

FINAL BILL REPORT

2SHB 1120

C 53 L 17
Synopsis as Enacted

Brief Description: Concerning the regulatory fairness act.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Smith, Morris, Short, Hayes, Stanford, Koster, Van Werven, McDonald, MacEwen, Muri, Haler, Ryu, Condotta and Buys).

Technology & Economic Development: 1/18/17, 2/1/17 [DPS];
Appropriations: 2/13/17, 2/24/17 [DP2S(w/o sub TED)].

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 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

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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 state a reasonable justification for not doing so.

Office of Regulatory Innovation and Assistance.

The Office of Regulatory Innovation and Assistance (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:

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 on small businesses must mitigate these costs 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 collaborate with and provide support to agencies in meeting the requirements of the RFA.

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

- providing online guidance and tools by December 31, 2017;
- providing access to available data for agencies to complete cost calculations; and
- facilitating sharing of information among agencies and between agencies and business associations.

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

State Auditor's Office.

The SAO is required to conduct a performance review of agency compliance of the RFA, no earlier than June 30, 2020. The SAO must report its findings and recommendations by June 30, 2021. The SAO must complete subsequent compliance reviews of the agencies, depending on the degree to which agencies are found to be in compliance with the RFA. The SAO must report findings and any recommendations from subsequent reviews following the review.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: July 23, 2017