

HB 632-FN - AS INTRODUCED

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HOUSE BILL **632-FN**

AN ACT relative to fiscal impact statements submitted by agencies adopting a rule under RSA 541-A.

SPONSORS: Rep. Weyler, Rock 13; Rep. C. McGuire, Merr 29; Rep. Hill, Merr 3; Rep. Ladd, Graf 4; Rep. Seidel, Hills 28; Sen. Cataldo, Dist 6; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires an agency adopting a rule under RSA 541-A to electronically submit a fiscal impact statement form to the joint legislative committee on administrative rules and the legislative budget assistant which includes an analysis of the costs and benefits of the proposed rule.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to fiscal impact statements submitted by agencies adopting a rule under
RSA 541-A.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Administrative Procedures Act; Fiscal Impact Statements. Amend RSA 541-A:5 to read as
2 follows:

3 541-A:5 Fiscal Impact Statements.

4 I. The agency shall ***electronically submit the fiscal impact statement form described***
5 ***in RSA 541-A:5-a to the committee and to the legislative budget assistant in order to*** provide
6 the ***committee and the*** legislative budget assistant with adequate details of the intended action and
7 ***necessary*** supporting data ~~[to]~~. ***The electronically submitted form shall*** enable the legislative
8 budget assistant to prepare a fiscal impact statement ***for review by the committee.***

9 II. The ~~[legislative budget assistant shall develop a form which]~~ ***fiscal impact statement***
10 ***form submitted*** shall specify the details and supporting data necessary to assess the fiscal impact of
11 the proposed rule ***and shall be in substantially the format described in RSA 541-A:5-a.***

12 III. The legislative budget assistant shall establish a schedule of deadlines for submission of
13 the fiscal impact ***statement*** form, and the agency shall file the completed form with the ***committee***
14 ***and the*** legislative budget assistant in accordance with such deadlines.

15 IV. The fiscal impact statement ~~[issued]~~ ***prepared*** by the legislative budget assistant shall
16 ~~[not be limited to dollar amounts, but shall]~~ include a discussion of the methodology used to reach
17 any stated amounts, ***and review of the cost-benefit analysis provided in the fiscal impact***
18 ***statement form.*** ~~[In addition,]~~ The fiscal impact statement ***prepared by the legislative budget***
19 ***assistant*** shall consist of:

20 (a) A narrative stating the costs and benefits to the citizens of the state and to the
21 political subdivisions of the intended action.

22 (b) A conclusion as to the cost or benefit to the state general fund or any state special
23 fund of taking the intended action.

24 (c) An explanation of, and citation to, the federal mandate for the proposed rule, if there
25 is such a mandate, and how that mandate affects state funds.

26 (d) A comparison of the cost of the proposed rule with the cost of the existing rule, if
27 there is an existing rule.

28 (e) An analysis of the general impact of the proposed rule upon any independently owned
29 businesses, including a description of the specific reporting and recordkeeping requirements upon
30 small businesses which employ fewer than 10 employees.

1 ***(f) Any other material information contained in the fiscal impact statement***
2 ***form electronically submitted by the agency.***

3 V. All agencies are directed to cooperate with the legislative budget assistant in the
4 preparation of fiscal impact statements.

5 VI. Agencies shall also ~~[obtain]~~ ***electronically submit*** an amended fiscal impact statement
6 ~~[from the legislative budget assistant]~~ ***form*** only if as a result of notice and hearing a change has
7 been made which affects the original fiscal impact statement ***form submitted to the committee***
8 ***and the legislative budget assistant.*** Agencies shall file the amended fiscal impact statement
9 ***form*** as part of the final proposal pursuant to RSA 541-A:12, II. ***The legislative budget assistant***
10 ***shall prepare a modified fiscal impact statement described in paragraph IV.***

11 2 New Section; Agency Form for Fiscal Impact Statements. Amend RSA 541-A by inserting
12 after section 5 the following new section:

13 541-A:5-a Agency Form for Fiscal Impact Statements. In accordance with procedures
14 established in the drafting and procedures manual under RSA 541-A:8, an agency adopting a rule
15 shall complete and submit the following information in an electronic form approved by the
16 committee:

17 I. Comparison of Rule to Federal/State/Association Standards.

18 (a) Compare the proposed rule to parallel federal rules or standards set by a state or
19 national licensing agency or accreditation association, if any exist. Is the rule required by state law
20 or federal mandate? If the rule exceeds a federal standard, please identify the federal standard or
21 citation, and describe why it is necessary that the proposed rule exceed the federal standard or law,
22 and specify the costs and benefits arising out of the deviation.

23 (b) Compare the proposed rule to standards in similarly situated states, based on
24 geographic location, topography, natural resources, commonalities, or economic similarities. If the
25 rule exceeds standards in those states, please explain why, and specify the costs and benefits arising
26 out of the deviation.

27 (c) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or
28 conflict with the proposed rule. Explain how the rule has been coordinated, to the extent practicable,
29 with other federal, state, and local laws applicable to the same activity or subject matter. This
30 section should include a discussion of the efforts undertaken by the agency to avoid or minimize
31 duplication.

32 II. Purpose and Objectives of the Rule.

33 (a) Identify the behavior and frequency of behavior that the proposed rule is designed to
34 alter. Estimate the change in the frequency of the targeted behavior expected from the proposed
35 rule. Describe the difference between current behavior/practice and desired behavior/practice. What
36 is the desired outcome?

37 (b) Identify the harm resulting from the behavior that the proposed rule is designed to

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1 alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for
2 changing the rule and not leaving the rule as currently written?

3 (c) Describe how the proposed rule protects the health, safety, and welfare of New
4 Hampshire citizens while promoting a regulatory environment in New Hampshire that is the least
5 burdensome alternative for those required to comply.

6 (d) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be
7 rescinded.

8 III. Fiscal Impact on the Agency. Fiscal impact is an increase or decrease in expenditures
9 from the current level of expenditures, such as hiring additional staff, an increase in the cost of a
10 contract, programming costs, changes in reimbursement rates, over and above what is currently
11 expended for that function. It would not include more intangible costs or benefits, such as
12 opportunity costs or the value of time saved or lost, unless those issues result in a measurable impact
13 on expenditures.

14 (a) Please provide the fiscal impact on the agency. Estimate the cost of rule imposition
15 or potential savings on the agency promulgating the rule.

16 (b) Describe whether or not an agency appropriation has been made or a funding source
17 provided for any expenditures associated with the proposed rule.

18 (c) Describe how the proposed rule is necessary and suitable to accomplish its purpose, in
19 relationship to the burdens it places on individuals. Burdens may include fiscal or administrative
20 burdens or duplicative acts. Identify how the requirements in the rule are necessary, reasonable,
21 and outweigh any identified burdens.

22 IV. Impact on Other State or Local Governmental Units.

23 (a) Estimate any increase or decrease in revenues to other state or local governmental
24 units as a result of the rule. Estimate the cost increases or reductions on other state or local
25 governmental units as a result of the rule. Please include the cost of equipment, supplies, labor, and
26 increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

27 (b) Discuss any program, service, duty or responsibility imposed upon any city, county,
28 town, village, or school district by the rule. Describe any actions that governmental units must take
29 to be in compliance with the rule. This section should include items such as record keeping and
30 reporting requirements or changing operational practices.

31 (c) Describe whether or not an appropriation to state or local governmental units has
32 been made or a funding source provided for any additional expenditures associated with the proposed
33 rule.

34 V. Rural Impact. In general, what impact will the rule have on rural areas? Describe the
35 types of public or private interests in rural areas that will be affected by the rule.

36 VI. Environmental Impact. Does the proposed rule have any impact on the environment? If
37 yes, please explain.

1 VII. Small Business Impact Statement.

2 (a) Describe whether and how the agency considered exempting small businesses having
3 fewer than 50 full-time employees from the proposed rule.

4 (b) If small businesses are not exempt, describe the manner in which the agency reduced
5 the economic impact of the proposed rule on small businesses, including a detailed recitation of the
6 efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule
7 upon small businesses as described in this subparagraph, or the reasons such a reduction was not
8 lawful or feasible.

9 (1) Identify and estimate the number of small businesses affected by the proposed
10 rule and the probable effect on small business.

11 (2) Describe how the agency established differing compliance or reporting
12 requirements or timetables for small businesses under the rule after projecting the required
13 reporting, record-keeping, and other administrative costs.

14 (3) Describe how the agency consolidated or simplified the compliance and reporting
15 requirements and identify the skills necessary to comply with the reporting requirements.

16 (4) Describe how the agency established performance standards to replace design or
17 operation standards required by the proposed rule.

18 (c) Identify any disproportionate impact the proposed rule may have on small businesses
19 because of their size or geographic location.

20 (d) Identify the nature of any report and the estimated cost of its preparation by small
21 business required to comply with the proposed rule.

22 (e) Analyze the costs of compliance for all small businesses affected by the proposed rule,
23 including costs of equipment, supplies, labor, and increased administrative costs.

24 (f) Identify the nature and estimated cost of any legal, consulting, or accounting services
25 that small businesses would incur in complying with the proposed rule.

26 (g) Estimate the ability of small businesses to absorb the costs without suffering
27 economic harm and without adversely affecting competition in the marketplace.

28 (h) Estimate the cost, if any, to the agency of administering or enforcing a rule that
29 exempts or sets lesser standards for compliance by small businesses.

30 (i) Identify the impact on the public interest of exempting or setting lesser standards of
31 compliance for small businesses.

32 (j) Describe whether and how the agency has involved small businesses in the
33 development of the proposed rule. If small business was involved in the development of the rule,
34 please identify the businesses.

35 VIII. Cost-Benefit Analysis of Rule; Independent of Statutory Impact.

36 (a) Estimate the actual statewide compliance costs of the rule amendments on
37 businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost

1 of, or directly benefit from the proposed rule. What additional costs will be imposed on businesses
2 and other groups as a result of these proposed rules (such as new equipment, supplies, labor,
3 accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be
4 sure to quantify how each entity will be affected.

5 (b) Estimate the actual statewide compliance costs of the proposed rule on regulated
6 individuals or the public. Please include the costs of education, training, application fees,
7 examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping. How
8 many and what category of individuals will be affected by the rules? What qualitative and
9 quantitative impact does the proposed change in the rule have on these individuals?

10 (c) Quantify any cost reductions to businesses, individuals, groups of individuals, or
11 governmental units as a result of the proposed rule.

12 (d) Estimate the primary and direct benefits and any secondary or indirect benefits of
13 the proposed rule. Please provide both quantitative and qualitative information, as well as the
14 agency's assumptions.

15 (e) Explain how the proposed rule will impact business growth and job creation or
16 elimination in New Hampshire.

17 (f) Identify any individuals or businesses who will be disproportionately affected by the
18 rules as a result of their industrial sector, segment of the public, business size, or geographic
19 location.

20 (g) Identify the sources the agency relied upon in compiling the regulatory impact
21 statement, including the methodology utilized in determining the existence and extent of the impact
22 of a proposed rule and a cost-benefit analysis of the proposed rule. How were estimates made, and
23 what were your assumptions? Include internal and external sources, published reports, or other
24 information provided by associations or organizations, which demonstrate a need for the proposed
25 rule.

26 IX. Alternatives to Regulation.

27 (a) Identify any reasonable alternatives to the proposed rule that would achieve the
28 same or similar goals. In enumerating your alternatives, please include any statutory amendments
29 that may be necessary to achieve such alternatives.

30 (b) Discuss the feasibility of establishing a regulatory program similar to that proposed
31 in the rule that would operate through private market-based mechanisms. Please include a
32 discussion of private market-based systems utilized by other states.

33 (c) Discuss all significant alternatives the agency considered during rule development
34 and why they were not incorporated into the rule. This section should include ideas considered both
35 during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

36 X. Additional Information. Describe any instructions regarding the method of complying
37 with the rule, if applicable.

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1 3 Filing Final Proposal; Amended Fiscal Impact. Amend RSA 541-A:12, II(c) to read as follows:
2 (c) If required pursuant to RSA 541-A:5, VI, an amended fiscal impact statement [~~from~~
3 ~~the legislative budget assistant~~] **form** stating that as a result of notice and hearing the rule did
4 change and explaining how this change affects the original fiscal impact statement **form submitted**.
5 4 Effective Date. This act shall take effect 60 days after its passage.

HB 632-FN FISCAL NOTE

AN ACT relative to fiscal impact statements submitted by agencies adopting a rule under RSA 541-A.

FISCAL IMPACT:

The Department of Administrative Services states this bill, **as introduced**, will have an indeterminable impact on state expenditures in FY 2015 and each year thereafter. There will be no impact on county and local expenditures, or state, county, and local revenue.

METHODOLOGY:

The Department of Administrative Services states this bill requires an agency adopting administrative rules under RSA 541-A to submit a fiscal impact form to the Joint Legislative Committee on Administrative Rules and the Office of Legislative Budget Assistant (LBAO) which includes an analysis of the costs and benefits of the proposed rule. While RSA 541-A currently requires agencies to submit a fiscal impact statement to the LBAO, it does not require agencies to conduct a cost-benefit analysis. The Department states it is unable to determine the costs for agencies to complete fiscal impact statements in the manner outlined in the bill.