

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1212
(Representatives Dosch, Ekstrom, Keiser, Price)
(Senators Espegard, Mutch)

AN ACT to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to requirement of consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions; to provide for a legislative council study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 28-32 of the North Dakota Century Code is created and enacted as follows:

Rules affecting small entities - Analysis - Economic impact statements - Judicial review.

1. As used in this section:
 - a. "Small business" means a business entity, including its affiliates, which:
 - (1) Is independently owned and operated; and
 - (2) Employs fewer than twenty-five full-time employees or has gross annual sales of less than two million five hundred thousand dollars;
 - b. "Small entity" includes small business, small organization, and small political subdivision.
 - c. "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; and
 - d. "Small political subdivision" means a political subdivision with a population of less than five thousand.
2. Before adoption of any proposed rule, the adopting agency shall prepare a regulatory analysis in which, consistent with public health, safety, and welfare, the agency considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:
 - a. Establishment of less stringent compliance or reporting requirements for small entities;
 - b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
 - c. Consolidation or simplification of compliance or reporting requirements for small entities;
 - d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
 - e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

3. Before adoption of any proposed rule that may have an adverse impact on small entities, the adopting agency shall prepare an economic impact statement that includes consideration of:
 - a. The small entities subject to the proposed rule;
 - b. The administrative and other costs required for compliance with the proposed rule;
 - c. The probable cost and benefit to private persons and consumers who are affected by the proposed rule;
 - d. The probable effect of the proposed rule on state revenues; and
 - e. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.
4. For any rule subject to this section, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this section. A small entity seeking judicial review under this section must file a petition for judicial review within one year from the date of final agency action.
5. This section does not apply to any agency that is an occupational or professional licensing authority, nor does this section apply to the following agencies:
 - a. Council on the arts.
 - b. Beef commission.
 - c. Dairy promotion commission.
 - d. Dry bean council.
 - e. Highway patrolmen's retirement board.
 - f. Indian affairs commission.
 - g. Board for Indian scholarships.
 - h. State personnel board.
 - i. Potato council.
 - j. Board of public school education.
 - k. Real estate trust account committee.
 - l. Seed commission.
 - m. Soil conservation committee.
 - n. Oilseed council.
 - o. Wheat commission.
 - p. State seed arbitration board.
6. This section does not apply to rules mandated by federal law.
7. The adopting agency shall provide the administrative rules committee copies of any regulatory analysis or economic impact statement, or both, prepared under this section when the committee is considering the associated rules.

SECTION 2. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2003-04 interim, the effects and operation of requiring agency consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 3. EFFECTIVE DATE. This Act is effective for administrative rules adopted after July 31, 2003.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1212.

House Vote: Yeas 88 Nays 1 Absent 5

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State