

FINAL BILL REPORT

HB 1430

FULL VETO

Brief Description: Requiring state agencies to prepare housing impact statements.

Sponsors: By Representatives Miloscia, Armstrong, Haigh and Benson.

House Committee on State Government

Senate Committee on Government Operations & Elections

Background:

The Regulatory Fairness Act was enacted in 1994 to reduce the disproportionate impact of state administrative rules on small business. As part of the rule-making process, an agency must prepare a small business economic impact statement (SBEIS) if: 1) the rule would impose more than minor costs on businesses in an industry; or 2) the Joint Administrative Rules Review Committee requests the agency to do so.

As part of the SBEIS, an agency must analyze the compliance costs of the rule including lost revenue or sales and increased labor, equipment, supply, or administrative costs. The SBEIS must determine whether the rule has a disproportionate impact on small businesses. If the rule has such an impact, the agency must, where legal and feasible, reduce the costs on small businesses. Such steps may include:

- 1) reducing, modifying, or eliminating substantive regulatory requirements;
- 2) simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- 3) reducing the frequency of inspections;
- 4) delaying compliance timetables;
- 5) reducing or modifying fine schedules for noncompliance; or
- 6) using other mitigation techniques.

A SBEIS must also include a description of the reporting, record keeping, and other compliance requirements of the proposed rule and the kinds of professional services that a small business is likely to need in order to comply with the rule. The agency must analyze the costs of compliance, including costs of equipment, supplies, labor, and increased administrative costs, and must consider whether compliance will cause businesses to lose sales or revenue.

The agency must include in the SBEIS the steps taken to reduce costs and involve small businesses in the development of the rule. It also must include a list of industries required to comply with the rule.

Summary:

The intent section of the Regulatory Fairness Act is expanded to address the disproportionate impact that administrative rules have on those providing housing. The new language also states that most providers of housing are small businesses and that the disproportionate impact upon them reduces the availability of housing.

The definition of housing includes residential housing that is rented or owned and a provider of housing is a business engaged in the development and building of housing. A significant adverse impact on housing is anything that would increase the cost of housing or a component of housing by 5 percent or more. (A component of housing is not defined, but could include costs imposed on landlords, renters, developers, homeowners, or home buyers.)

Agencies are required to consider if a proposed rule will result in a significant adverse impact on the affordability of housing. If it is determined that the proposed rule will have a significant adverse impact, agencies must prepare a housing impact statement (HIS) similar to the process used for a SBEIS. If a HIS is required, it may be included as a component of a SBEIS.

Based on the extent of the significant adverse impact on housing, agencies are required, where legal and feasible, to reduce the impact on housing affordability. In preparing a HIS, an agency must analyze the cost of compliance for housing providers of all sizes. Financing costs are considered in this first stage.

In contrast to the SBEIS process, in the HIS process an agency must determine whether the proposed rule disproportionately impacts housing affordability. To determine the impact on affordability, the agency must compare the rule's cost to housing providers of all sizes with its cost to the largest 10 percent of providers.

The Department of Community, Trade, and Economic Development will consult with the Governor's Housing Advisory Board to develop guidelines for the preparation of housing impact statements.

Votes on Final Passage:

House 95 0

Senate 33 16