

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2010-11		FY 2011-12	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below		See Below	
CASH FUNDS	See Below		See Below	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 709 would create the Small Business Regulatory Flexibility Act and the Small Business Regulatory Review Board.

The act would apply to any state agency, board, commission, department, officer, division or other administrative office or unit of state government authorized to adopt and promulgate rules or regulations.

The act would require that prior to the adoption of any proposed rule or regulation that may have an adverse economic impact on small business, the agency proposing the rule shall solicit public comment from small businesses, and that if the agency has a reasonable certainty that a specific small business may be adversely affected that the agency notify that specific business.

In addition the act would require, prior to adoption of the proposed rule or regulation, that the agency take into account any public comment and shall consider methods of reducing the adverse economic impact of the proposed rule or regulation. The act also provides that a small business that is adversely affected or aggrieved by adoption of a rule or regulation is entitled to judicial review of agency compliance with the act.

Small business is defined as a business entity that is independently owned and operated and employs fewer than 500 full-time employees or has gross annual sales of less than \$6,000,000.

The act also requires that each agency shall review all rules and regulations issued by it that are in effect on the effective date of this act within four years of the effective date of the act to determine if those rules and regulations should be continued in effect or should be amended or repealed to minimize adverse economic impact on small businesses. For rules and regulations passed after the effective date of this act the required review period is within five years after final publication and every five years thereafter.

The Small Business Regulatory Review Board is created within the Department of Labor and is to consist of the Commissioner of Labor, Director of Economic Development, Tax Commissioner, and five public members appointed by the Governor subject to the approval of the Legislature; in addition the chairperson of the Business and Labor Committee of the Legislature shall serve as a nonvoting, ex officio member of the board. The board is to review any proposed rule or regulation submitted by an agency pursuant to the act and shall submit recommendations to the agency and the Legislature regarding the need for such rule or regulation. Board members are to be reimbursed for their actual and necessary expenses.

As the act would apply to all state agencies that adopt and promulgate rules and regulations the potential impact is enterprise wide. A sampling of agencies were asked to respond as to potential fiscal impact and their responses vary.

The Secretary of State indicates no fiscal impact.

The Department of Natural Resources indicates no fiscal impact.

The Department of Environmental Quality indicates the following fiscal impact for agency implementation:

	General Fund Expenditures:	Cash Fund Expenditures:	Total Expenditures:
FY10-11	\$119,000	\$119,000	\$238,000
FY11-12	\$119,000	\$119,000	\$238,000

The above expenses are identified as operating expenses.

The Department of Labor indicates the following fiscal impact for agency implementation:

	General Fund Expenditures:	Cash Fund Expenditures:	Total Expenditures:
FY10-11:	\$170,213	\$0	\$170,213
FY11-12:	\$174,019	\$0	\$174,019

The Department indicates the above costs would include two staff positions: an Economist and a Research Analyst.

The Department of Revenue indicates the following fiscal impact for agency implementation:

	General Fund Expenditures:	Cash Fund Expenditures:	Total Expenditures:
FY10-11:	\$723,000	\$0	\$723,000
FY11-12:	\$717,000	\$0	\$717,000

The Department estimates the addition of a Revenue Tax Specialist and an Attorney III. The above costs include \$148,000 for FY10-11 and \$142,000 for FY11-12 for personnel costs and \$575,000 each fiscal year for operating costs.

The Department of Health and Human Services did not respond.

Total fiscal impact from responding agencies is as follows:

	General Fund Expenditures:	Cash Fund Expenditures:	Total Expenditures:
FY10-11:	\$1,012,213	\$119,000	\$1,131,213
FY11-12:	\$1,010,019	\$119,000	\$1,129,019

As can be seen from the sample of agencies the potential impact varies widely. It appears the impact to the larger regulatory agencies will be significant and their estimates of impact appear reasonable. Given that the response received is only a sampling of agencies, it is also reasonable to expect the enterprise wide impact to be higher.

DEPARTMENT OF ADMINISTRATIVE SERVICES

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COMMENTS					
DEPARTMENT OF NATURAL RESOURCES: Agree with estimate of impact. SECRETARY OF STATE: No basis to disagree with estimate of impact.					