

House Bill 586

In The House

January 30, 1981

Introduced and referred
to Committee on State
Administration.

February 10, 1981

Committee recommend bill
do not pass.

1 HOUSE BILL NO. 586
2 INTRODUCED BY Randuch

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE
5 PREPARATION OF AN ECONOMIC IMPACT STATEMENT ON EVERY AGENCY
6 RULE; PROVIDING FOR REFUSAL OF ACCEPTANCE BY THE
7 ADMINISTRATIVE CODE COMMITTEE; AMENDING SECTIONS 2-4-305 AND
8 2-4-405, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-4-405, MCA, is amended to read:

12 "2-4-405. Estimate of economic impact. (1) Upon
13 ~~request-of-the-administrative-code-committee,~~ on Each agency
14 shall prepare a statement of the estimated economic impact
15 of the adoption, amendment, or repeal of a each rule as
16 proposed. The statement must include an estimate of:

- 17 (a) the cost to the state of administering and
- 18 enforcing the rule;
- 19 (b) the aggregate cost of compliance to all persons
- 20 affected; and
- 21 (c) any economic benefit of compliance to all persons
- 22 affected.

23 (2) The statement must be transmitted to the
24 administrative code committee and filed with the secretary
25 of state for publication in the register and mailed to

1 persons who have requested advance notice of the agency's
2 rulemaking proceedings. The statement must be transmitted,
3 published, and mailed at least 20 days prior to the
4 adoption, amendment, or repeal of the rule. If a hearing is
5 held, it must be published 20 days prior to the hearing.

6 (3) If it is impossible to formulate such an estimate,
7 the reasons for impossibility of formulation must be
8 published instead of the estimate.

9 (4) This section does not apply to rulemaking pursuant
10 to 2-4-303.

11 (5) The final adoption, amendment, or repeal of a rule
12 is not subject to challenge in any court as a result of the
13 inaccuracy or inadequacy of a statement required under this
14 section. However, the committee may refuse to accept any
15 statement that in its judgment inadequately covers those
16 items contained in subsections (1)(a) through (1)(c). No
17 agency may continue rulemaking proceedings until acceptance
18 of the applicable statement by the committee."

19 Section 2. Section 2-4-305, MCA, is amended to read:

20 "2-4-305. Requisites for validity -- authority and
21 statement of reasons. (1) The agency shall consider fully
22 written and oral submissions respecting the proposed rule.
23 Upon adoption of a rule, an agency shall issue a concise
24 statement of the principal reasons for and against its
25 adoption, incorporating therein its reasons for overruling

1 the considerations urged against its adoption. When no
2 written or oral submissions have been received, an agency
3 may omit the statement of reasons.

4 (2) Rules may not unnecessarily repeat statutory
5 language. Whenever it is necessary to refer to statutory
6 language in order to convey the meaning of a rule
7 interpreting the language, the reference shall clearly
8 indicate that portion of the language which is statutory and
9 the portion which is amplification of the language.

10 (3) Each rule shall include a citation to the specific
11 grant of rulemaking authority pursuant to which it or any
12 part thereof is adopted. In addition, each rule shall
13 include a citation to the specific section or sections in
14 the Montana Code Annotated which the rule purports to
15 implement.

16 (4) To be effective, each substantive rule adopted
17 must be within the scope of authority conferred and in
18 accordance with standards prescribed by other provisions of
19 law.

20 (5) Whenever by the express or implied terms of any
21 statute a state agency has authority to adopt rules to
22 implement, interpret, make specific, or otherwise carry out
23 the provisions of the statute, no rule adopted is valid or
24 effective unless consistent and not in conflict with the
25 statute and reasonably necessary to effectuate the purpose

1 of the statute.

2 (6) No rule is valid unless adopted in substantial
3 compliance with 2-4-302 or 2-4-303 and this section and
4 unless notice of adoption thereof is published within 6
5 months of the publishing of notice of the proposed rule.
6 ~~However, if rulemaking proceedings are suspended by refusal~~
7 ~~of the administrative code committee to accept an economic~~
8 ~~impact statement prior to the expiration of the 6-month~~
9 ~~deadline provided for in this subsection, the agency may,~~
10 ~~following resubmission and acceptance of the economic impact~~
11 ~~statement by the committee, proceed with rulemaking during a~~
12 ~~time period equivalent to that portion of the 6-month period~~
13 ~~that remained prior to the action of the committee."~~

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