking activity, if known.

20 (5) The name, address, and telephone number of the
21 agency representative who is knowledgeable about the rule,
22 from whom any information may be obtained, and to whom
23 written comments may be submitted concerning the rule.

24 (6) A statement whether the rule will affect small
25 businesses, not for profit corporations, ~~or~~ small

1 municipalities, or persons or entities in downstate
2 Illinois as defined in this Act.

3 (7) Any other information that may serve the public
4 interest.

5 Nothing in this Section shall preclude an agency from
6 adopting a rule that has not been summarized in a regulatory
7 agenda or from adopting a rule different than one summarized
8 in a regulatory agenda if in the agency head's best judgment it
9 is necessary. If an agency finds that a situation exists that
10 requires adoption of a rule that was not summarized on either
11 of the 2 most recent regulatory agendas, it shall state its
12 reasons in writing together with the facts that form their
13 basis upon filing the notice of proposed rulemaking with the
14 Secretary of State under Section 5-40. Nothing in this Section
15 shall require an agency to adopt a rule summarized in a
16 regulatory agenda. The Secretary of State shall adopt rules
17 necessary for the publication of a regulatory agenda,
18 including but not limited to standard submission forms and
19 deadlines.

20 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.