

SENATE BILL REPORT

SB 5739

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, FEBRUARY 24, 1993

Brief Description: Concerning the regulation of small businesses.

SPONSORS: Senators Moore, Anderson, Oke and Winsley

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5739 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Amondson, Barr, Cantu, Fraser, McAuliffe, Newhouse, Pelz, Vognild, and Wojahn.

Staff: Jonathan Seib (786-7427)

Hearing Dates: February 12, 1993; February 24, 1993

BACKGROUND:

The Regulatory Fairness Act was enacted in 1982 to promote agency consideration and mitigation of the impact of their rules on small business.

The act requires that in the adoption of any rule which will have an economic impact on more than 20 percent of all industries, or more than 10 percent of any one industry, the agency must prepare a small business economic impact statement (SBEIS). If it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule, the agency is also to reduce the economic impact of the rule in ways specified in the act.

Among other things, the SBEIS is to compare, based on existing data and specified criteria, the cost of compliance for small businesses with the cost of compliance for the 10 percent of firms which are the largest businesses required to comply with the rule.

An agency is not required to prepare an SBEIS if the rule is being adopted solely for the purpose of conformity with federal law or if the rule will have a minor or negligible economic impact.

The Business Assistance Center in the Department of Trade and Economic Development is given certain responsibilities under the Regulatory Fairness Act. It recently convened a Regulatory Fairness Task Force made up of business and agency representatives. There is concern, based in part on the discussions of the task force, that existing provisions of the Regulatory Fairness Act are unclear and difficult for agencies to comply with.

It is also suggested that earlier notice of agency rule-making plans would foster more public participation in the rule-making process, and that the duties of agency rules coordinators established in the Administrative Procedure Act should be clarified and enhanced.

SUMMARY:

The language of the Regulatory Fairness Act is clarified and amended.

An agency is required to prepare a small business economic impact statement (SBEIS) if a proposed rule imposes certain specified costs considered more than minor or negligible on small business, or upon the timely request of a legislator.

An SBEIS will no longer need to analyze and compare the cost of compliance for small businesses with the cost of compliance for a percentage of larger businesses. Rather, the statement must consider the general ability of small business to absorb the costs of the rule previously identified in the statement.

Additional information to be provided in the SBEIS includes a list of industries required to comply with the rule, and a statement of whether and how the agency has involved small business in rule development.

Based on the degree of small business impact identified in the impact statement, and unless reasonable justification exists to do otherwise, the agency is to reduce the costs of the rule on small business. The list of options which the agency may implement to reduce costs is expanded.

The section exempting an agency from preparing an SBEIS if the rule is being adopted solely for the purpose of conformity with federal law or if the rule will have a minor or negligible economic impact is repealed.

The responsibilities of the agency rules coordinator are clarified and expanded. Additional responsibilities include maintaining contact with other coordinators to coordinate rule-making hearings, and completing an administrative procedures training course recommended by the Business Assistance Center.

The rules coordinator is also to prepare an annual agency rule-making plan listing, in priority order, rules currently under development and rules that the agency may propose for adoption with the year. The plan is to be published each January, with a supplemental plan published within 60 days after the end of the legislative session.

The responsibilities of the Business Assistance Center are clarified and expanded to include developing guidelines for agency preparation of SBEIS, reviewing draft SBEIS, advising the Joint Administrative Rules Review Committee regarding agency compliance with the Regulatory Fairness Act, and organizing a state rules coordinating committee, and

submitting recommendations to the Department of Personnel for an administrative procedures training program.

EFFECT OF PROPOSED SUBSTITUTE:

Technical and stylistic changes are made to the original bill.

It is clarified that the requirements in the bill only apply to non-emergency rules.

A SBEIS may be requested by a majority vote of the Joint Administrative Rules Review Committee, rather than by a single legislator.

Appropriation: none

Revenue: none

Fiscal Note: requested February 10, 1993

TESTIMONY FOR:

The existing provisions of the Regulatory Fairness Act are unclear and allow agencies which should comply with the act to ignore it.

TESTIMONY AGAINST:

The bill would interfere with the ability of agencies to do their jobs, sacrificing public welfare just to save businesses money.

TESTIFIED: PRO: Darrell Harting, S-Corporation; Verne Rowe, Ballard Brass; Julia Porter, Assn. of Washington Business; Rose Marie Lewis, Unique Impression; Ron Hansen, Assn. of Washington Business; Senator Anderson; Jim Rich; Ron Rants, The Rants Group; Casey McKinney, Small Business Improvement Council; CON: Alan Darr, Operating Engineers; Bob Dilger, Washington State Building and Construction Trades Council