

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 434
Committee Substitute Favorable 4/29/93

Short Title: Regulatory Mandates Limited.

(Public)

Sponsors:

Referred to:

March 17, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE GENERAL STATUTES TO MAKE MANDATORY THE
PREPARATION OF FISCAL NOTES FOR PROPOSED REGULATIONS THAT
COULD REQUIRE COUNTIES AND CITIES TO SPEND FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150B-21.2(a) reads as rewritten:

"(a) Notice. – Before an agency adopts a permanent rule, it must publish notice of its intent to adopt a permanent rule in the North Carolina Register and as required by any other law. The notice published in the North Carolina Register must include all of the following:

- (1) Either the text of the proposed rule or a statement of the subject matter of the proposed rule making.
- (2) A short explanation of the reason for the proposed action.
- (3) A citation to the law that gives the agency the authority to adopt the proposed rule, if the notice includes the text of the proposed rule, or a citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making, if the notice includes only a statement of the subject matter of the proposed rule making.
- (4) The proposed effective date of the proposed rule, if the notice includes the text of the proposed rule, or the proposed effective date of a rule adopted on the subject matter of the proposed rule making, if the notice includes only a statement of the subject matter of the proposed rule making.

- 1 (5) The date, time, and place of any public hearing scheduled on the
2 proposed rule or subject matter of the proposed rule making.
- 3 (6) Instructions on how a person may demand a public hearing on a
4 proposed rule if the notice does not schedule a public hearing on the
5 proposed rule and subsection (c) requires the agency to hold a public
6 hearing on the proposed rule when requested to do so.
- 7 (7) The period of time during which and the person to whom written
8 comments may be submitted on the proposed rule or subject matter of
9 the proposed rule making.
- 10 (8) If a fiscal note has been prepared for the proposed rule or will be
11 prepared when a rule is proposed on the subject matter of the proposed
12 rule making, a statement that a copy of the fiscal note can be obtained
13 from the agency.
- 14 (9) If a fiscal note is required by G.S. 150B-21.4 or G.S. 120-30.48, a
15 statement that a copy of the fiscal note has been provided to the Joint
16 Legislative Commission on Governmental Operations of the General
17 Assembly, the Fiscal Research Division of the General Assembly, the
18 North Carolina Association of County Commissioners, and the North
19 Carolina League of Municipalities."

20 Sec. 2. G.S. 150B-21.4 reads as rewritten:

21 "**§ 150B-21.4. Fiscal notes on rules.**

22 (a) State Funds. – Before an agency publishes in the North Carolina Register the
23 proposed text of a permanent rule change that would require the expenditure or
24 distribution of funds subject to the Executive Budget Act, Article 1 of Chapter 143, it
25 must submit the text of the proposed rule change and a fiscal note on the proposed rule
26 change to the Director of the Budget and obtain certification from the Director that the
27 funds that would be required by the proposed rule change are available. The fiscal note
28 must state the amount of funds that would be expended or distributed as a result of the
29 proposed rule change and explain how the amount was computed. The Director of the
30 Budget must certify a proposed rule change if funds are available to cover the
31 expenditure or distribution required by the proposed rule change.

32 (b) Local Funds. – Before an agency publishes in the North Carolina Register the
33 proposed text of a permanent rule change that ~~would affect the expenditures or revenues of~~
34 ~~a unit of local government, could require a county or municipality to spend funds or affect~~
35 the revenues of local government, it must submit the text of the proposed rule change
36 and a fiscal note on the proposed rule change to the ~~Fiscal Research Division of the~~
37 ~~General Assembly, Joint Legislative Commission on Governmental Operations of the~~
38 General Assembly, the Fiscal Research Division of the General Assembly, the Office of
39 State Budget and Management, the North Carolina Association of County
40 Commissioners, and the North Carolina League of Municipalities. The fiscal note must
41 state the amount by which the proposed rule change would increase or decrease expenditures or
42 revenues of a unit of local government and must explain how the amount was computed. The
43 fiscal note shall identify and estimate, for the first five fiscal years the proposed rule
44 would be in effect, all costs of the proposed rule. The fiscal note shall indicate whether

1 there has been an appropriation by the General Assembly that will be sufficient to fund,
2 at the time the proposed rule would become effective, any expenditures toward
3 compliance with the proposed rule by counties or municipalities affected by the
4 proposed rule. If, after careful investigation, the agency determines that no dollar
5 estimate is possible, the note shall contain a statement to that effect, setting forth the
6 reasons why no dollar amount can be given. No comment or opinion shall be included
7 in the fiscal note with regard to the merits of the rule for which it is prepared.

8 (c) ~~Errors. – An erroneous fiscal note prepared in good faith does not affect the~~
9 ~~validity of a rule prepared by an agency that was not prepared after careful investigation~~
10 ~~or that is in substantial error shall invalidate the rule for which the erroneous fiscal note~~
11 ~~was prepared. An erroneous fiscal note prepared by an agency in good faith after~~
12 ~~careful investigation shall not affect the validity of the rule for which it was prepared.~~

13 (d) Rules Invalidated. – If the preparation of a fiscal note for a proposed rule is
14 required by G.S. 120-30.48 or by subsection (b) of this section, and a fiscal note is not
15 prepared for the proposed rule, then the failure to prepare the fiscal note shall invalidate
16 the rule."

17 Sec. 3. G.S. 120-30.48 reads as rewritten:

18 "**§ 120-30.48. Fiscal impact of administrative rules.**

19 ~~An agency is required to prepare a fiscal note on a proposed administrative rule that~~
20 ~~affects the expenditures or revenues of a unit of local government as provided in G.S.~~
21 ~~150B-21.4. Any State agency authorized to adopt rules under Article 2A of Chapter~~
22 ~~150B of the General Statutes or any State agency otherwise authorized by statute to~~
23 ~~adopt regulations affecting local governments is required to prepare a fiscal note for~~
24 ~~every proposed administrative rule that could require a county or municipality to spend~~
25 ~~funds. The fiscal note shall be prepared in accordance with G.S. 150B-21.4."~~

26 Sec. 4. This act is effective upon ratification.