



Rep. Mike Fortner

Filed: 3/23/2010

09600HB5191ham002

LRB096 16194 JAM 39385 a

1 AMENDMENT TO HOUSE BILL 5191

2 AMENDMENT NO. _____. Amend House Bill 5191, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Administrative Procedure Act is
6 amended by changing Section 5-30 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

1 following methods if it finds that the methods are legal and
2 feasible in meeting the statutory objectives that are the basis
3 of the proposed rulemaking.

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

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

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

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

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

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

1 Act.

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

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

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

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

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

19 (c) Prior to the filing of any proposed rule or amendment
20 that may have an adverse impact on small businesses, each
21 agency must prepare, or must request that the Business
22 Assistance Office of the Department of Commerce and Economic
23 Opportunity prepare and that Office must prepare, an economic
24 impact analysis that includes the following:

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

1 (2) the projected reporting, recordkeeping, and other
2 administrative costs required for compliance with the
3 proposed rule or amendment, including the type of
4 professional skills necessary for preparation of the
5 report or record;

6 (3) a statement of the probable effect on impacted
7 small businesses; and

8 (4) a description of any less intrusive or less costly
9 alternative methods of achieving the purpose of the
10 proposed rule or amendment.

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

1 analysis, and, if the agency prepared the analysis, to the
2 Business Assistance Office agency proposing the rule. The
3 ~~impact analysis shall contain the following:~~

4 This subsection does not apply to (i) rules promulgated in
5 accordance with the emergency rulemaking provisions of this
6 Article and (ii) rules and standards described in paragraphs
7 (1) through (5) of subsection (c) of Section 1-5.

8 ~~(1) A summary of the projected reporting,~~
9 ~~recordkeeping, and other compliance requirements of the~~
10 ~~proposed rule.~~

11 ~~(2) A description of the types and an estimate of the~~
12 ~~number of small businesses to which the proposed rule will~~
13 ~~apply.~~

14 ~~(3) An estimate of the economic impact that the~~
15 ~~regulation will have on the various types of small~~
16 ~~businesses affected by the rulemaking.~~

17 ~~(4) A description or listing of alternatives to the~~
18 ~~proposed rule that would minimize the economic impact of~~
19 ~~the rule. The alternatives must be consistent with the~~
20 ~~stated objectives of the applicable statutes and~~
21 ~~regulations.~~

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