



Senate

General Assembly

File No. 321

February Session, 2016

Substitute Senate Bill No. 302

Senate, March 30, 2016

The Committee on Commerce reported through SEN. HARTLEY, J. of the 15th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE IMPACT OF PROPOSED REGULATIONS ON SMALL BUSINESSES.

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

1 Section 1. Section 4-168a of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2016*):

4 (a) As used in this section:

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

7 (2) "Small business" means a business entity, including its affiliates,
8 that (A) is independently owned and operated and (B) employs fewer
9 than [seventy-five] two hundred fifty full-time employees or has gross
10 annual sales of less than five million dollars, [provided] except that an
11 agency, in adopting regulations in accordance with the provisions of
12 this chapter, may define "small business" to include a greater number

13 of full-time employees, not to exceed applicable federal standards or
14 five hundred, whichever is less, if necessary to meet the needs and
15 address specific problems of small businesses.

16 (b) Prior to [the adoption of any proposed regulation] or
17 concomitant with the posting of a notice pursuant to section 4-168,
18 each agency shall prepare a regulatory flexibility analysis in which the
19 agency shall [, to the extent appropriate, utilize regulatory methods]
20 identify:

21 (1) The scope and objectives of the proposed regulation;

22 (2) The types of businesses potentially affected by the proposed
23 regulation;

24 (3) The total number of small businesses potentially subject to the
25 proposed regulation;

26 (4) Whether small businesses, in order to comply with the proposed
27 regulation, may be required to: (A) Create, file or issue additional
28 reports; (B) implement additional recordkeeping procedures; (C)
29 provide additional administrative oversight; (D) hire additional
30 employees; (E) hire or contract with additional professionals,
31 including, but not limited to, lawyers, accountants, engineers, auditors
32 or inspectors; (F) purchase any product or make any capital
33 investment; (G) conduct additional training, audits or inspections; or
34 (H) pay additional taxes or fees;

35 (5) Whether and to what extent the agency communicated with
36 small businesses or small business organizations in developing the
37 proposed regulation and the regulatory flexibility analysis, if
38 applicable;

39 (6) Whether and to what extent the proposed regulation provides
40 alternative compliance methods for small businesses that will
41 accomplish the objectives of applicable statutes while minimizing
42 adverse impact on small businesses. Such [regulatory] methods shall
43 be consistent with public health, safety and welfare [. The agency shall

44 use, to the extent appropriate, each of the following methods of
45 reducing the impact of the proposed regulation on small businesses]
46 and may include, but not be limited to:

47 [(1)] (A) The establishment of less stringent compliance or reporting
48 requirements for small businesses;

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

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

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

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

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

65 (d) The requirements contained in this section shall not apply to
66 emergency regulations issued pursuant to subsection (g) of section 4-
67 168; regulations that do not affect small businesses directly, including,
68 but not limited to, regulations concerning the administration of federal
69 programs; regulations concerning costs and standards for service
70 businesses such as nursing homes, long-term care facilities, medical
71 care providers, day care facilities, water companies, nonprofit 501(c)(3)
72 agencies, group homes and residential care facilities; and regulations
73 adopted to implement the provisions of sections 4a-60g to 4a-60i,
74 inclusive.

75 Sec. 2. Section 31-51ww of the general statutes is repealed and the
76 following is substituted in lieu thereof (*Effective October 1, 2016*):

77 As used in this section and sections 31-51xx to 31-51eee, inclusive:

78 (1) "Account holder" means a participant in a certified state IDA
79 program;

80 (2) "Department" means the Labor Department;

81 (3) "Approved plan" means a plan prepared jointly by the account
82 holder and the community-based organization that defines savings
83 goals, program requirements and permissible uses of the individual
84 development account and its matching funds pursuant to sections 31-
85 51xx to 31-51aaa, inclusive, and regulations adopted pursuant to
86 section 31-51ddd. The approved plan shall be a contract between the
87 account holder and the community-based organization;

88 (4) "Area median income" means area median household income as
89 determined from time to time by the United States Department of
90 Housing and Urban Development;

91 (5) "Certified state IDA program" means a program of matched
92 savings accounts that has been certified by the department in
93 accordance with regulations adopted pursuant to section 31-51ddd;

94 (6) "Clearinghouse" means a service to provide organizations
95 interested in establishing, or which have established, individual
96 development account programs with literature on federal, state and
97 other sources of funding, guidelines for best practices and program
98 standards, and information regarding the establishment and
99 maintenance of certified state IDA programs;

100 (7) "Community-based organization" means an organization exempt
101 from taxation pursuant to section 501(c)(3) of the Internal Revenue
102 Code of 1986 or any subsequent corresponding internal revenue code
103 of the United States, as from time to time amended, which meets the
104 requirements set forth in regulations pursuant to section 31-51ddd;

105 (8) "Education" means (A) a postsecondary program of instruction
106 provided by a college, university, community college, area technical
107 high school, professional institution or specialized college or school
108 legally authorized to grant degrees, or (B) any related educational
109 program approved by the community-based organization and the
110 department;

111 (9) "Entrepreneurial activity" means the purchase of or investment
112 in a small business [, as defined in subsection (a) of section 4-168a,] in
113 Connecticut in which, upon such purchase or investment, the account
114 holder will be a principal;

115 (10) "Federal poverty level" means the most recent poverty income
116 guidelines published by the United States Department of Health and
117 Human Services;

118 (11) "Financial institution" means a "financial institution", as defined
119 in section 36a-330;

120 (12) "Household" means a household, as defined in the federal
121 Assets for Independence Act, P.L. 105-235;

122 (13) "Individual development account" means a savings account,
123 maintained in a program that is established pursuant to section 31-
124 51xx that is held in a financial institution, for the sole purpose of
125 holding the funds of the account holder for one of the purposes
126 described in subsection (a) of section 31-51xx;

127 (14) "Individual Development Account Reserve Fund" means a
128 nonlapsing fund administered by the department for the purposes of
129 providing matching funds for individual development accounts in
130 certified state IDA programs, and for funding costs incurred by
131 community-based organizations in the operation and administration of
132 such programs and department's administrative costs for the
133 Connecticut IDA Initiative;

134 (15) "Connecticut IDA Initiative" means the state-wide individual
135 development account initiative established in section 31-51xx;

136 (16) "Job training" means a program for job entrance or skill
137 development approved by the community-based organization and the
138 department; [and]

139 (17) "Qualified disabled individual" means a disabled individual
140 eligible for assistance to the disabled pursuant to chapter 319mm; and

141 (18) "Small business" means a business entity, including its affiliates,
142 that (A) is independently owned and operated, and (B) employs fewer
143 than seventy-five full-time employees or has gross annual sales of less
144 than five million dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	4-168a
Sec. 2	October 1, 2016	31-51ww

CE Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Various State Agencies	Various - Cost	Potential	Potential

Note: Various=Various

Municipal Impact: None

Explanation

This bill expands the types of information that must be included in the regulatory flexibility analysis that agencies must prepare before adopting regulations that directly affect small businesses. It increases, from 75 to 250, the maximum number of employees a business may have to be considered a small business for the purpose of requiring preparation of a fiscal note for a regulatory flexibility analysis.

The bill could result in a cost to various agencies associated with requiring small business impact analyses for proposed regulations. Any additional staff costs for each agency is dependent upon the number of regulations filed and time required to complete such analyses.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 302*****AN ACT CONCERNING THE IMPACT OF PROPOSED REGULATIONS ON SMALL BUSINESSES.*****SUMMARY:**

This bill expands the types of information that must be included in the regulatory flexibility analysis that agencies must prepare before adopting regulations that directly affect small businesses. Under current law, in preparing these analyses, agencies must consider using specific regulatory methods to minimize adverse effects on small businesses. By law, agencies must include these analyses in the fiscal note they prepare.

The bill increases, from 75 to 250, the maximum number of employees a business may have to be considered a small business for the purpose of regulatory flexibility analyses. By law, a small business is an entity that (1) is independently owned and operated and (2) has fewer than the maximum number of employees or gross annual sales of less than \$5 million.

The bill also specifies that agencies must prepare the regulatory flexibility analysis before, or concurrently with, posting a notice of their intended action on the eRegulations system. This notice must be posted at least 30 days before adopting regulations. Current law requires agencies to prepare the fiscal note, which includes the flexibility analysis, at least 30 days before adopting the regulations, but does not tie the deadline to posting the notice.

Lastly, the bill makes a technical change to the definition of small business for the purposes of individual development accounts.

EFFECTIVE DATE: October 1, 2016

REGULATORY FLEXIBILITY ANALYSIS

The bill expands the types of information that must be included in a regulatory flexibility analysis, some of which the law already requires agencies to include in the regulations' fiscal note or notice of intended action (CGS § 4-168). The bill requires each regulatory flexibility analysis to include the following:

1. the proposed regulation's scope and objectives (existing law requires agencies to include the regulations' purpose in its notice of intended action),
2. the types of businesses potentially affected by the proposed regulation,
3. the total number of small businesses potentially subject to the proposed regulation (existing law requires this to be included in the regulations' fiscal note), and
4. whether and to what extent the agency communicated with small businesses or small business organizations in developing the proposed regulation and flexibility analysis.

Under the bill, the analysis must also state whether small businesses, in order to comply with the proposed regulation, may be required to do any of the following specific actions:

1. create, file, or issue additional reports;
2. implement additional recordkeeping procedures;
3. provide additional administrative oversight;
4. hire additional employees;
5. hire or contract with additional professionals, including, but not limited to, lawyers, accountants, engineers, auditors, or inspectors;
6. purchase any product or make any capital investment;

7. conduct additional training, audits, or inspections; or
8. pay additional taxes and fees.

Existing law requires the regulations' fiscal note to include the cost or revenue impact on small businesses of complying with the regulations, including, but not limited to, reporting, recordkeeping, or administrative costs.

Current law requires agencies to consider using specific strategies accomplish statutory objectives while minimizing the regulation's impact on small businesses. The bill instead requires agencies to state whether and to what extent the regulations provide alternative compliance methods for small businesses, including any of the specific strategies. As under current law, the strategies are:

1. establishing less stringent compliance or reporting requirements for small businesses, or simplifying or consolidating the requirements;
2. establishing less stringent compliance or reporting schedules or deadlines;
3. establishing small business performance standards to replace design or operational standards required in the proposed regulation; and
4. exempting small businesses from all or part of the proposed regulations' requirements.

Existing law, unchanged by the bill, requires agencies, before adopting any regulations that may adversely affect small businesses, to notify the Department of Economic and Community Development (DECD) and the Commerce Committee of its intent to adopt the proposed regulations. DECD and the committee must advise and assist agencies in preparing the regulatory flexibility analysis.

By law, these requirements do not apply to emergency regulations,

small business set-aside program regulations, or regulations that do not directly impact small businesses, including, but not limited to, regulations (1) for the administration of federal programs, or (2) concerning costs and standards for services businesses (e.g., nursing homes, day care facilities, and nonprofit agencies).

BACKGROUND

Related Bill

SB 362, favorably reported by the Government Administration and Elections committee, contains substantially similar provisions expanding the information that must be included in a regulatory flexibility analysis.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/15/2016)