



General Assembly

January Session, 2007

Raised Bill No. 1179

LCO No. 4364

04364_____CE_

Referred to Committee on Commerce

Introduced by:

(CE)

AN ACT REQUIRING ECONOMIC IMPACT ANALYSES FOR PROPOSED REGULATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 4-168 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (a) Except as provided in subsection (g) of this section, an agency,
5 prior to adopting a proposed regulation, shall: (1) Give at least thirty
6 days' notice by publication in the Connecticut Law Journal of its
7 intended action. The notice shall include (A) either a statement of the
8 terms or of the substance of the proposed regulation or a description
9 sufficiently detailed so as to apprise persons likely to be affected of the
10 issues and subjects involved in the proposed regulation, (B) a
11 statement of the purposes for which the regulation is proposed, (C) a
12 reference to the statutory authority for the proposed regulation, (D)
13 when, where and how interested persons may obtain a copy of the
14 economic impact and regulatory flexibility analyses required pursuant
15 to section 4-168a, as amended by this act, and [(D)] (E) when, where
16 and how interested persons may present their views on the proposed

17 regulation; (2) give notice by mail to each joint standing committee of
18 the General Assembly having cognizance of the subject matter of the
19 proposed regulation; (3) give notice by mail to all persons who have
20 made requests to the agency for advance notice of its regulation-
21 making proceedings. The agency may charge a reasonable fee for such
22 notice based on the estimated cost of providing the service; (4) provide
23 a copy of the proposed regulation and the economic impact and
24 regulatory flexibility analyses required pursuant to section 4-168a, as
25 amended by this act, to persons requesting it. The agency may charge a
26 reasonable fee for copies in accordance with the provisions of section
27 1-212; (5) following publication of the notice in the Connecticut Law
28 Journal, prepare a fiscal note, including (A) an estimate of the cost or of
29 the revenue impact on the state or any municipality of the state, and
30 (B) if applicable, the economic impact analysis and regulatory
31 flexibility analysis prepared under section 4-168a, as amended by this
32 act. The governing body of any municipality, if requested, shall
33 provide the agency, within twenty working days, with any
34 information that may be necessary for analysis in preparation of such
35 fiscal note; (6) afford all interested persons reasonable opportunity to
36 submit data, views or arguments, orally at a hearing granted under
37 subdivision (7) of this subsection or in writing, and to inspect and copy
38 the fiscal note prepared pursuant to subdivision (5) of this subsection;
39 (7) grant an opportunity to present oral argument if requested by
40 fifteen persons, by a governmental subdivision or agency or by an
41 association having not less than fifteen members, if notice of the
42 request is received by the agency within fourteen days after the date of
43 publication of the notice; and (8) consider fully all written and oral
44 submissions respecting the proposed regulation and revise the fiscal
45 note in accordance with the provisions of subdivision (5) of this
46 subsection to indicate any changes made in the proposed regulation.
47 No regulation shall be found invalid due to the failure of an agency to
48 give notice to each committee of cognizance pursuant to subdivision
49 (2) of this subsection, provided one such committee has been so
50 notified.

51 Sec. 2. Section 4-168a of the general statutes is repealed and the
52 following is substituted in lieu thereof (*Effective October 1, 2007*):

53 (a) As used in this section:

54 (1) "Agency", "proposed regulation" and "regulation" shall have the
55 same meanings as provided in section 4-166; and

56 (2) "Small business" means a business entity, including its affiliates,
57 that (A) is independently owned and operated and (B) employs fewer
58 than fifty full-time employees or has gross annual sales of less than
59 five million dollars, provided that an agency, in adopting regulations
60 in accordance with the provisions of this chapter, may define "small
61 business" to include a greater number of full-time employees, not to
62 exceed applicable federal standards or five hundred, whichever is less,
63 if necessary to meet the needs and address specific problems of small
64 businesses.

65 (b) (1) Prior to the adoption of any proposed regulation on and after
66 October 1, 2007, each agency shall prepare an economic impact
67 analysis that identifies the impact the regulatory action may have on
68 small businesses, including an estimate of the number of small
69 businesses subject to the proposed regulation, the projected costs,
70 including reporting, recordkeeping and administration, and other
71 costs required for compliance with the proposed regulation.

72 (2) Prior to the adoption of any proposed regulation, [on and after
73 October 1, 1994,] each agency shall prepare a regulatory flexibility
74 analysis in which the agency shall, where consistent with public
75 health, safety and welfare, consider utilizing regulatory methods that
76 will accomplish the objectives of applicable statutes while minimizing
77 adverse impact on small businesses. The agency shall consider,
78 without limitation, each of the following methods of reducing the
79 impact of the proposed regulation on small businesses:

80 [(1)] (A) The establishment of less stringent compliance or reporting

81 requirements for small businesses;

82 [(2)] (B) The establishment of less stringent schedules or deadlines
83 for compliance or reporting requirements for small businesses;

84 [(3)] (C) The consolidation or simplification of compliance or
85 reporting requirements for small businesses;

86 [(4)] (D) The establishment of performance standards for small
87 businesses to replace design or operational standards required in the
88 proposed regulation; and

89 [(5)] (E) The exemption of small businesses from all or any part of
90 the requirements contained in the proposed regulation.

91 (c) Prior to the adoption of any proposed regulation that may have
92 an adverse impact on small businesses, each agency shall notify the
93 Department of Economic and Community Development of its intent to
94 adopt the proposed regulation. The Department of Economic and
95 Community Development shall advise and assist agencies in
96 complying with the provisions of this section.

97 (d) The requirements contained in this section shall not apply to
98 emergency regulations issued pursuant to subsection (c) of section 4-
99 168, as amended by this act; regulations that do not affect small
100 businesses directly, including, but not limited to, regulations
101 concerning the administration of federal programs; regulations
102 concerning costs and standards for service businesses such as nursing
103 homes, long-term care facilities, medical care providers, day care
104 facilities, water companies, nonprofit 501(c)(3) agencies, group homes
105 and residential care facilities; and regulations adopted to implement
106 the provisions of sections 4a-60g to 4a-60i, inclusive.

107 Sec. 3. Section 4-168b of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective October 1, 2007*):

109 (a) Each agency shall maintain an official regulation-making record

110 for the period required by law for each regulation it proposes in
111 accordance with the provisions of section 4-168, as amended by this
112 act. The regulation-making record and materials incorporated by
113 reference in the record shall be available for public inspection and
114 copying.

115 (b) The agency regulation-making record shall contain: (1) Copies of
116 all publications in the Connecticut Law Journal with respect to the
117 regulation or the proceeding upon which the regulation is based; (2) a
118 copy of any written analysis prepared for the proceeding upon which
119 the regulation is based, including the economic impact and regulatory
120 flexibility analyses required pursuant to section 4-168a, as amended by
121 this act; (3) all written petitions, requests, submissions, and comments
122 received by the agency and considered by the agency in connection
123 with the formulation, proposal or adoption of the regulation or the
124 proceeding upon which the regulation is based; (4) the official
125 transcript, if any, of proceedings upon which the regulation is based
126 or, if not transcribed, any tape recording or stenographic record of
127 such proceedings, and any memoranda prepared by any member or
128 employee of the agency summarizing the contents of the proceedings;
129 (5) a copy of all official documents relating to the regulation, including
130 the regulation filed in the office of the Secretary of the State, a
131 statement of the principal considerations in opposition to the agency's
132 action, and the agency's reasons for rejecting such considerations, as
133 required pursuant to section 4-168, as amended by this act, and the
134 fiscal note prepared pursuant to subsection (a) of said section 4-168
135 and section 4-170, as amended by this act; (6) a copy of any petition for
136 the regulation filed pursuant to section 4-174; and (7) copies of all
137 comments or communications between the agency and the legislative
138 regulation review committee.

139 (c) The agency regulation-making record need not constitute the
140 exclusive basis for agency action on that regulation or for judicial
141 review thereof.

142 Sec. 4. Subsection (b) of section 4-170 of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2007*):

145 (b) (1) No adoption, amendment or repeal of any regulation, except
146 a regulation issued pursuant to subsection (f) of section 4-168, as
147 amended by this act, shall be effective until (A) the original of the
148 proposed regulation approved by the Attorney General, as provided in
149 section 4-169, the economic impact and regulatory flexibility analyses
150 as provided in section 4-168a, as amended by this act, and eighteen
151 copies thereof are submitted to the standing legislative regulation
152 review committee at the designated office of the committee, in a
153 manner designated by the committee, by the agency proposing the
154 regulation, (B) the regulation is approved by the committee, at a
155 regular meeting or a special meeting called for the purpose, and (C)
156 the regulation is filed in the office of the Secretary of the State by the
157 agency, as provided in section 4-172. (2) The date of submission for
158 purposes of subsection (c) of this section shall be the first Tuesday of
159 each month. Any regulation received by the committee on or before
160 the first Tuesday of a month shall be deemed to have been submitted
161 on the first Tuesday of that month. Any regulation submitted after the
162 first Tuesday of a month shall be deemed to be submitted on the first
163 Tuesday of the next succeeding month. (3) The form of proposed
164 regulations which are submitted to the committee shall be as follows:
165 New language added to an existing regulation shall be in capital letters
166 or underlining, as determined by the committee; language to be
167 deleted shall be enclosed in brackets and a new regulation or new
168 section of a regulation shall be preceded by the word "(NEW)" in
169 capital letters. Each proposed regulation shall have a statement of its
170 purpose following the final section of the regulation. (4) The committee
171 may permit any proposed regulation, including, but not limited to, a
172 proposed regulation which by reference incorporates in whole or in
173 part, any other code, rule, regulation, standard or specification, to be
174 submitted in summary form together with a statement of purpose for
175 the proposed regulation. On and after October 1, 1994, if the committee

176 finds that a federal statute requires, as a condition of the state
177 exercising regulatory authority, that a Connecticut regulation at all
178 times must be identical to a federal statute or regulation, then the
179 committee may approve a Connecticut regulation that by reference
180 specifically incorporates future amendments to such federal statute or
181 regulation provided the agency that proposed the Connecticut
182 regulation shall submit for approval amendments to such Connecticut
183 regulations to the committee not later than thirty days after the
184 effective date of such amendment, and provided further the committee
185 may hold a public hearing on such Connecticut amendments. (5) The
186 agency shall prepare a fiscal note, including an estimate of the cost or
187 of the revenue impact on the state and any municipality, and shall
188 append a copy of the note to each copy of the proposed regulation. At
189 the time of submission to the committee, the agency shall mail or
190 submit a copy of the proposed regulation and the fiscal note, prepared
191 in accordance with subsection (a) of section 4-168, as amended by this
192 act, to (A) the Office of Fiscal Analysis which, within seven days of
193 receipt, shall submit an analysis of the fiscal note to the committee; and
194 (B) each joint standing committee of the General Assembly having
195 cognizance of the subject matter of the proposed regulation. No
196 regulation shall be found invalid due to the failure of an agency to
197 submit a copy of the proposed regulation and the fiscal note to each
198 committee of cognizance, provided such regulation and fiscal note has
199 been submitted to one such committee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	4-168(a)
Sec. 2	<i>October 1, 2007</i>	4-168a
Sec. 3	<i>October 1, 2007</i>	4-168b
Sec. 4	<i>October 1, 2007</i>	4-170(b)

Statement of Purpose:

To require agencies to perform an economic impact analysis prior to adopting regulations, so the impact of such regulations on small businesses may be meaningfully measured.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]