

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 402
Committee Substitute Favorable 4/15/25
PROPOSED SENATE COMMITTEE SUBSTITUTE H402-PCS40579-TQ-26

Short Title: Limit Rules With Substantial Financial Costs.

(Public)

Sponsors:

Referred to:

March 17, 2025

A BILL TO BE ENTITLED
AN ACT TO PUT LIMITATIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.3 reads as rewritten:

"§ 150B-21.3. Effective date of rules.

...
(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless (i) the Commission received written objections to the rule in accordance with subsection (b2) of this section, (ii) the rule would have an aggregate financial cost, as defined in G.S. 150B-19.4(d), on all persons affected of at least twenty million dollars (\$20,000,000) in a five-year period and requires ratification by the General Assembly pursuant to subsection (b3) of this section, or ~~unless~~ (iii) the agency that adopted the rule specifies a later effective date.

...
(b2) Objection. – Any person who objects to the adoption of a permanent rule may submit written comments to the agency. If the objection is not resolved prior to adoption of the rule, a person may submit written objections to the Commission. If the Commission receives written objections from 10 or more persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, clearly requesting review by the legislature in accordance with instructions posted on the agency's Web site pursuant to G.S. 150B-19.1(c)(4), and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. The Commission shall notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related rules adopted by the agency at the same time, the agency that adopted the rule may cause any of the other rules in the group to become effective as provided in subsection (b1) of this section by submitting a written statement to that effect to the Codifier of Rules before the other rules become effective. A rule that requires ratification by the General Assembly pursuant to subsection (b3) of this section shall not be subject to this subsection.

(b3) A permanent rule that would have an aggregate financial cost, as defined in G.S. 150B-19.4(d), on all persons affected of at least twenty million dollars (\$20,000,000) in a five-year period shall become effective only if the General Assembly ratifies a bill to approve the rule. If a bill that specifically approves the rule is ratified by the General Assembly, the rule shall become effective on the later of (i) the first day of the month following the month that the



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bill ratifying the rule becomes effective or (ii) the date specified by the agency adopting the rule. If the General Assembly does not ratify a bill approving the rule, the Commission shall return the rule to the agency within 15 days of the General Assembly adjourning for a period of 30 days or more. This subsection shall not apply to a rule or set of rules that is required by federal law, including a rule or set of rules necessary to maintain compliance with a program delegated to the State from a federal agency.

...."

SECTION 2. G.S. 150B-21.4(b1) reads as rewritten:

"(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note approved by the Office of State Budget and Management. The agency must also obtain from the Office a certification that the agency adhered to the regulatory principles set forth in G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and Management to prepare the fiscal note only after, working with the Office, it has exhausted all resources, internal and external, to otherwise prepare the required fiscal note. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a ~~12-month~~ five-year period. In analyzing substantial economic impact, an agency shall do the following:

- (1) Determine and identify the appropriate time frame of the analysis.
- (2) Assess the baseline conditions against which the proposed rule is to be measured.
- (3) Describe the persons who would be subject to the proposed rule and the type of expenditures these persons would be required to make.
- (4) Estimate any additional costs that would be created by implementation of the proposed rule by measuring the incremental difference between the baseline and the future condition expected after implementation of the rule. The analysis should include direct costs as well as opportunity costs. Cost estimates must be monetized to the greatest extent possible. Where costs are not monetized, they must be listed and described.
- (5) For costs that occur in the future, the agency shall determine the net present value of the costs by using a discount factor of seven percent (7%)."

SECTION 3. Part 1 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

"§ 150B-19.4. Limitation on rules with substantial financial costs.

1 (a) If an agency determines that a proposed permanent rule or set of rules will have a
2 projected aggregate financial cost to all persons affected equal to or greater than one million
3 dollars (\$1,000,000) during any five-year period and the agency is a board, a commission, a
4 council, or other similar unit of government, the permanent rule or set of rules must be adopted
5 by a vote of at least two-thirds of the board or commission members present and voting on the
6 rule or set of rules.

7 (b) If an agency determines that a proposed permanent rule or set of rules will have a
8 projected aggregate financial cost to all persons affected equal to or greater than ten million
9 dollars (\$10,000,000) during any five-year period and the agency is a board, a commission, a
10 council, or other similar unit of government, the permanent rule or set of rules must be adopted
11 by a unanimous vote of the board or commission members present and voting on the rule or set
12 of rules. Provided, however, that if the rule or set of rules is required by federal law, including a
13 rule or set of rules necessary to maintain compliance with a program delegated to the State from
14 a federal agency, the permanent rule or set of rules must be adopted by a vote of at least two-thirds
15 of the board or commission members present and voting on the rule or set of rules.

16 (c) This section shall apply to all rules adopted pursuant to Article 2A of Chapter 150B
17 of the General Statutes, including rules undergoing periodic review and readoption under
18 G.S. 150B-21.3A.

19 (d) For purposes of this section, "aggregate financial cost" means the amount of costs to
20 all persons affected identified in a substantial economic impact analysis conducted according to
21 G.S. 150B-21.4(b1), not inclusive of benefits."

22 **SECTION 4.** This act is effective when it becomes law and applies to rules adopted
23 on or after that date.