

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S

D

SENATE BILL 22
Agriculture/Environment/Natural Resources Committee Substitute Adopted 2/8/11
Third Edition Engrossed 2/9/11
PROPOSED HOUSE COMMITTEE SUBSTITUTE S22-PCS35099-RO-2

Short Title: APA Rules: Limit Additional Costs.

(Public)

Sponsors:

Referred to:

February 2, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT NEW AGENCY REGULATORY REQUIREMENTS THAT RESULT
3 IN SUBSTANTIAL ADDITIONAL COSTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 150B-19 is amended by adding a new subdivision to read:
6 "An agency may not adopt a rule that does one or more of the following:

7 ...

8 (7) Results in substantial estimated additional costs as defined in
9 G.S. 150B-2(8c) unless adoption of the rule is required to respond to at least
10 one of the following:

- 11 a. A serious and unforeseen threat to the public health, safety, or
12 welfare.
13 b. An act of the General Assembly or United States Congress that
14 expressly requires the agency to adopt rules.
15 c. A change in federal or State budgetary policy.
16 d. A federal regulation.
17 e. A court order."

18 **SECTION 2.** G.S. 150B-2 is amended by adding a new subdivision to read:

19 "(8c) "Substantial estimated additional costs" means an aggregate financial impact
20 on all persons subject to a proposed rule of at least five hundred thousand
21 dollars (\$500,000) in a 12-month period. In analyzing substantial estimated
22 additional costs, an agency shall:

- 23 a. Determine and identify the appropriate time frame of the analysis.
24 b. Assess the baseline conditions against which the proposed rule is to
25 be measured.
26 c. Describe the persons who would be subject to the proposed rule and
27 the type of expenditures these persons would be required to make.
28 d. Estimate any additional costs that would be created by
29 implementation of the proposed rule by measuring the incremental
30 difference between the baseline and the future condition expected
31 after implementation of the rule. The analysis should include direct
32 costs as well as opportunity costs. Cost estimates must be monetized



* S 2 2 - P C S 3 5 0 9 9 - R O - 2 *

1 to the greatest extent possible. Where costs are not monetized, they
2 must be listed and described.
3 e. For costs that occur in the future, the agency shall determine the net
4 present value of the costs by using a discount factor of seven percent
5 (7.0%)."

6 **SECTION 3.** This act is effective when it becomes law and applies to rules
7 published in the North Carolina Register by an agency on or after that date. This act expires
8 July 1, 2012.