

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1212

Introduced by

Representatives Dosch, Ekstrom, Keiser, Price

Senators Espegard, Mutch

1 A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota
2 Century Code, relating to requirement of consideration the effect of proposed administrative
3 rules on small businesses, organizations, and political subdivisions; and to provide an effective
4 date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **Rules affecting small entities - Analysis - Economic impact statements - Judicial** 9 **review.**

- 10 1. As used in this section:
- 11 a. "Small business" means a business entity, including its affiliates, which:
- 12 (1) Is independently owned and operated; and
- 13 (2) Employs fewer than twenty-five full-time employees or has gross annual
- 14 sales of less than two million five hundred thousand dollars;
- 15 b. "Small entity" includes small business, small organization, and small political
- 16 subdivision.
- 17 c. "Small organization" means any not-for-profit enterprise that is independently
- 18 owned and operated and is not dominant in its field; and
- 19 d. "Small political subdivision" means a political subdivision with a population of
- 20 less than five thousand.
- 21 2. Before adoption of any proposed rule, the adopting agency shall prepare a
- 22 regulatory analysis in which, consistent with public health, safety, and welfare, the
- 23 agency considers utilizing regulatory methods that will accomplish the objectives of
- 24 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 notify the department of commerce of its intent to adopt the proposed rule. The department of commerce shall advise and assist agencies in complying with this section.

4. 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.

5. 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

1 this section must file a petition for judicial review within one year from the date of
2 final agency action.

3 **SECTION 2. EFFECTIVE DATE.** This Act is effective for administrative rules adopted
4 after July 31, 2003.