
SUBSTITUTE HOUSE BILL 1445

State of Washington

59th Legislature

2005 Regular Session

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Chase, Skinner, DeBolt, Green, Kessler, Morrell, Newhouse, P. Sullivan, Conway, Eickmeyer, Kirby, B. Sullivan, Flannigan, Linville, Campbell, Clements, Kristiansen, Miloscia, McCune, Dunn, Pettigrew, Quall, Kenney, Simpson, Appleton, Moeller, Sells, Haler, Condotta, McDonald, Takko, Kagi, Kilmer and Clibborn)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to regulatory fairness for small businesses;
2 amending RCW 19.85.020, 19.85.030, and 19.85.040; adding a new section
3 to chapter 19.85 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) A vibrant and growing small business sector is critical to
7 creating jobs in a dynamic economy;

8 (2) Small businesses bear a disproportionate share of regulatory
9 costs and burdens;

10 (3) Fundamental changes that are needed in the regulatory and
11 enforcement culture of state agencies to make them more responsive to
12 small business can be made without compromising the statutory missions
13 of the agencies;

14 (4) When adopting rules to protect the health, safety, and economic
15 welfare of Washington, state agencies should seek to achieve statutory
16 goals as effectively and efficiently as possible without imposing
17 unnecessary burdens on small employers;

18 (5) Uniform regulatory and reporting requirements can impose

1 unnecessary and disproportionately burdensome demands including legal,
2 accounting, and consulting costs upon small businesses with limited
3 resources;

4 (6) The failure to recognize differences in the scale and resources
5 of regulated businesses can adversely affect competition in the
6 marketplace, discourage innovation, and restrict improvements in
7 productivity;

8 (7) Unnecessary regulations create entry barriers in many
9 industries and discourage potential entrepreneurs from introducing
10 beneficial products and processes;

11 (8) The practice of treating all regulated businesses the same
12 leads to inefficient use of regulatory agency resources, enforcement
13 problems, and, in some cases, to actions inconsistent with the
14 legislative intent of health, safety, environmental, and economic
15 welfare legislation;

16 (9) Alternative regulatory approaches which do not conflict with
17 the state objective of applicable statutes may be available to minimize
18 the significant economic impact of rules on small businesses; and

19 (10) The process by which state rules are developed and adopted
20 should be reformed to require agencies to solicit the ideas and
21 comments of small businesses, to examine the impact of proposed and
22 existing rules on such businesses, and to review the continued need for
23 existing rules.

24 **Sec. 2.** RCW 19.85.020 and 2003 c 166 s 1 are each amended to read
25 as follows:

26 (~~Unless the context clearly indicates otherwise,~~) The definitions
27 in this section apply through this chapter unless the context clearly
28 requires otherwise.

29 (1) "Industry" means all of the businesses in this state in any one
30 four-digit standard industrial classification as published by the
31 United States department of commerce, or the North American industry
32 classification system as published by the executive office of the
33 president and the office of management and budget. However, if the use
34 of a four-digit standard industrial classification or North American
35 industry classification system would result in the release of data that
36 would violate state confidentiality laws, "industry" means all

1 businesses in a three-digit standard industrial classification or the
2 North American industry classification system.

3 (2) "Minor cost" means a cost per business that is less than three-
4 tenths of one percent of annual revenue or income, or one hundred
5 dollars, whichever is greater, or one percent of annual payroll.

6 (3) "Small business" means any business entity, including a sole
7 proprietorship, corporation, partnership, or other legal entity, that
8 is owned and operated independently from all other businesses, and that
9 has fifty or fewer employees.

10 ~~((+2))~~ (4) "Small business economic impact statement" means a
11 statement meeting the requirements of RCW 19.85.040 prepared by a state
12 agency pursuant to RCW 19.85.030.

13 ~~((3) "Industry" means all of the businesses in this state in any~~
14 ~~one four digit standard industrial classification as published by the~~
15 ~~United States department of commerce. However, if the use of a four-~~
16 ~~digit standard industrial classification would result in the release of~~
17 ~~data that would violate state confidentiality laws, "industry" means~~
18 ~~all businesses in a three digit standard industrial classification.))~~

19 **Sec. 3.** RCW 19.85.030 and 2000 c 171 s 60 are each amended to read
20 as follows:

21 (1) In the adoption of a rule under chapter 34.05 RCW, an agency
22 shall prepare a small business economic impact statement: (a) If the
23 proposed rule will impose more than minor costs on businesses in an
24 industry; or (b) if requested to do so by a majority vote of the joint
25 administrative rules review committee within forty-five days of
26 receiving the notice of proposed rule making under RCW 34.05.320.
27 However, if the agency has completed the pilot rule process as defined
28 by RCW 34.05.313 before filing the notice of a proposed rule, the
29 agency is not required to prepare a small business economic impact
30 statement.

31 An agency shall prepare the small business economic impact
32 statement in accordance with RCW 19.85.040, and file it with the code
33 reviser along with the notice required under RCW 34.05.320. An agency
34 shall file a statement prepared at the request of the joint
35 administrative rules review committee with the code reviser upon its
36 completion before the adoption of the rule. An agency shall provide a

1 copy of the small business economic impact statement to any person
2 requesting it.

3 (2) Based upon the extent of disproportionate impact on small
4 business identified in the statement prepared under RCW 19.85.040, the
5 agency shall, where legal and feasible in meeting the stated objectives
6 of the statutes upon which the rule is based, reduce the costs imposed
7 by the rule on small businesses. Methods to reduce the costs on small
8 businesses may include:

9 (a) Reducing, modifying, or eliminating substantive regulatory
10 requirements;

11 (b) Simplifying, reducing, or eliminating recordkeeping and
12 reporting requirements;

13 (c) Reducing the frequency of inspections;

14 (d) Delaying compliance timetables;

15 (e) Reducing or modifying fine schedules for noncompliance; or

16 (f) Any other mitigation techniques.

17 (3) If the agency determines it cannot reduce the costs imposed by
18 the rule on small businesses, the agency shall provide a clear
19 explanation of why it has made that determination and include that
20 statement with its filing of the proposed rule pursuant to RCW
21 34.05.320.

22 **Sec. 4.** RCW 19.85.040 and 1995 c 403 s 403 are each amended to
23 read as follows:

24 (1) A small business economic impact statement must include a brief
25 description of the reporting, recordkeeping, and other compliance
26 requirements of the proposed rule, and the kinds of professional
27 services that a small business is likely to need in order to comply
28 with such requirements. It shall analyze the costs of compliance for
29 businesses required to comply with the proposed rule adopted pursuant
30 to RCW 34.05.320, including costs of equipment, supplies, labor,
31 professional services, and increased administrative costs. It shall
32 consider, based on input received, whether compliance with the rule
33 will cause businesses to lose sales or revenue. To determine whether
34 the proposed rule will have a disproportionate cost impact on small
35 businesses, the impact statement must compare the cost of compliance
36 for small business with the cost of compliance for the ten percent of

1 businesses that are the largest businesses required to comply with the
2 proposed rules using one or more of the following as a basis for
3 comparing costs:

- 4 (a) Cost per employee;
- 5 (b) Cost per hour of labor; or
- 6 (c) Cost per one hundred dollars of sales.

7 (2) A small business economic impact statement must also include:

8 (a) A statement of the steps taken by the agency to reduce the
9 costs of the rule on small businesses as required by RCW
10 19.85.030(~~(+3)~~) (2), or reasonable justification for not doing so,
11 addressing the options listed in RCW 19.85.030(~~(+3)~~) (2);

12 (b) A description of how the agency will involve small businesses
13 in the development of the rule; and

14 (c) A list of industries that will be required to comply with the
15 rule. However, this subsection (2)(c) shall not be construed to
16 preclude application of the rule to any business or industry to which
17 it would otherwise apply.

18 (3) To obtain information for purposes of this section, an agency
19 may survey a representative sample of affected businesses or trade
20 associations and should, whenever possible, appoint a committee under
21 RCW 34.05.310(2) to assist in the accurate assessment of the costs of
22 a proposed rule, and the means to reduce the costs imposed on small
23 business.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.85 RCW
25 to read as follows:

26 (1) The small business advocacy committee is created. The
27 committee shall be comprised of seven members: (a) Two members of the
28 house of representatives, who must be members of the joint
29 administrative rules review committee, appointed by the speaker of the
30 house of representatives, from each of the two major caucuses of the
31 house of representatives; (b) two members of the senate, who must be
32 members of the joint administrative rules review committee, appointed
33 by the president of the senate, from each of the two major caucuses of
34 the senate; and (c) three small business owners or their designees,
35 appointed by the governor. The business owners, who shall serve two-
36 year terms, shall make recommendations to the governor regarding their
37 replacements at the end of their terms.

1 (2) The small business advocacy committee is charged with reviewing
2 small business economic impact statements. If a majority of the
3 members find that a proposed rule will have a disproportionate impact
4 on small businesses and the proposed mitigation by an agency does not
5 meet the requirements of RCW 19.85.030(2), the committee shall make
6 recommendations to the agency for additional mitigation measures.

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