



General Assembly

February Session, 2014

***Raised Bill No. 349***

LCO No. 1856



Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

***AN ACT CONCERNING REGULATIONS OF SIGNIFICANT IMPACT.***

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 2014 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2014, and applicable to regulations noticed on*  
4 *and after said date*):

5 (a) Except as provided in subsections (f) and (g) of this section, an  
6 agency, not less than thirty days prior to adopting a proposed  
7 regulation, shall (1) give notice by posting a notice of its intended  
8 action on the eRegulations System. The notice shall include (A) either a  
9 statement of the terms or of the substance of the proposed regulation  
10 or a description sufficiently detailed so as to apprise persons likely to  
11 be affected of the issues and subjects involved in the proposed  
12 regulation, (B) a statement of the purposes for which the regulation is  
13 proposed and the policy goals the proposed regulation is intended to  
14 advance, (C) a reference to the statutory authority for the proposed  
15 regulation, (D) when, where and how interested persons may obtain a

16 copy of the small business impact and regulatory flexibility analyses  
17 required pursuant to section 4-168a, and (E) when, where and how  
18 interested persons may present their views on the proposed  
19 regulation; (2) give notice electronically to each joint standing  
20 committee of the General Assembly having cognizance of the subject  
21 matter of the proposed regulation; (3) give notice electronically or  
22 provide a paper copy to all persons who have made requests to the  
23 agency for advance notice of its regulation-making proceedings. The  
24 agency may charge a reasonable fee for such notice if not given  
25 electronically based on the estimated cost of providing the service; (4)  
26 provide a paper copy or electronic version of the proposed regulation  
27 to persons requesting it. The agency may charge a reasonable fee for  
28 paper copies in accordance with the provisions of section 1-212; and (5)  
29 prepare a fiscal note, including an estimate of the cost or of the  
30 revenue impact of the proposed regulation (A) on the state or any  
31 municipality of the state, [and] including, but not limited to, an  
32 analysis of how the proposed regulation can be expected to encourage  
33 or discourage economic progress and the development of jobs in the  
34 state, (B) on small businesses in the state, including an estimate of the  
35 number of small businesses subject to the proposed regulation and the  
36 projected costs, including but not limited to, reporting, recordkeeping  
37 and administrative, associated with compliance with the proposed  
38 regulation and, if applicable, the regulatory flexibility analysis  
39 prepared under section 4-168a, and (C) on businesses, municipalities  
40 and the state, in the form of a written determination of whether the  
41 proposed regulation is reasonably likely to have significant impact,  
42 prepared under section 3 of this act. The governing body of any  
43 municipality, if requested, shall provide the agency, within twenty  
44 working days, with any information that may be necessary for analysis  
45 in preparation of such fiscal note. Except as provided in subsections (f)  
46 and (g) of this section, any such agency shall also: Afford all interested  
47 persons reasonable opportunity to submit data, views or arguments,  
48 orally at a hearing if granted under this subsection or in writing, and to  
49 inspect and copy or view online and print the fiscal note prepared

50 pursuant to subdivision (5) of this subsection; grant an opportunity to  
51 present oral argument if requested by fifteen persons, by a  
52 governmental subdivision or agency or by an association having not  
53 less than fifteen members, if notice of the request is received by the  
54 agency not later than fourteen days after the date of posting of the  
55 notice by the agency on the eRegulations System; and consider fully all  
56 written and oral submissions respecting the proposed regulation and  
57 revise the fiscal note prepared in accordance with the provisions of  
58 subdivision (5) of this subsection to indicate any changes made in the  
59 proposed regulation. On and after October 1, 2014, each agency shall  
60 post all documents prepared by the agency pursuant to this subsection  
61 on the eRegulations System. Each agency shall electronically notify  
62 and, if requested, provide a paper copy of such notice to any person  
63 who requests to be notified of any regulation-making proceedings. No  
64 regulation shall be found invalid due to the failure of an agency to give  
65 notice to each committee of cognizance pursuant to subdivision (2) of  
66 this subsection, provided one such committee has been so notified.

67 Sec. 2. Section 4-168b of the 2014 supplement to the general statutes,  
68 as amended by section 29 of public act 13-247 and section 4 of public  
69 act 13-274, is repealed and the following is substituted in lieu thereof  
70 (*Effective October 1, 2014, and applicable to regulations noticed on and after*  
71 *said date*):

72 (a) Each agency shall create an official electronic regulation-making  
73 record that shall be retained on the eRegulations System for the period  
74 required by law for each regulation proposed in accordance with the  
75 provisions of section 4-168, as amended by this act. The regulation-  
76 making record and materials incorporated by reference in the record  
77 shall be available for public inspection and copying.

78 (b) The regulation-making record shall contain: (1) The agency's  
79 notice of intent to adopt regulations; (2) any written analysis prepared  
80 for the proceeding upon which the regulation is based, including the  
81 regulatory flexibility analyses required pursuant to section 4-168a and

82 the written determination of whether the proposed regulation is  
83 reasonably likely to have significant impact, required pursuant to  
84 section 3 of this act; (3) all written petitions, requests, submissions, and  
85 comments received by the agency and considered by the agency in  
86 connection with the formulation, proposal or adoption of the  
87 regulation or the proceeding upon which the regulation is based; (4)  
88 the official transcript, if any, of proceedings upon which the regulation  
89 is based or, if not transcribed, any tape recording or stenographic  
90 record of such proceedings, and any memoranda prepared by any  
91 member or employee of the agency summarizing the contents of the  
92 proceedings; (5) all official documents relating to the regulation,  
93 including the regulation submitted to the office of the Secretary of the  
94 State in accordance with section 4-172, a statement of the principal  
95 considerations in opposition to the agency's action, and the agency's  
96 reasons for rejecting such considerations, as required pursuant to  
97 section 4-168, as amended by this act, and the fiscal note prepared  
98 pursuant to subsection (a) of section 4-168, as amended by this act, and  
99 section 4-170; (6) any petition for the regulation filed pursuant to  
100 section 4-174; and (7) all comments or communications between the  
101 agency and the legislative regulation review committee. No audio  
102 recording of a hearing held pursuant to section 4-168, as amended by  
103 this act, shall be posted on the eRegulations System unless the  
104 Secretary of the State confirms that such posting will not constitute a  
105 violation of any state or federal law regarding accessibility for persons  
106 with disabilities. Any audio recording of a hearing held pursuant to  
107 section 4-168, as amended by this act, that is not posted on the  
108 eRegulations System shall be maintained by the agency and made  
109 available to the public upon request.

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

113 Sec. 3. (NEW) (*Effective October 1, 2014, and applicable to regulations*  
114 *noticed on and after said date*) (a) Prior to posting a notice of intent to

115 adopt regulations under section 4-168 of the general statutes, as  
116 amended by this act, the agency shall make a written determination of  
117 whether the proposed regulation is reasonably likely to have  
118 significant impact. An agency shall find a proposed regulation to be  
119 reasonably likely to have significant impact if (1) the agency  
120 determines the proposed regulation (A) has a potential adverse impact  
121 on small businesses, as defined in section 4-168a of the general  
122 statutes, (B) has a significant financial impact on any business that  
123 employs seventy-five or more full-time employees, or (C) is anticipated  
124 to cost the state one million dollars or more or any municipality one  
125 hundred thousand dollars or more; or (2) if the agency, the Office of  
126 Policy and Management or the Governor determines the proposed  
127 regulation (A) presents a substantial change in policy, or (B) is  
128 anticipated to place a substantial burden on the public or on businesses  
129 in the state. Such written determination shall include the basis for such  
130 determination and shall become part of the regulation-making record  
131 in accordance with section 4-168b of the general statutes, as amended  
132 by this act.

133 (b) If the agency determines that a proposed regulation is  
134 reasonably likely to have significant impact, the agency shall, in  
135 addition to the other requirements of chapter 54 of the general statutes:  
136 (1) Prior to posting the notice required under subsection (a) of section  
137 4-168 of the general statutes, as amended by this act, post an advance  
138 notice of proposed rule-making on the eRegulations System to gather  
139 public input relevant to the subject matter of the potential regulation  
140 and indicate in such advance notice how the public may comment; (2)  
141 post the notice required under subsection (a) of section 4-168 of the  
142 general statutes, as amended by this act, not fewer than sixty days  
143 prior to submitting such regulation to the Attorney General for  
144 approval under section 4-169 of the general statutes; (3) as part of the  
145 notice required under subsection (a) of section 4-168 of the general  
146 statutes, as amended by this act, provide the date, time and location of  
147 a public information meeting to be held by the agency not later than

148 two weeks prior to any public hearing or public comment period for  
149 the proposed regulation; (4) hold such public information meeting to  
150 permit interested persons to ask questions of the agency and identify  
151 any complex, vague or confusing text of the regulation that inhibits  
152 informed comment on, and would potentially infringe compliance  
153 with, the proposed regulation; (5) include in any statement sent under  
154 subsection (d) of section 4-168 of the general statutes, (A) an  
155 explanation of the agency's findings concerning whether the benefits of  
156 the proposed regulation outweigh the costs to the agency and any  
157 persons or entities that would be impacted by the proposed regulation,  
158 (B) an explanation of the extent to which innovative measures to  
159 reduce the burden on entities affected by the proposed regulation were  
160 incorporated into the proposed regulation, including economic  
161 incentives, performance standards and disclosure requirements, (C) a  
162 description of specific nonregulatory options considered by the agency  
163 for achieving the stated goals of the proposed regulation and an  
164 explanation of why each such option was rejected by the agency, and  
165 (D) any suggestions that were given for less burdensome measures to  
166 achieve the stated goals of the proposed regulation that were  
167 considered by the agency and an explanation of why such measures  
168 were rejected by the agency; (6) develop, consider and post on the  
169 eRegulations System a detailed impact analysis, that shall, where  
170 practicable, be developed in consultation with external experts and  
171 academic institutions and shall include, but not be limited to, (A) a  
172 review of both qualitative and quantitative costs and benefits, based on  
173 the best available empirical and peer-reviewed scientific information,  
174 and (B) an evaluation of feasible regulatory alternatives that would  
175 achieve the same regulatory objectives; and (7) revise the proposed  
176 regulation, where appropriate, to incorporate any suggested revisions  
177 received by the agency under this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2014, and applicable to regulations noticed on and after said date</i>	4-168(a)
Sec. 2	<i>October 1, 2014, and applicable to regulations noticed on and after said date</i>	4-168b
Sec. 3	<i>October 1, 2014, and applicable to regulations noticed on and after said date</i>	New section

**Statement of Purpose:**

To require each state agency to determine whether a proposed regulation of such agency is of significant impact, and to impose additional procedural requirements for the adoption of any regulation that is determined to be of significant impact.

*[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.]*