



Substitute House Bill No. 5930

Public Act No. 09-19

AN ACT REQUIRING SMALL BUSINESS IMPACT ANALYSES FOR PROPOSED REGULATIONS.

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

Section 1. Subsection (a) of section 4-168 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Except as provided in subsection (g) of this section, an agency, prior to adopting a proposed regulation, shall: (1) Give at least thirty days' notice by publication in the Connecticut Law Journal of its intended action. The notice shall include (A) either a statement of the terms or of the substance of the proposed regulation or a description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in the proposed regulation, (B) a statement of the purposes for which the regulation is proposed, (C) a reference to the statutory authority for the proposed regulation, (D) when, where and how interested persons may obtain a copy of the small business impact and regulatory flexibility analyses required pursuant to section 4-168a, as amended by this act, and [(D)] (E) when, where and how interested persons may present their views on the proposed regulation; (2) give notice by mail to each joint standing committee of the General Assembly having cognizance of the subject

Substitute House Bill No. 5930

matter of the proposed regulation; (3) give notice by mail to all persons who have made requests to the agency for advance notice of its regulation-making proceedings. The agency may charge a reasonable fee for such notice based on the estimated cost of providing the service; (4) provide a copy of the proposed regulation to persons requesting it. The agency may charge a reasonable fee for copies in accordance with the provisions of section 1-212; (5) ~~following~~ no later than the date of publication of the notice in the Connecticut Law Journal, prepare a fiscal note, including [(A)] an estimate of the cost or of the revenue impact (A) on the state or any municipality of the state, and (B) on small businesses in the state, including an estimate of the number of small businesses subject to the proposed regulation and the projected costs, including but not limited to, reporting, recordkeeping and administrative, associated with compliance with the proposed regulation and, if applicable, the regulatory flexibility analysis prepared under section 4-168a, as amended by this act. The governing body of any municipality, if requested, shall provide the agency, within twenty working days, with any information that may be necessary for analysis in preparation of such fiscal note; (6) afford all interested persons reasonable opportunity to submit data, views or arguments, orally at a hearing granted under subdivision (7) of this subsection or in writing, and to inspect and copy the fiscal note prepared pursuant to subdivision (5) of this subsection; (7) grant an opportunity to present oral argument if requested by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members, if notice of the request is received by the agency within fourteen days after the date of publication of the notice; and (8) consider fully all written and oral submissions respecting the proposed regulation and revise the fiscal note in accordance with the provisions of subdivision (5) of this subsection to indicate any changes made in the proposed regulation. No regulation shall be found invalid due to the failure of an agency to give notice to each committee of cognizance pursuant to subdivision (2) of this subsection, provided

Substitute House Bill No. 5930

one such committee has been so notified.

Sec. 2. Section 4-168a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) As used in this section:

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

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

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

(1) The establishment of less stringent compliance or reporting requirements for small businesses;

(2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

Substitute House Bill No. 5930

(3) The consolidation or simplification of compliance or reporting requirements for small businesses;

(4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and

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

(c) Prior to the adoption of any proposed regulation that may have an adverse impact on small businesses, each agency shall notify the Department of Economic and Community Development and the joint standing committee of the General Assembly having cognizance of matters relating to commerce of its intent to adopt the proposed regulation. [The Department of Economic and Community Development] Said department and committee shall advise and assist agencies in complying with the provisions of this section.

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

Sec. 3. Section 4-168b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Each agency shall maintain an official regulation-making record for the period required by law for each regulation it proposes in

Substitute House Bill No. 5930

accordance with the provisions of section 4-168, as amended by this act. The regulation-making record and materials incorporated by reference in the record shall be available for public inspection and copying.

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

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

Substitute House Bill No. 5930

Sec. 4. Subsection (b) of section 4-170 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

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

Substitute House Bill No. 5930

statement of purpose for the proposed regulation. On and after October 1, 1994, if the committee finds that a federal statute requires, as a condition of the state exercising regulatory authority, that a Connecticut regulation at all times must be identical to a federal statute or regulation, then the committee may approve a Connecticut regulation that by reference specifically incorporates future amendments to such federal statute or regulation provided the agency that proposed the Connecticut regulation shall submit for approval amendments to such Connecticut regulations to the committee not later than thirty days after the effective date of such amendment, and provided further the committee may hold a public hearing on such Connecticut amendments. (5) The agency shall [prepare a fiscal note, including an estimate of the cost or of the revenue impact on the state and any municipality, and shall] append a copy of the fiscal note, prepared pursuant to subsection (a) of section 4-168, as amended by this act, to each copy of the proposed regulation. At the time of submission to the committee, the agency shall mail or submit a copy of the proposed regulation and the fiscal note [, prepared in accordance with subsection (a) of section 4-168,] to (A) the Office of Fiscal Analysis which, within seven days of receipt, shall submit an analysis of the fiscal note to the committee; and (B) each joint standing committee of the General Assembly having cognizance of the subject matter of the proposed regulation. No regulation shall be found invalid due to the failure of an agency to submit a copy of the proposed regulation and the fiscal note to each committee of cognizance, provided such regulation and fiscal note has been submitted to one such committee.

Approved May 8, 2009