



General Assembly

January Session, 2009

**Substitute Bill No. 5930**

\*        HB05930CE        031109        \*

**AN ACT REQUIRING SMALL BUSINESS 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2 repealed and the following is substituted in lieu thereof (*Effective*  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, 2009*):

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 small business impact and regulatory flexibility analyses required  
15 pursuant to section 4-168a, as amended by this act, and [(D)] (E) when,  
16 where and how interested persons may present their views on the  
17 proposed regulation; (2) give notice by mail to each joint standing  
18 committee of the General Assembly having cognizance of the subject  
19 matter of the proposed regulation; (3) give notice by mail to all persons  
20 who have made requests to the agency for advance notice of its  
21 regulation-making proceedings. The agency may charge a reasonable

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

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

55 (a) As used in this section:

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

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

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

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

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

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

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

85 (5) The exemption of small businesses from all or any part of the

86 requirements contained in the proposed regulation.

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

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

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

107 (a) Each agency shall maintain an official regulation-making record  
108 for the period required by law for each regulation it proposes in  
109 accordance with the provisions of section 4-168, as amended by this  
110 act. The regulation-making record and materials incorporated by  
111 reference in the record shall be available for public inspection and  
112 copying.

113 (b) The agency regulation-making record shall contain: (1) Copies of  
114 all publications in the Connecticut Law Journal with respect to the  
115 regulation or the proceeding upon which the regulation is based; (2) a  
116 copy of any written analysis prepared for the proceeding upon which  
117 the regulation is based, including the regulatory flexibility analyses

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

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

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

143 (b) (1) No adoption, amendment or repeal of any regulation, except  
144 a regulation issued pursuant to subsection (f) of section 4-168, shall be  
145 effective until (A) the original of the proposed regulation approved by  
146 the Attorney General, as provided in section 4-169, the regulatory  
147 flexibility analyses as provided in section 4-168a, as amended by this  
148 act, and eighteen copies thereof are submitted to the standing  
149 legislative regulation review committee at the designated office of the  
150 committee, in a manner designated by the committee, by the agency

151 proposing the regulation, (B) the regulation is approved by the  
152 committee, at a regular meeting or a special meeting called for the  
153 purpose, and (C) the regulation is filed in the office of the Secretary of  
154 the State by the agency, as provided in section 4-172. (2) The date of  
155 submission for purposes of subsection (c) of this section shall be the  
156 first Tuesday of each month. Any regulation received by the committee  
157 on or before the first Tuesday of a month shall be deemed to have been  
158 submitted on the first Tuesday of that month. Any regulation  
159 submitted after the first Tuesday of a month shall be deemed to be  
160 submitted on the first Tuesday of the next succeeding month. (3) The  
161 form of proposed regulations which are submitted to the committee  
162 shall be as follows: New language added to an existing regulation shall  
163 be in capital letters or underlining, as determined by the committee;  
164 language to be deleted shall be enclosed in brackets and a new  
165 regulation or new section of a regulation shall be preceded by the  
166 word "(NEW)" in capital letters. Each proposed regulation shall have a  
167 statement of its purpose following the final section of the regulation.  
168 (4) The committee may permit any proposed regulation, including, but  
169 not limited to, a proposed regulation which by reference incorporates  
170 in whole or in part, any other code, rule, regulation, standard or  
171 specification, to be submitted in summary form together with a  
172 statement of purpose for the proposed regulation. On and after  
173 October 1, 1994, if the committee finds that a federal statute requires,  
174 as a condition of the state exercising regulatory authority, that a  
175 Connecticut regulation at all times must be identical to a federal statute  
176 or regulation, then the committee may approve a Connecticut  
177 regulation that by reference specifically incorporates future  
178 amendments to such federal statute or regulation provided the agency  
179 that proposed the Connecticut regulation shall submit for approval  
180 amendments to such Connecticut regulations to the committee not  
181 later than thirty days after the effective date of such amendment, and  
182 provided further the committee may hold a public hearing on such  
183 Connecticut amendments. (5) The agency shall [prepare a fiscal note,  
184 including an estimate of the cost or of the revenue impact on the state  
185 and any municipality, and shall] append a copy of the fiscal note,

186 prepared pursuant to subsection (a) of section 4-168, as amended by  
187 this act, to each copy of the proposed regulation. At the time of  
188 submission to the committee, the agency shall mail or submit a copy of  
189 the proposed regulation and the fiscal note [, prepared in accordance  
190 with subsection (a) of section 4-168,] to (A) the Office of Fiscal Analysis  
191 which, within seven days of receipt, shall submit an analysis of the  
192 fiscal note to the committee; and (B) each joint standing committee of  
193 the General Assembly having cognizance of the subject matter of the  
194 proposed regulation. No regulation shall be found invalid due to the  
195 failure of an agency to submit a copy of the proposed regulation and  
196 the fiscal note to each committee of cognizance, provided such  
197 regulation and fiscal note has been submitted to one such committee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	4-168(a)
Sec. 2	October 1, 2009	4-168a
Sec. 3	October 1, 2009	4-168b
Sec. 4	October 1, 2009	4-170(b)

**Statement of Legislative Commissioners:**

Section 1(a)(5), "(A)" was bracketed and "(A)" was inserted before "on the state" for clarity.

**CE**      *Joint Favorable Subst.-LCO*