



S.B. 15

126th General Assembly
(As Introduced)

Sens. Roberts, Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, Prentiss, Wilson, Jr., Zurz

BILL SUMMARY

- Requires state agencies to conduct a regulatory flexibility analysis and to file an economic impact statement with the Joint Committee on Agency Rule Review when proposing the adoption of a rule likely that will affect individuals, small businesses, or small organizations.
- Requires state agencies to file the economic impact statement with the Office of Small Business in the Department of Development in the same manner as and in addition to the proposed rule and its currently required rule summary and fiscal analysis.

CONTENT AND OPERATION

Current law

Under current law, when a rule-making agency proposes a rule that it reasonably believes is likely to affect individuals, small businesses, or small organizations, the agency, in addition to fulfilling other requisite procedures for proposing and adopting the rule, must prepare a complete and accurate *rule summary and fiscal analysis* (RSFA). Because of the proposed rule's expected effect on individuals or small businesses or organizations, at least 60 days before the rule is filed in its final form with the Secretary of State, the Legislative Service Commission, and the Joint Committee on Agency Rule Review (JCARR), the rule and the RSFA must be filed with the Office of Small Business in the Department of Development. Specified committees of the General Assembly and other persons interested in the proposed rule then have a 40-day period to submit comments to the agency or JCARR concerning that expected effect, and the specified committees also may request the agency during that period to appear and testify or produce information requested by the committees concerning that expected effect. (Sec. 121.24(B).)

The current form required by JCARR for the RSFA is a four-page document including a Part A and Part B (see **COMMENT**). The form includes a number of questions pertaining to a proposed rule's fiscal impact, cost of compliance estimates, agency and local government ability to pay for new requirements imposed by the proposed rule, and, if required by a federal law, whether the proposed rule exceeds the scope and intent of the federal requirement.

Changes made by the bill

In addition to requiring a rule-making agency to file an RSFA, the bill requires the agency to conduct a *regulatory flexibility analysis* and file with JCARR an *economic impact statement* with the proposed rule when filed. The bill also requires the economic impact statement to be filed with the Office of Small Business in the same manner as the proposed rule and the RSFA are currently filed, with an opportunity for comment and hearing by the specified committees of the General Assembly before the filing of the rule in final form. (Sec. 121.24(B)(1), (2), (3), and (4).)

Under the bill, the regulatory flexibility analysis requires an agency to consider utilizing regulatory methods that would accomplish the objectives of applicable law while minimizing adverse impact on individuals, small businesses, or small organizations. The agency is required to consider, without limitation, each of the following methods of reducing the proposed rule's impact (sec. 121.24(B)(1)):

- The establishment of less stringent compliance or reporting requirements;
- The establishment of less stringent schedules or deadlines for compliance or reporting requirements;
- The consolidation or simplification of compliance or reporting requirements;
- The establishment of performance standards to replace design or operational standards required in the rule;
- The exemption of individuals, small businesses, or small organizations from all or any part of the requirements in the rule.

After conducting the regulatory flexibility analysis, the agency is required to include an *economic impact statement* with the proposed rule and the RSFA when it files with JCARR. The statement must include the following (sec. 121.24(B)(2)):



(1) A statement of the agency's findings after completing the regulatory flexibility analysis;

(2) An identification and estimate of the number of individuals, small businesses, or small organizations subject to the proposed rule;

(3) The projected reporting, record-keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

(4) A statement of the probable effect on impacted individuals, small businesses, or small organizations;

(5) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

The economic impact statement would be filed with JCARR and the Office of Small Business in the same way as, and in addition to, the proposed rule and RSFA (sec. 121.24(B)(2) and (3)).

COMMENT

The following is the current form of the Rule Summary and Fiscal Analysis prescribed by the Joint Committee on Agency Rule Review:

Rule Summary and Fiscal Analysis (Part A)

Agency Name _____

Division & Contact _____

Agency Mailing Address (Plus Zip) _____ Phone _____ Fax _____

Please check the appropriate TYPE of rule filing; check ONLY ONE.

Amendment	New	Rescission	No Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Rule Number _____

Rule Title/Tag line _____

RULE SUMMARY

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? YES ____ NO ____

2. Are you proposing this rule as a result of recent legislation? YES ____ NO ____

If YES, state Bill Number **SB/HB** _____ General Assembly _____ Sponsor _____

3. Statute prescribing the procedure in accordance with which the agency is required to adopt the rule:
 119.03 _____
 111.15 _____
 Other (specify) _____

4. Statute(s) authorizing agency to adopt the rule: _____

5. Statute(s) the rule, as filed, amplifies or implements: _____

6. State the reason(s) for proposing, (i.e., why you are filing,) this rule:

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:



10. the rule is being rescinded and incorporates a text or other material by reference, and it was infeasible for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule, if none, please state so:

12. 119.032 Rule review date: _____
(If you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: At time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.



FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** (circle one) either **revenues/expenditures** (circle one) for the agency during the current biennium (in dollars). Explain the net impact of the proposed changes to the budget of your agency/department.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule: _____

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g., industry, CFR, internal/agency:

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations?
Yes _____ **No** _____

If YES, you must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. SB 33 of the 120th General Assembly. (If NO, you do not need to include Part B of the Rule Summary and Fiscal Analysis with this rule when filing.)

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R.C. 121.39?
Yes _____ **No** _____

If YES, you must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. H.B. 106 of the 121st General Assembly. (If NO, you do not need to attach the form to the rule when filing.)



Rule Summary and Fiscal Analysis (Part B)

1. Does the proposed rule have a fiscal effect on any of the following (please check each that applies)?
(a) School Districts _____
(b) Counties _____
(c) Townships _____
(d) Municipal Corporations _____

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement?

_____ _____
Yes No

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the costs of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

7. Please provide a statement on the proposed rule's impact on economic development.



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 72

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