

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1147

5 By: Representatives Norton, Rosenbaum, Pierce
6 By: Senator Altes
7
8

For An Act To Be Entitled

10 AN ACT TO REDUCE THE BURDENS OF GOVERNMENTAL
11 REGULATION ON SMALL BUSINESSES; TO REQUIRE STATE
12 AGENCIES TO STUDY THE IMPACT OF AGENCY RULES ON
13 SMALL BUSINESSES; TO REQUIRE FINANCIAL IMPACT
14 STATEMENTS WHEN STATE AGENCIES CHANGE RULES
15 AFFECTING SMALL BUSINESSES; AND FOR OTHER
16 PURPOSES.
17

Subtitle

18 AN ACT TO REDUCE THE BURDENS OF
19 GOVERNMENTAL REGULATION ON SMALL
20 BUSINESSES AND TO STUDY THE FINANCIAL
21 IMPACT OF AGENCY RULES ON SMALL
22 BUSINESSES.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code Title 25, Chapter 15 is amended to add an
29 additional subchapter to read as follows:

30 25-15-301. Definitions.

31 As used in this subchapter:

32 (1) "Agency" means each board, commission, department, office,
33 or other authority of the government of the State of Arkansas whether or not
34 within or subject to review by another agency except for the General Assembly
35 and the Judiciary;

36 (2) "Director" means the Director of the Department of Economic



1 Development or his or her designee;

2 (3)(A) "Rule" means any agency statement of general
3 applicability and future effect that implements, interprets, or prescribes
4 law or policy, or describes the organization, procedure, or practice of any
5 agency and includes without limitation the amendment or repeal of a prior
6 rule.

7 (B) "Rule" does not mean:

8 (i) Statements concerning the internal management of
9 an agency and that do not affect the private rights or procedures available
10 to the public;

11 (ii) Declaratory rulings issued pursuant to § 25-15-
12 206; or

13 (iii) Intra-agency memoranda; and

14 (4) "Small business" means a for-profit enterprise consisting of
15 no more than one hundred (100) full-time employees or part-time employees, or
16 both.

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18 25-15-302. Applicability.

19 (a) Before submitting a proposed rule for adoption, amendment, or
20 repeal, an agency shall first determine whether the proposed rule affects
21 small businesses.

22 (b) As part of its analysis, the agency shall examine whether a means
23 exists to make the rule less costly for small businesses without compromising
24 the objective of the rule.

25 (c)(1) If the proposed rule affects small businesses, the agency,
26 before undertaking the rule promulgation process, shall complete the steps
27 outlined in §§ 25-15-204 or a substantially similar process of public notice
28 and hearing if the agency is exempted from the Arkansas Administrative
29 Procedure Act, 25-15-201 et seq.

30 (2) However, subdivision (c)(1) of this section does not apply
31 to a rule adopted on an emergency basis or that is federally mandated, or
32 that substantially codifies existing state or federal law.

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34 25-15-303. Economic impact statement.

35 Before submitting a proposed rule for adoption, amendment, or repeal,
36 an agency shall prepare an economic impact statement that sets forth the

1 following:

2 (1) The type or types of small businesses that will be directly
3 affected by or bear the cost of, or directly benefit from the proposed rule;

4 (2) A description of how small businesses may be adversely
5 affected;

6 (3) A reasonable determination of the dollar amounts the
7 proposed rule will cost small businesses in terms of fees, administrative
8 penalties, reporting, recordkeeping, equipment, construction, labor,
9 professional services, revenue loss, or other costs associated with
10 compliance;

11 (4) A reasonable determination of the dollar amounts of the
12 costs to the agency of implementing the proposed rule;

13 (5) The financial benefit to the agency of implementing the
14 proposed rule;

15 (6) Whether and to what extent alternative, less burdensome
16 means exist for accomplishing the objectives of the proposed rule and why
17 those alternatives are not being proposed; and

18 (7) A comparison of the proposed rule with federal rules
19 regarding small businesses and with rules of other state agencies.

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21 25-15-304. Submission of the proposed rule to the Director of the
22 Department of Economic Development.

23 (a) Before submitting a proposed rule for adoption, amendment, or
24 repeal, an agency shall submit to the Director of the Department of Economic
25 Development the economic impact statement and the proposed rule required
26 under this subchapter.

27 (b) The director shall provide a detailed statement in writing to the
28 agency regarding whether the agency has:

29 (1) Satisfactorily completed the economic impact statement; and

30 (2) Taken sufficient measures to balance the objectives of the
31 proposed rule with the interests of the affected small businesses.

32 (c)(1) In preparing the statement required under subsection (b) of
33 this section, the director may elicit views and information from and shall
34 serve as the point of contact for small business organizations and
35 associations, state and federal agencies, and other parties who have
36 comments, objections, or opinions concerning the proposed rule.

1 (2) If appropriate, the director shall convey to the agency any
2 communications received under subdivision (c)(1) of this section.

3 (d) In addition to commenting upon the proposed rule, the director may
4 also review existing rules and make recommendations to agencies to change
5 rules that may negatively affect small businesses.

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7 25-15-305. Agency response.

8 (a) Upon receiving the written statement from the Director of the
9 Department of Economic Development the agency shall promptly consider the
10 statement.

11 (b) If the agency determines that no action shall be taken on the
12 director's written statement, the agency shall explain to the director in
13 writing the agency's reasons for the determination to take no action.

14 (c)(1) If the agency determines that an amendment of a proposed rule,
15 or adoption, amendment, or repeal of an existing rule is warranted, the
16 agency shall explain to the director in writing the amendment, adoption, or
17 repeal.

18 (2) After sending to the director the written explanation
19 required under subdivision (c)(1) of this section, the agency may initiate
20 its rule promulgation process.

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