

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 776*

Short Title: Streamline Rule-making Process. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to: Judiciary I.

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO STREAMLINE THE RULE-MAKING PROCESS BY ELIMINATING THE REQUIREMENT THAT AN AGENCY OBTAIN A CERTIFICATION OF ADHERENCE TO RULE-MAKING PRINCIPLES PRIOR TO SUBMITTING THE PROPOSED TEXT OF A RULE FOR PUBLICATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-19.1(h) is repealed.

SECTION 2. G.S. 150B-21.4(b1) reads as rewritten:

"(b1) Substantial Economic Impact. – Before an agency adopts a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note approved by the Office of State Budget and Management. The agency must also obtain from the Office a certification that the agency adhered to the regulatory principles set forth in G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and Management to prepare the fiscal note only after, working with the Office, it has exhausted all resources, internal and external, to otherwise prepare the required fiscal note. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month period. In analyzing substantial economic impact, an agency shall do the following:



- 1 (1) Determine and identify the appropriate time frame of the analysis.
2 (2) Assess the baseline conditions against which the proposed rule is to be
3 measured.
4 (3) Describe the persons who would be subject to the proposed rule and the type
5 of expenditures these persons would be required to make.
6 (4) Estimate any additional costs that would be created by implementation of the
7 proposed rule by measuring the incremental difference between the baseline
8 and the future condition expected after implementation of the rule. The
9 analysis should include direct costs as well as opportunity costs. Cost
10 estimates must be monetized to the greatest extent possible. Where costs are
11 not monetized, they must be listed and described.
12 (5) For costs that occur in the future, the agency shall determine the net present
13 value of the costs by using a discount factor of seven percent (7%)."

14 **SECTION 3.** This act is effective when it becomes law and applies to proposed
15 rules published on or after that date.