



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5388

Introduced 01/27/06, by Rep. Carolyn H. Krause

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
5 ILCS 100/5-170 new	

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. Authorizes judicial review of agency rules for small businesses.

LRB094 19273 JAM 54908 b

FISCAL NOTE ACT
MAY APPLY

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 and by adding
6 Section 5-170 as follows:

7 (5 ILCS 100/5-30) (from Ch. 127, par. 1005-30)

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

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

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

23 (2) Establish less stringent schedules or deadlines in
24 the rule for compliance or reporting requirements for small
25 businesses, not for profit corporations, or small
26 municipalities.

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

30 (4) Establish performance standards to replace design
31 or operational standards in the rule for small businesses,
32 not for profit corporations, or small municipalities.

1 (5) Exempt small businesses, not for profit
2 corporations, or small municipalities from any or all
3 requirements of the rule.

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

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

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

19 (3) The direct notification of interested small
20 businesses, not for profit corporations, or small
21 municipalities.

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

25 (5) The use of special hearing or comment procedures to
26 reduce the cost or complexity of participation in the
27 rulemaking by small businesses, not for profit
28 corporations, or small municipalities.

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

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

35 (2) the projected reporting, recordkeeping, and other
36 administrative costs required for compliance with the

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

4 (3) a statement of the probable effect on impacted
5 small businesses; and

6 (4) A description of any less intrusive or less costly
7 alternative methods of achieving the purpose of the
8 proposed rule or amendment. Before the notice period
9 required under subsection (b) of Section 5-40, the
10 Secretary of State shall provide to the Business Assistance
11 Office of the Department of Commerce and Community Affairs
12 a copy of any proposed rules or amendments accepted for
13 publication. The Business Assistance Office shall prepare
14 an impact analysis of the rule describing the rule's effect
15 on small businesses whenever the Office believes, in its
16 discretion, that an analysis is warranted or whenever
17 requested to do so by 25 interested persons, an association
18 representing at least 100 interested persons, the
19 Governor, a unit of local government, or the Joint
20 Committee on Administrative Rules. The impact analysis
21 shall be completed within the notice period as described in
22 subsection (b) of Section 5-40. Upon completion of the
23 analysis the agency Business Assistance Office shall
24 submit this analysis to the Joint Committee on
25 Administrative Rules, any interested person who requested
26 the analysis, and the Business Assistance Office of the
27 Department of Commerce and Economic Opportunity agency
28 proposing the rule. The impact analysis shall contain the
29 following:

30 ~~(1) A summary of the projected reporting,~~
31 ~~recordkeeping, and other compliance requirements of the~~
32 ~~proposed rule.~~

33 ~~(2) A description of the types and an estimate of the~~
34 ~~number of small businesses to which the proposed rule will~~
35 ~~apply.~~

36 ~~(3) An estimate of the economic impact that the~~

1 ~~regulation will have on the various types of small~~
2 ~~businesses affected by the rulemaking.~~

3 ~~(4) A description or listing of alternatives to the~~
4 ~~proposed rule that would minimize the economic impact of~~
5 ~~the rule. The alternatives must be consistent with the~~
6 ~~stated objectives of the applicable statutes and~~
7 ~~regulations.~~

8 (Source: P.A. 87-823; 88-667, eff. 9-16-94; revised 12-6-03.)

9 (5 ILCS 100/5-130) (from Ch. 127, par. 1005-130)

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

11 (a) The Joint Committee shall evaluate the rules of each
12 agency at least once every 5 years. The Joint Committee by rule
13 shall develop a schedule for this periodic evaluation. In
14 developing this schedule the Joint Committee shall group rules
15 by specified areas to assure the evaluation of similar rules at
16 the same time. The schedule shall include at least the
17 following categories:

- 18 (1) Human resources.
- 19 (2) Law enforcement.
- 20 (3) Energy.
- 21 (4) Environment.
- 22 (5) Natural resources.
- 23 (6) Transportation.
- 24 (7) Public utilities.
- 25 (8) Consumer protection.
- 26 (9) Licensing laws.
- 27 (10) Regulation of occupations.
- 28 (11) Labor laws.
- 29 (12) Business regulation.
- 30 (13) Financial institutions.
- 31 (14) Government purchasing.

32 (b) When evaluating rules under this Section, the Joint
33 Committee's review shall include an examination of the
34 following:

- 35 (1) Organizational, structural, and procedural reforms

1 that affect rules or rulemaking.

2 (2) Merger, modification, establishment, or abolition
3 of regulations.

4 (3) Eliminating or phasing out outdated, overlapping,
5 or conflicting regulatory jurisdictions or requirements of
6 general applicability.

7 (4) Economic and budgetary effects.

8 (c) Within 4 years of the effective date of this amendatory
9 Act of the 94th General Assembly, each agency shall review all
10 agency rules existing at the time of enactment to determine
11 whether such rules should be continued without change, or
12 should be amended or rescinded, consistent with the stated
13 objectives of those statutes, to minimize economic impact of
14 the rules on small businesses in a manner consistent with the
15 stated objective of applicable statutes. If the head of the
16 agency determines that completion of the review of existing
17 rules is not feasible by the established date, the agency shall
18 publish a statement certifying that determination. The agency
19 may extend the completion date by one year at a time for a
20 total of not more than 5 years.

21 Rules adopted after the effective date of this amendatory
22 Act of the 94th General Assembly should be reviewed every 5
23 years after the publication of such rules as the final rule to
24 ensure that they minimize economic impact on small businesses
25 in a manner consistent with the stated objectives of applicable
26 statutes.

27 In reviewing rules to minimize economic impact of the rule
28 on small businesses, the agency shall consider the following
29 factors:

30 (1) the continued need for the rule;

31 (2) the nature of complaints or comments received
32 concerning the rule from the public;

33 (3) the complexity of the rule;

34 (4) the extent to which the rule overlaps, duplicates,
35 or conflicts with other federal, State, and local
36 governmental rules; and

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

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

6 (5 ILCS 100/5-170 new)

7 Sec. 5-170. Judicial review.

8 (a) For any rule subject to this Act, a small business that
9 is adversely affected or aggrieved by final agency action is
10 entitled to judicial review of agency compliance with the
11 requirements of this Act.

12 (b) A small business may seek such review during the period
13 beginning on the date of final agency action and ending one
14 year later.