

FILED JAN 25 2005

SENATE FILE

65

ECONOMIC GROWTH

BY MCKINLEY, HAHN, and BEHN

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the review of administrative rules for their  
2 impact on small business.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 65 ECONOMIC GROWTH

1 Section 1. Section 15.106, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 8A. Analyze each notice of intended  
4 action or rule filed without notice which may have a  
5 substantial impact on small business and submit its analysis  
6 and findings on that impact as required by section 17A.4,  
7 subsection 3A.

8 Sec. 2. Section 17A.4, Code 2005, is amended by adding the  
9 following new subsection:

10 NEW SUBSECTION. 3A. Any notice of intended action or rule  
11 filed without notice pursuant to subsection 2, which may have  
12 a substantial impact on small business, as defined in section  
13 17A.4A, subsection 7, shall summarize that impact in the  
14 preamble of the notice of intended action or the preamble of a  
15 rule filed without notice. In addition, the agency shall  
16 notify the department of economic development of this intended  
17 action or rule and its possible impact on small business. The  
18 department of economic development shall analyze the  
19 rulemaking and determine whether the impact on small business  
20 is substantial, adverse, and whether any feasible alternatives  
21 exist to reduce the impact. The department shall submit its  
22 analysis and findings to the administrative rules coordinator,  
23 the administrative rules review committee, and the agency. A  
24 rule which is the subject of the notice of intended action  
25 shall not be adopted until the analysis has been completed.  
26 For a rule filed without notice, the analysis must be  
27 submitted within seventy days of the publication of the rule.

28 Sec. 3. Section 17A.4A, subsection 1, Code 2005, is  
29 amended to read as follows:

30 1. An agency shall issue a regulatory analysis of a  
31 proposed rule that complies with subsection 2, paragraph "a",  
32 if, within thirty-two days after the published notice of  
33 proposed rule adoption, a written request for the analysis is  
34 submitted to the agency by the administrative rules review  
35 committee or the administrative rules coordinator. An agency

1 shall issue a regulatory analysis of a proposed rule that  
2 complies with subsection 2, paragraph "b", if the rule would  
3 have a substantial impact on small business and if, within  
4 thirty-two days after the published notice of proposed rule  
5 adoption, a written request for analysis is submitted to the  
6 agency by the administrative rules review committee, the  
7 administrative rules coordinator, the department of economic  
8 development, at least twenty-five persons signing that request  
9 who each qualify as a small business or by an organization  
10 representing at least twenty-five such persons. If a rule has  
11 been adopted without prior notice and an opportunity for  
12 public participation in reliance upon section 17A.4,  
13 subsection 2, the written request for an analysis that  
14 complies with subsection 2, paragraph "a" or "b", may be made  
15 within seventy days of publication of the rule.

16 Sec. 4. Section 17A.33, Code 2005, is amended to read as  
17 follows:

18 17A.33 REVIEW BY ADMINISTRATIVE RULES REVIEW COMMITTEE.

19 The administrative rules review committee shall review  
20 existing rules, as time permits, to determine if there are  
21 adverse or beneficial effects from these rules. The committee  
22 shall ~~give-a-high-priority-to~~ review rules that are referred  
23 to it by small business as defined in section 17A.4A, and  
24 rules identified by the department of economic development as  
25 having a substantial and adverse impact on small business.

26 The review of these rules shall be forwarded to the  
27 appropriate standing committees of the house and senate.

28 EXPLANATION

29 This bill requires any new rule having a substantial impact  
30 on small business to indicate that fact in the preamble of the  
31 filing and requires the agency promulgating the rule to notify  
32 the department of economic development. The department is  
33 then required to analyze this impact and determine whether any  
34 feasible alternatives exist to reduce that impact. This  
35 analysis is to be provided to the administrative rules

1 coordinator, the administrative rules review committee, and  
2 the agency. The bill also authorizes the department of  
3 economic development to demand an agency to issue a small  
4 business regulatory flexibility analysis and requires the  
5 administrative rules review committee to review new rules  
6 identified as having a substantial and adverse impact on small  
7 business.

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**EIGHTY FIRST GENERAL ASSEMBLY  
2005 REGULAR SESSION  
DAILY  
SENATE CLIP SHEET**

FEBRUARY 17, 2005

**Fiscal Services Division  
Legislative Services Agency  
Fiscal Note**

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SF 65 - Administrative Rules, Small Business Impact (LSB 1887 SS)  
Analyst: Jennifer Vermeer (Phone: (515) 281-4611) (jennifer.vermeer@legis.state.ia.us)  
Fiscal Note Version – New  
Requested by Senator Darryl Beall

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**Description**

Senate File 65 requires the Department of Economic Development to analyze each administrative rule to determine if the rule has a substantial impact on small business, whether the impact is adverse, and whether any feasible alternatives exist to reduce the impact. The analysis and findings are required to be provided to the Administrative Rules Review Committee, the Rules Coordinator, and the agency. Agencies are required to note in the preamble of the rule if the rule has a substantial impact on small business.

**Assumptions**

1. The average number of administrative rule filings from 2001 through 2003 is 459 per year.
2. The Legislative Services Agency (LSA) performed a cursory review of the rule filings in ten Iowa Administrative Bulletins, including July 21, 2004, through September 29, 2004, and December 8, 2004, through February 2, 2005, to determine an approximate percentage that may have an impact on small business.
3. Approximately 41.6% of the rule filings appeared to have an impact on small business that may, under the Bill, require an analysis by the Department.
4. This results in approximately 191 rule filings each year, or 16 per month, that may require an analysis of the small business impact by the Department.
5. The LSA assumed each analysis may take between one and twenty hours, or an average of ten hours per analysis.
6. This results in approximately 1,900 hours of work each year. One full-time equivalent (FTE) position is typically 2,080 hours per year.
7. The Department of Economic Development assumes salary and benefit costs of \$50,000, and support costs of \$5,000, for a total of \$55,000.

**Fiscal Impact**

The estimated fiscal impact of SF 65 is a State General Fund increase of \$55,000 and one FTE position in FY 2006 and FY 2007.

**Sources**

Legislative Services Agency  
Department of Economic Development

/s/ Holly M. Lyons

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February 16, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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