



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5191

Introduced 2/1/2010, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-30	from Ch. 127, par. 1005-30
5 ILCS 100/5-130	from Ch. 127, par. 1005-130

Amends the Illinois Administrative Procedure Act. Requires that the economic impact analysis for a proposed rule affecting small businesses be prepared by the agency promulgating the rule (now, the Business Assistance Office of the Department of Commerce and Economic Opportunity). Requires each agency to perform periodic reviews of its rules in order to evaluate their affect upon small businesses.

LRB096 16194 JAM 31449 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 5-130 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 methods
13 for reducing the impact of the rulemaking on small businesses,
14 not for profit corporations, or small municipalities. The
15 agency shall reduce the impact by utilizing one or more of the
16 following methods if it finds that the methods are legal and
17 feasible in meeting the statutory objectives that are the basis
18 of the proposed rulemaking.

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

22 (2) Establish less stringent schedules or deadlines in
23 the rule for compliance or reporting requirements for small

1 businesses, not for profit corporations, or small
2 municipalities.

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

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

9 (5) Exempt small businesses, not for profit
10 corporations, or small municipalities from any or all
11 requirements of the rule.

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

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

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

1 (3) The direct notification of interested small
2 businesses, not for profit corporations, or small
3 municipalities.

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

7 (5) The use of special hearing or comment procedures to
8 reduce the cost or complexity of participation in the
9 rulemaking by small businesses, not for profit
10 corporations, or small municipalities.

11 (c) Prior to the adoption of any proposed rule or amendment
12 that may have an adverse impact on small businesses, each
13 agency shall prepare an economic impact analysis that includes
14 the following:

15 (1) an identification and estimate of the number of the
16 small businesses subject to the proposed rule or amendment;

17 (2) the projected reporting, recordkeeping, and other
18 administrative costs required for compliance with the
19 proposed rule or amendment, including the type of
20 professional skills necessary for preparation of the
21 report or record;

22 (3) a statement of the probable effect on impacted
23 small businesses; and

24 (4) a description of any less intrusive or less costly
25 alternative methods of achieving the purpose of the
26 proposed rule or amendment.

1 The requirement that the agency promulgating a rule must
2 perform an analysis of the rule's impact on small business
3 shall not be construed as prohibiting an agency that
4 enforces federal standards or administers federal programs
5 from submitting an analysis prepared by, or with assistance
6 from, the relevant federal agency. ~~Before the notice period~~
7 ~~required under subsection (b) of Section 5-40, the~~
8 ~~Secretary of State shall provide to the Business Assistance~~
9 ~~Office of the Department of Commerce and Economic~~
10 ~~Opportunity a copy of any proposed rules or amendments~~
11 ~~accepted for publication. The Business Assistance Office~~
12 ~~shall prepare an impact analysis of the rule describing the~~
13 ~~rule's effect on small businesses whenever the Office~~
14 ~~believes, in its discretion, that an analysis is warranted~~
15 ~~or whenever requested to do so by 25 interested persons, an~~
16 ~~association representing at least 100 interested persons,~~
17 ~~the Governor, a unit of local government, or the Joint~~
18 ~~Committee on Administrative Rules.~~ The impact analysis
19 shall be completed within the notice period as described in
20 subsection (b) of Section 5-40. Upon completion of the
21 analysis the agency ~~Business Assistance Office~~ shall
22 submit this analysis to the Joint Committee on
23 Administrative Rules, any interested person who requested
24 the analysis, and the Business Assistance Office of the
25 Department of Commerce and Economic Opportunity ~~agency~~
26 ~~proposing the rule. The impact analysis shall contain the~~

1 ~~following:~~

2 ~~(1) A summary of the projected reporting,~~
3 ~~recordkeeping, and other compliance requirements of the~~
4 ~~proposed rule.~~

5 ~~(2) A description of the types and an estimate of the~~
6 ~~number of small businesses to which the proposed rule will~~
7 ~~apply.~~

8 ~~(3) An estimate of the economic impact that the~~
9 ~~regulation will have on the various types of small~~
10 ~~businesses affected by the rulemaking.~~

11 ~~(4) A description or listing of alternatives to the~~
12 ~~proposed rule that would minimize the economic impact of~~
13 ~~the rule. The alternatives must be consistent with the~~
14 ~~stated objectives of the applicable statutes and~~
15 ~~regulations.~~

16 (Source: P.A. 94-793, eff. 5-19-06.)

17 (5 ILCS 100/5-130) (from Ch. 127, par. 1005-130)

18 Sec. 5-130. Periodic review of existing rules.

19 (a) The Joint Committee shall evaluate the rules of each
20 agency at least once every 5 years. The Joint Committee by rule
21 shall develop a schedule for this periodic evaluation. In
22 developing this schedule the Joint Committee shall group rules
23 by specified areas to assure the evaluation of similar rules at
24 the same time. The schedule shall include at least the
25 following categories:

- 1 (1) Human resources.
- 2 (2) Law enforcement.
- 3 (3) Energy.
- 4 (4) Environment.
- 5 (5) Natural resources.
- 6 (6) Transportation.
- 7 (7) Public utilities.
- 8 (8) Consumer protection.
- 9 (9) Licensing laws.
- 10 (10) Regulation of occupations.
- 11 (11) Labor laws.
- 12 (12) Business regulation.
- 13 (13) Financial institutions.
- 14 (14) Government purchasing.

15 (b) When evaluating rules under this Section, the Joint
16 Committee's review shall include an examination of the
17 following:

- 18 (1) Organizational, structural, and procedural reforms
19 that affect rules or rulemaking.
- 20 (2) Merger, modification, establishment, or abolition
21 of regulations.
- 22 (3) Eliminating or phasing out outdated, overlapping,
23 or conflicting regulatory jurisdictions or requirements of
24 general applicability.
- 25 (4) Economic and budgetary effects.

26 (c) Within 4 years after the effective date of this

1 amendatory Act of the 96th General Assembly, each agency shall
2 review all agency rules existing on that effective date to
3 determine whether those rules should be continued without
4 change, or should be amended or rescinded, consistent with the
5 stated objectives of applicable statutes, to minimize the
6 economic impact of the rules on small businesses in a manner
7 consistent with the stated objective of those statutes. If the
8 head of the agency determines that completion of the review of
9 existing rules is not feasible by the established date, the
10 agency shall publish a statement certifying that
11 determination. The agency may extend the completion date by one
12 year at a time for a total of not more than 5 years.

13 Rules adopted after the effective date of this amendatory
14 Act of the 96th General Assembly shall be reviewed every 5
15 years after the publication of those rules as the final rules
16 to ensure that they minimize the economic impact on small
17 businesses in a manner consistent with the stated objectives of
18 applicable statutes.

19 In reviewing a rule to minimize its economic impact on
20 small businesses, the agency shall consider the following
21 factors:

22 (1) the continued need for the rule;

23 (2) the nature of complaints or comments received
24 concerning the rule from the public;

25 (3) the complexity of the rule;

26 (4) the extent to which the rule overlaps, duplicates,

1 or conflicts with other federal, State, or local government
2 rules; and

3 (5) the length of time since the rule has been
4 evaluated or the degree to which technology has changed, or
5 economic conditions or other factors have changed, in the
6 area affected by the rule.

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