

HOUSE BILL 989

By Alexander

AN ACT to amend Tennessee Code Annotated, Title 3 and Title 4, relative to the fiscal impact of rules.

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

SECTION 1. Tennessee Code Annotated, Section 4-5-226(i), is amended by deleting subdivision (1) and substituting instead the following:

(1) Upon filing a rule with the secretary of state, the proposing agency shall also submit:

(A) A written justification for the rule to be promulgated, which must, 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 for the rule;

(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 in the rule;

(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 nonaction;

(vi) The 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;

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

(i) The identification of the type or classification 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) The identification of the type or classification of any local governmental entity affected by the proposed action; and

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

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

(i) 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 the type or classification of any known or anticipated persons or entities who will ultimately pay the fee;

(ii) 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 the type or classification of any known or anticipated persons or entities who will ultimately bear the costs of or benefit from the reduction of the fee;

(iii) For a proposed action imposing any new fee or changing any existing fee to be implemented incrementally over a period of time, in addition to the requirements of subdivisions (i)(1)(A) and (B), 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; and

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

(D) 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 and brief description of any expenditure, other than a fee, that may be required by any person, organization, industry, business, local governmental entity, or other entity pursuant to the proposed action; and

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

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

(i) The name, title, and contact information, including the 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 the 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

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

SECTION 2. Tennessee Code Annotated, Section 4-5-226(i), is further amended by renumbering the present subdivisions (i)(2)-(4) as subdivisions (i)(5)-(7) and adding the following as new subdivisions (i)(2)-(4):

(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 practicable, an estimation of the number of each type or classification of private entities and local governments affected by the proposed action;

(ii) The identification of any new fee or change in an existing fee, and the amount of such 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 entities and local government;

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

(vii) A statement of whether any change in revenue or expenditures by each type or classification of private entity is a one-time or recurring incident;

(viii) A statement of whether any change in revenue or expenditures by each type or classification of local government entity is a one-time or recurring incident; and

(ix) 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.

(B) 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 required by a federal law or regulation that does not afford the proposing agency any flexibility or latitude in a portion of the proposed action; provided, that the requirements of subdivision (i)(2)(A) apply to the portion of the proposed action for which flexibility or latitude was afforded.

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

(4) The requirements of this subsection (i) are in addition to the Regulatory Flexibility Act of 2007, compiled in title 4, chapter 5, part 4.

SECTION 3. Tennessee Code Annotated, Section 4-5-220(a), is amended by adding the following 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 4. This act shall take effect on January 1, 2018, the public welfare requiring it.