

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1012
Second Edition Engrossed 5/13/93

Short Title: Economic Impact of Rules.

(Public)

Sponsors: Senators Sherron; Kaplan, Hyde, Plyler, Odom, Marshall, Warren, Folger, Johnson, Harris, Blackmon, Codington, Carpenter, Hartsell, Simpson, Cochrane, Smith, Forrester, Allran, Kerr, Hoyle, Cooper, Winner of Buncombe, Martin of Pitt, Perdue, Albertson, Jordan, Lee, Parnell, Hunt, Seymour, Daniel, Edwards, Soles, Richardson, Shaw, Basnight, Sands, Tally, Plexico, Walker, and Ward.

Referred to: Ways and Means.

May 3, 1993

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ECONOMIC IMPACT ASSESSMENTS FOR CERTAIN
RULES PROPOSED BY STATE AGENCIES AND TO APPROPRIATE FUNDS
TO THE RULES REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 2A of Chapter 150B of the General Statutes is amended by adding the following new section to read:

"§ 150B-21.4A. Costs and benefits of compliance with rules.

(a) At the time an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact on the expenditures or revenues of any person, corporation, or entity doing business in North Carolina, the agency must make available to the public for review and comment a preliminary assessment of the economic and social costs and benefits of the proposed change. The preliminary economic impact assessment shall contain:

- (1) The agency's estimate of the economic and social costs to commerce, industry, units of local government, landowners, and agriculture necessary to comply with the proposed rule change;
- (2) An examination of the economic and social benefits of the compliance;
and

1 (3) An explanation of how the costs and benefits were computed,
2 including all relevant data, assumptions, analyses, and calculations in
3 sufficient detail to allow the agency and any reviewing person or entity
4 to understand the information presented.

5 In no event shall the public have less than 60 days to review and comment on the
6 preliminary economic impact assessment. A final economic impact assessment shall be
7 made available to the public and filed with the Fiscal Research Division of the
8 Legislative Services Office not less than 30 days before the adoption of the rule. This
9 section does not apply to:

10 (1) Mandatory federal rules adopted by the State without revision;
11 (2) Rules governing fishing, hunting, or taking of fish or wildlife;
12 (3) Rules adopted by occupational licensing agencies;
13 (4) Rules adopted by the Department of Environment, Health, and Natural
14 Resources or by any agency of the Department of Environment,
15 Health, and Natural Resources.

16 (b) At a minimum, both the preliminary and the final economic impact
17 assessments shall consider:

18 (1) The effect of the rule change on
19 a. Competition,
20 b. The cost of living and doing business in the geographical area
21 in which the rule change applies,
22 c. Employment in the area in which the rule change applies, and
23 d. The affordability of housing in the area in which the rule
24 change applies; and
25 (2) A conclusion as to the short term and long term substantial economic
26 impact on all persons affected by the rule change. The assessment of
27 costs which cannot be precisely quantified may be expressed in
28 qualitative terms.

29 (c) For purposes of this section, 'substantial economic impact' means a financial
30 impact upon local governments, agriculture, commercial enterprises, retail businesses,
31 service businesses, industry, consumers of a product or service, landowners, home
32 buyers, or taxpayers.

33 (d) An erroneous economic impact assessment prepared by an agency that was
34 not prepared after careful investigation or that is in substantial error shall invalidate the
35 rule for which the erroneous economic impact assessment was prepared. An erroneous
36 economic impact assessment prepared in good faith does not affect the validity of the
37 rule for which it was prepared.

38 (e) If the preparation of an economic impact assessment for a proposed rule
39 change is required by this section and is not prepared for the proposed rule, then the
40 failure to prepare the economic impact assessment shall invalidate the rule."

41 Sec. 2. G.S. 150B-21.9 reads as rewritten:

42 **"§ 150B-21.9. Standards and timetable for review by Commission.**

43 (a) Standards. – The Commission must determine whether a rule meets all of the
44 following criteria:

- 1 (1) It is within the authority delegated to the agency by the General
2 Assembly.
3 (2) It is clear and unambiguous.
4 (3) It is reasonably necessary to fulfill a duty delegated to the agency by
5 the General Assembly.
6 (4) The agency satisfied the requirements of G.S. 150B-21.4A regarding
7 the production of economic impact assessments.

8 The Commission may determine if a rule submitted to it was adopted in accordance
9 with Part 2 of this Article. The Commission must notify the agency that adopted the
10 rule if it determines that a rule was not adopted in accordance with Part 2 of this Article
11 and must return the rule to the agency. Entry of a rule in the North Carolina
12 Administrative Code after review by the Commission is conclusive evidence that the
13 rule was adopted in accordance with Part 2 of this Article.

14 (b) Timetable. – The Commission must review a rule submitted to it on or before
15 the twentieth of a month by the last day of the next month. The Commission must
16 review a rule submitted to it after the twentieth of a month by the last day of the second
17 subsequent month."

18 Sec. 3. There is appropriated from the General Fund to the Rules Review
19 Commission the sum of fifty thousand dollars (\$50,000) to carry out the requirements of
20 G.S. 150B-21.4A.

21 Sec. 4. This act becomes effective July 1, 1993.