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**Technology & Economic Development  
Committee**

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**HB 1120**

**Brief Description:** Concerning the regulatory fairness act.

**Sponsors:** Representatives Smith, Morris, Short, Hayes, Stanford, Koster, Van Werven, McDonald, MacEwen, Muri, Haler, Ryu, Condotta and Buys.

**Brief Summary of Bill**

- Exempts agencies that are able to demonstrate their proposed rule does not affect small businesses from completing a small business economic impact statement as required by the Regulatory Fairness Act.
- Requires agencies proposing a rule that affects only small businesses to consider certain mitigation costs to reduce the cost to small businesses.
- Requires an agency whose proposed rule imposes more than minor costs to mitigate costs to small businesses when it does not have sufficient data to calculate disproportionate impacts.
- Requires the Office of Regulatory Innovation and Assistance to act as the central entity to assist agencies with meeting the requirements of the Regulatory Fairness Act and to perform extemporaneous reviews of agency compliance with the Regulatory Fairness Act.

**Hearing Date:** 1/18/17

**Staff:** Kirsten Lee (786-7133).

**Background:**

The Regulatory Fairness Act and Small Business Economic Impact Statements.

Under the Regulatory Fairness Act (RFA), an agency must develop a small business economic impact statement (SBEIS) if a rule it is adopting under the Administrative Procedures Act will

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impose more than minor costs on businesses in an industry or if the agency is ordered to do so by the Joint Administrative Rules Review Committee.

A SBEIS must contain a variety of information, including:

- a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule;
- a description of the professional services that a small business is likely to need in order to comply with the requirements of the proposed rule;
- an analysis of the costs of compliance;
- consideration of whether the rule will cause businesses to lose sales or revenue;
- a determination of whether the rule has a disproportionate impact on small businesses;
- a description of how the agency will involve small businesses in the development of the rule;
- a list of industries that will be required to comply with the rule; and
- an estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule.

If the SBEIS shows that a rule will have a disproportionate impact on small businesses (businesses with 50 or fewer employees), the agency must, where legal and feasible, reduce the costs imposed by the rule on small businesses. Agencies determine whether a rule has a disproportionate impact on small businesses by comparing the cost of compliance for businesses with the cost of compliance for the 10 percent of businesses that are the largest businesses required to comply with the proposed rules. Agencies calculate the cost of compliance by comparing at least one of the following:

- cost per employee;
- cost per hour of labor; or
- cost per \$100 of sales.

Methods the agency may use to reduce the costs imposed by the rule on a small business include:

- reducing, modifying, or eliminating substantive requirements;
- simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- reducing the frequency of inspections;
- reducing or modifying the fine schedule for noncompliance; or
- any other mitigation techniques, including those suggested by small businesses or small business advocates.

The SBEIS must list the steps taken to reduce the costs on small businesses or a reasonable justification for not doing so.

#### Office of Regulatory Innovation and Assistance.

The Office of Regulatory Innovation and Assistance (ORIA), formerly the Office of Regulatory Assistance and Office of Permit Assistance, was created within the Governor's Office in 2002 by the Legislature. The ORIA assists citizens and small businesses with permitting, licensing and regulatory issues, including developing improvements to the regulatory system. The ORIA's duties include providing clear information and assistance to citizens, businesses, and local governments on state regulations, permit requirements, and agency rule-making processes.

## **Summary of Bill:**

### The Regulatory Fairness Act and Small Business Economic Impact Statements.

An agency that demonstrates its proposed rule does not affect small businesses is exempt from completing a SBEIS under the RFA. An agency must consider all of the cost reduction options listed in the RFA when its proposed rule affects only small businesses.

An agency whose proposed rule imposes more than minor costs to small businesses must mitigate costs to small businesses when the agency does not have sufficient data to determine the extent of disproportionate impact on small businesses.

### Office of Regulatory Innovation and Assistance.

The ORIA must act as the central entity to work with and provide support to agencies, assisting agencies with meeting the requirements of the RFA.

The ORIA's support must include, but is not limited to:

- providing online guidance and tools;
- providing access to available data necessary for agencies to complete cost calculations; and
- facilitating sharing of information among agencies and between agencies and business associations.

The Office of the Attorney General must provide assistance to the ORIA in providing online guidance and tools. Online guidance and tools may include the creation of templates to assist agency employees with consistent compliance with the RFA.

The ORIA must also conduct extemporaneous reviews of agencies on their compliance with the RFA and solicit comments on the review from the agencies. Agency comments must be included in a review report. The agency under review is required to rectify any findings of noncompliance included in the review in a timely manner.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2017.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.