

AN ACT concerning government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

American Industry Classification System (NAICS):

11 Agriculture, Forestry, Fishing and Hunting.

21 Mining.

22 Utilities.

23 Construction.

31-33 Manufacturing.

42 Wholesale Trade.

44-45 Retail Trade.

48-49 Transportation and Warehousing.

51 Information.

52 Finance and Insurance.

53 Real Estate Rental and Leasing.

54 Professional, Scientific, and Technical
Services.

55 Management of Companies and Enterprises.

56 Administrative and Support and Waste
Management and Remediation Services.

61 Educational Services.

62 Health Care and Social Assistance.

71 Arts, Entertainment, and Recreation.

72 Accommodation and Food Services.

81 Other Services (except Public
Administration).

92 Public Administration.

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

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

- A. Hiring and additional staffing.
- B. Regulatory requirements.
- C. Purchasing.
- D. Insurance changes.
- E. Licensing fees.
- F. Equipment and material needs.
- G. Training requirements.
- H. Record keeping.
- I. Compensation and benefits.
- J. Other potential impacted categories. †

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

(3) A ~~a~~ statement of the probable positive or negative economic effect on impacted small businesses. †
~~† and~~

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

The Department of Commerce and Economic Opportunity

shall place notification of all proposed rules affecting small business on its website. The notification shall include the information provided by the agency under this subsection (c) together with the summary of the proposed rule published by the Joint Committee on Administrative Rules in the Flinn Report.

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

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

This subsection does not apply to rules and standards

Public Act 100-0688

HB5253 Enrolled

LRB100 17050 RJF 32201 b

described in paragraphs (1) through (5) of subsection (c)
of Section 1-5.

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