

HOUSE BILL 409

By Johnson C

AN ACT to amend Tennessee Code Annotated, Title 4,  
Chapter 5, Part 2, relative to the Uniform  
Administrative Procedures Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-226(i)(1), is amended by deleting the subdivision in its entirety, substituting instead the following new language, and renumbering the subsequent subdivisions accordingly:

(1) Upon filing any rule with the secretary of state, the proposing agency shall include:

(A) A written justification for the proposed rule to be promulgated, which shall, at a minimum, include:

(i) A brief summary of the current rule and a summary of the proposed changes, including any known or anticipated change to regulatory activities;

(ii) A citation to and brief description of any federal or state law, rule, or regulation mandating the promulgation of the rule or establishing guidelines thereto;

(iii) A citation to and brief description of any state or federal judicial ruling, attorney general opinion, or administrative ruling that directly relates to the proposed action;

(iv) A clearly defined description of the objective of the proposed action;

(v) A demonstration of necessity for the proposed action, including, but not limited, to a comparison of the effect of action to non-action;

(vi) Identification and explanation of expected benefits and beneficiaries of the proposed action; and

(vii) An explanation of alternative actions considered, if any, and justification as to why the proposed action is preferable; and

(B) An impact analysis, which shall, at a minimum, include:

(i) Identification of persons, organizations, industries, businesses, or other entities most directly affected by the proposed action. The impact analysis shall specifically indicate whether any private employer of more than fifty (50) persons is directly impacted and whether any private employer of fifty (50) or fewer persons is directly impacted;

(ii) Identification of any local government or local governmental entity affected by the proposed action;

(iii) A brief summary of any comments offered by any person or entity described in subdivisions (i)(1)(B)(i) and (ii) and an indication of whether any such person or entity expressed support for or opposition to the proposed action;

(C)

(i) An explanation of any fee imposed pursuant to the proposed action, which shall, at a minimum include:

(a) An explanation of the purpose of any new fee imposed by the proposed action, including a corresponding demonstration of necessity, the amount of the fee, and identification of known or anticipated persons or entities who will ultimately pay the fee; and

(b) An explanation of the purpose of any change to an existing fee imposed by the proposed action, including a corresponding demonstration of necessity, the amount of the change, whether the change is an increase or reduction, the percentage change of the fee, and identification of known or anticipated persons or entities who will ultimately bear the costs or benefit from the reduction of the fee;

(ii) For a proposed action imposing any new fee or changing any existing fee to be implemented incrementally over a period of time, the proposing agency shall, in addition to the requirements of subdivisions (A) and (B), provide an explanation of the phasing process, including a schedule showing the amount and percentage change of annual fee changes and a demonstrated necessity of the changes;

(D) An explanation of alternative sources of funding considered, if any, and justification as to why the proposed action is preferable;

(E) An explanation of any expenditure other than a fee that may be required pursuant to the proposed action, including, at a minimum:

(i) An identification, brief description, and cost estimation of any expenditure, other than a fee, that may be required by any person, organization, industry, business, or other entity pursuant to the proposed action; and

(ii) An identification of the specific or type of person, organization, industry, or other entity that may be required to expend additional resources as a result of the proposed action;

(F) The identification of an agency contact for questions concerning the proposed action, including, at a minimum:

(i) The name, title, and contact information, including office address, telephone number, and email address of the agency representatives possessing knowledge and understanding of the proposed action and who are available to answer questions from the general public; and

(ii) The name, title, and contact information, including office address, telephone number, and email address of the agency representatives available to explain and discuss the proposed action at a scheduled meeting of the house of representatives and senate government operations committees; and

(G) Any additional information requested by the government operations committees of the senate and house of representatives.

(2)

(A) Upon the filing of any rule with the secretary of state, the office of the comptroller of the treasury shall include a statement of financial impact that, at a minimum, shall contain:

(i) To the extent practical, identification of the type and number of private and local government entities affected by the proposed action;

(ii) The identification of any new fee or change in the existing fee and the amount of the fee;

(iii) An estimation of any increase or decrease in expenditures by a private entity or local government related to any new fee or change in an existing fee;

(iv) An estimation of any increase or decrease in expenditures by a private entity or local government other than a fee as a result of the proposed action;

(v) An estimate, expressed as percentages, of the financial impact to the affected private and local government entities respectively;

(vi) An estimation of any change in revenue of a local government as a result of the proposed action;

(vii) Separate estimates of the net total change in revenues and expenditures of any affected private entities and local governments over the three-year period immediately following the enactment of the proposed action; and

(viii) A statement as to whether any change in revenue or expenditures by a private entity or local government is a one-time or recurring incident.

(B) The requirements of subdivision (i)(2)(A) shall not apply if:

(i) The office of the comptroller of the treasury certifies that neither a private entity nor a local government would be affected by the proposed action;

(ii) The office of the comptroller of the treasury certifies that the proposed action is limited solely to the implementation of a federal law or regulation mandating the promulgation of the rule or regulation and that the law does not afford the proposing agency any flexibility or latitude in the promulgation of the proposed action; or

(iii) The office of the comptroller of the treasury certifies that the proposed action is pursuant to a federal law or regulation mandating the

promulgation of the rule and the law or regulation does not afford the proposing agency any flexibility or latitude in a portion of the proposed action; provided, that the requirements of subdivision (b)(1) will be applicable to the portion of the proposed action for which flexibility or latitude was afforded.

(3) A proposing agency shall submit information required pursuant to this subsection (i) to the secretary of state, the senate and house government operations committees, and the office of the comptroller of the treasury; provided that when the proposing agency is the office of the comptroller of the treasury it shall submit such information to the secretary of state and the senate and house government operations committees.

(4) The requirements of this section are in addition to the requirements of part 4 of this chapter.

SECTION 2. Tennessee Code Annotated, Section 4-5-220(a), is amended by adding the following language as a new, appropriately designated subdivision:

( ) For every pending rule, the information required to be submitted by the proposing agency pursuant to § 4-5-226(i);

SECTION 3. This act shall take effect on January 1, 2014, the public welfare requiring it.