

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 22

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO STATE RULES; AMENDING AND ENACTING SECTIONS OF THE STATE RULES ACT TO REQUIRE REGULATORY IMPACT STATEMENTS UNDER CERTAIN CIRCUMSTANCES; AMENDING THE SMALL BUSINESS REGULATORY RELIEF ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 14-4-2 NMSA 1978 (being Laws 1967, Chapter 275, Section 2, as amended) is amended to read:

"14-4-2. DEFINITIONS.--As used in the State Rules Act:

A. "agency" means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches of the state government;

B. "person" includes individuals, associations, partnerships, companies, business trusts and corporations;

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 [and]

2 C. "regulatory impact statement" means a document,  
3 for informational purposes only, that pertains to a rule and  
4 that contains:

5 (1) a summary of the rule;

6 (2) a description of any person, resources,  
7 classes of persons and political subdivisions that would be  
8 affected by the rule;

9 (3) the probable negative and positive  
10 impacts, including the economic, social, environmental and any  
11 other relevant impacts, of the rule on affected persons,  
12 resources, classes of persons and political subdivisions;

13 (4) a comparison of the costs and benefits of  
14 the rule to the costs and benefits of inaction;

15 (5) the probable negative or positive impact  
16 to the state general fund, the state budget and any state  
17 special fund of taking the intended action;

18 (6) a statement on whether there are means for  
19 achieving the purpose of the rule with fewer adverse effects;

20 and

21 (7) a summary of public comments or other  
22 evidence submitted during rulemaking;

23 [~~G.~~] D. "rule" means any rule, regulation, order,  
24 standard or statement of policy, including amendments thereto  
25 or repeals thereof, issued or promulgated by any agency and

.182995.1

underscored material = new  
[bracketed material] = delete

1 purporting to affect one or more agencies besides the agency  
2 issuing [~~such~~] the rule or to affect persons not members or  
3 employees of [~~such~~] the issuing agency. An order or decision  
4 or other document issued or promulgated in connection with the  
5 disposition of any case or agency decision upon a particular  
6 matter as applied to a specific set of facts shall not be  
7 deemed such a rule, nor shall it constitute specific adoption  
8 thereof by the agency. [~~Such term shall~~] "Rule" does not  
9 include rules relating to the management, confinement,  
10 discipline or release of inmates of any penal or charitable  
11 institution, the [~~Springer~~] New Mexico boys' school or the  
12 girls' welfare home [~~of~~] or to any hospital [~~nor to~~] or rules  
13 made relating to the management of any particular educational  
14 institution, whether elementary or otherwise, [~~nor to~~] or rules  
15 made relating to admissions, discipline, supervision, expulsion  
16 or graduation of students therefrom; and

17 E. "rulemaking" means the process for adopting,  
18 promulgating, amending or repealing a rule."

19 SECTION 2. Section 14-4-3 NMSA 1978 (being Laws 1967,  
20 Chapter 275, Section 3, as amended) is amended to read:

21 "14-4-3. FORMAT OF RULES--FILING--DISTRIBUTION.--[~~Each~~]  
22 An agency promulgating [~~any~~] a rule shall place the rule in the  
23 format and style required by [~~rule of~~] the records center and  
24 shall deliver one original paper copy and one electronic copy  
25 to the records center. The records center shall [~~note thereon~~]

.182995.1

underscoring material = new  
[bracketed material] = delete

1 record the date and hour of filing. The records center shall  
2 maintain the original copy as a permanent record open to public  
3 inspection during office hours and shall have the rule  
4 published in a timely manner in the New Mexico register and  
5 compiled into the New Mexico administrative code. At the time  
6 of filing, an agency may submit to the records center an  
7 additional paper copy, for annotation with the date and hour of  
8 filing, to be returned to the agency."

9 SECTION 3. Section 14-4-5 NMSA 1978 (being Laws 1967,  
10 Chapter 275, Section 6, as amended) is amended to read:

11 "14-4-5. FILING AND COMPLIANCE REQUIRED FOR VALIDITY.--

12 A. Unless otherwise provided in the State Rules  
13 Act, no rule shall be valid or enforceable until [~~it is~~] the  
14 rule and the final regulatory impact statement are filed with  
15 the records center and the rule is published in the New Mexico  
16 register as provided by the State Rules Act. Unless a later  
17 date is otherwise provided by law, the effective date of a rule  
18 shall be the date of publication in the New Mexico register.

19 B. Emergency [~~regulations~~] rules may go into effect  
20 immediately upon filing with the records center, but emergency  
21 rules shall be effective no more than thirty days unless [~~they~~]  
22 the emergency rules are published in the New Mexico register  
23 and final regulatory impact statements are filed with the  
24 records center.

25 C. Notwithstanding Subsection D of Section 14-4-2

.182995.1

underscored material = new  
[bracketed material] = delete

1 NMSA 1978, a regulatory impact statement shall not be required  
2 for an order or statement of policy."

3 SECTION 4. A new section of the State Rules Act is  
4 enacted to read:

5 "[NEW MATERIAL] REGULATORY IMPACT STATEMENT--REQUIRED.--

6 A. At the beginning of rulemaking procedures, an  
7 agency shall prepare a draft regulatory impact statement on any  
8 proposed rule and make the document available for public  
9 inspection during office hours. At the time of notice of a  
10 public hearing on a rule, an agency shall include in the notice  
11 a public announcement that a draft regulatory impact statement  
12 is available for inspection and comment. At the end of  
13 rulemaking procedures and upon filing a rule, an agency shall  
14 prepare a final regulatory impact statement and file the final  
15 regulatory impact statement with the records center. An agency  
16 shall prepare the regulatory impact statement in the format and  
17 style established by the state records administrator.

18 B. If an agency is unable to complete all or part  
19 of a regulatory impact statement due to hardship, including  
20 lack of agency resources or unavailable information, the agency  
21 shall indicate the reason for the hardship in lieu of  
22 completing all or part of the regulatory impact statement.

23 C. The state records administrator shall maintain  
24 and make available to the public a list of all regulatory  
25 impact statements filed with the records center and any notices

.182995.1

underscored material = new  
[bracketed material] = delete

1 of exemption. The state records administrator shall also  
2 maintain and file the original copy of any regulatory impact  
3 statement as a permanent, public record. The state records  
4 administrator shall provide the list of all regulatory impact  
5 statements filed with the records center on July 1 of each year  
6 to the governor, the president pro tempore of the senate and  
7 the speaker of the house of representatives for distribution to  
8 the appropriate standing or interim legislative committee.

9 D. Notwithstanding other provisions of the State  
10 Rules Act, the public regulation commission shall be exempt  
11 from preparing and filing regulatory impact statements."

12 SECTION 5. Section 14-4A-4 NMSA 1978 (being Laws 2005,  
13 Chapter 244, Section 4) is amended to read:

14 "14-4A-4. RULES AFFECTING SMALL BUSINESS.--

15 A. Prior to the adoption of a proposed rule that  
16 may have an adverse effect on small business, an agency shall  
17 provide a copy of the proposed rule and a draft regulatory  
18 impact statement pursuant to the State Rules Act to the  
19 commission at the same time as persons who have requested  
20 advance notice of rulemaking.

21 B. Prior to the adoption of a proposed rule that  
22 the agency deems to have an adverse effect on small business,  
23 the agency shall consider regulatory methods that accomplish  
24 the objectives of the applicable law while minimizing the  
25 adverse effects on small business."

.182995.1

