

By: Representative Boyd (19th)

To: Accountability,  
Efficiency, Transparency

## HOUSE BILL NO. 868

1 AN ACT TO AMEND SECTION 25-43-3.103, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT THE NOTICE OF AN AGENCY'S PROPOSED RULE  
3 ADOPTION SHALL INCLUDE HOW MUCH THE PROPOSED RULE WILL COST THE  
4 STATE; TO REQUIRE A COPY OF THE NOTICE OF PROPOSED RULE ADOPTION  
5 TO BE PROVIDED TO EACH MEMBER OF THE MISSISSIPPI LEGISLATURE; TO  
6 AMEND SECTION 25-43-3.105, MISSISSIPPI CODE OF 1972, TO PROVIDE  
7 THAT A COPY OF THE ECONOMIC IMPACT STATEMENT SHALL BE FORWARDED TO  
8 EACH MEMBER OF THE MISSISSIPPI LEGISLATURE AT NO COST TO THE  
9 MEMBER; TO BRING FORWARD SECTION 25-43-4.104, MISSISSIPPI CODE OF  
10 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
11 PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 25-43-3.103, Mississippi Code of 1972, is  
14 amended as follows:

15 25-43-3.103. (1) At least twenty-five (25) days before the  
16 adoption of a rule an agency shall cause notice of its  
17 contemplated action to be properly filed with the Secretary of  
18 State for publication in the administrative bulletin. The notice  
19 of proposed rule adoption must include:

20 (a) A short explanation of the purpose of the proposed  
21 rule and the agency's reasons for proposing the rule;



(b) The specific legal authority authorizing the promulgation of rules;

(c) A reference to all rules repealed, amended or suspended by the proposed rule;

(d) Subject to Section 25-43-2.101(5), the text of the proposed rule;

(e) Where, when and how persons may present their views on the proposed rule; \* \* \*

(f) Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one \* \* \*;

(g) How much the proposed rule will cost the state.

(2) Within three (3) days after its proper filing with the Secretary of State for publication in the administrative bulletin, the agency shall cause a copy of the notice of proposed rule adoption to be provided to each member of the Mississippi Legislature and to each person who has made a timely request to the agency to be placed on the mailing list maintained by the agency of persons who have requested notices of proposed rule adoptions. An agency may mail the copy to the person and may charge the person a reasonable fee for such service, which fee may be in excess of the actual cost of providing the person with a mailed copy; however, no such fee shall be charged to members of the Mississippi Legislature. Alternatively, the agency may provide the copy via the Internet or by transmitting it to the



47 person by electronic means, including, but not limited to,  
48 facsimile transfer or e-mail at no charge to the person, if the  
49 person consents to this form of delivery.

50 **SECTION 2.** Section 25-43-3.105, Mississippi Code of 1972, is  
51 amended as follows:

52 25-43-3.105. (1) Prior to giving the notice required in  
53 Section 25-43-3.103, each agency proposing the adoption of a rule  
54 or significant amendment of an existing rule imposing a duty,  
55 responsibility or requirement on any person shall consider the  
56 economic impact the rule will have on the citizens of our state  
57 and the benefits the rule will cause to accrue to those citizens.  
58 For purposes of this section, a "significant amendment" means any  
59 amendment to a rule for which the total aggregate cost to all  
60 persons required to comply with that rule exceeds One Hundred  
61 Thousand Dollars (\$100,000.00).

62 (2) Each agency shall prepare a written report providing an  
63 economic impact statement for the adoption of a rule or  
64 significant amendment to an existing rule imposing a duty,  
65 responsibility or requirement on any person, except as provided in  
66 subsection (7) of this section. The economic impact statement  
67 shall include the following:

68 (a) A description of the need for and the benefits  
69 which will likely accrue as the result of the proposed action;

70 (b) An estimate of the cost to the agency, and to any  
71 other state or local government entities, of implementing and



enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues;

(c) An estimate of the cost or economic benefit to all persons directly affected by the proposed action;

(d) An analysis of the impact of the proposed rule on small business;

(e) A comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule;

(f) A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law;

(g) A description of reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency and a statement of reasons for rejecting those alternatives in favor of the proposed rule; and

(h) A detailed statement of the data and methodology used in making estimates required by this subsection.

(3) No rule or regulation shall be declared invalid based on a challenge to the economic impact statement for the rule unless the issue is raised in the agency proceeding. No person shall have standing to challenge a rule, based upon the economic impact statement or lack thereof, unless that person provided the agency with information sufficient to make the agency aware of specific



concerns regarding the statement in an oral proceeding or in written comments regarding the rule. The grounds for invalidation of an agency action, based upon the economic impact statement, are limited to the agency's failure to adhere to the procedure for preparation of the economic impact statement as provided in this section, or the agency's failure to consider information submitted to the agency regarding specific concerns about the statement, if that failure substantially impairs the fairness of the rule-making proceeding.

(4) A concise summary of the economic impact statement must be properly filed with the Secretary of State for publication in the administrative bulletin and the period during which persons may make written submissions on the proposed rule shall not expire until at least twenty (20) days after the date of such proper filing.

(5) The properly filed summary of the economic impact statement must also indicate where persons may obtain copies of the full text of the economic impact statement and where, when and how persons may present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided.

(6) If the agency has made a good-faith effort to comply with the requirements of subsections (1) and (2) of this section, the rule may not be invalidated on the ground that the contents of the economic impact statement are insufficient or inaccurate.



(7) This section does not apply to the adoption of:

(a) Any rule which is required by the federal government pursuant to a state/federal program delegation agreement or contract;

(b) Any rule which is expressly required by state law; and

(c) A temporary rule adopted pursuant to Section 25-43-3.108.

(8) A copy of the economic impact statement shall be forwarded to each member of the Mississippi Legislature at no cost to the member.

**SECTION 3.** Section 25-43-4.104, Mississippi Code of 1972, is brought forward as follows:

25-43-4.104. (1) Prior to submitting proposed permanent rules for adoption, amendment, revision or revocation pursuant to the Mississippi Administrative Procedures Law, the agency shall comply with Section 25-43-3.105(2)(d) in order to determine whether the proposed rules affect small business by preparing an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the proposed regulation;

(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record;



(c) A statement of the probable effect on impacted small businesses;

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation, including the following regulatory flexibility analysis:

(i) The establishment of less stringent compliance or reporting requirements for small businesses;

(ii) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(iii) The consolidation or simplification of compliance or reporting requirements for small businesses;

(iv) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and

(v) The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations.

(2) If the economic impact statement reflects that a proposed rule may have an economic effect upon small business, the agency shall submit a copy of the proposed rules and the economic impact statement to the committee for its review and comment pursuant to the review and comment provisions of the Mississippi Administrative Procedures Law. During the committee review



process, the director or the director's designee of the promulgating agency shall be available at the request of the committee for comment on the proposed regulation.

(3) Within the review and comment period, if the committee determines that the proposed rules may have an economic effect upon small business, the committee may submit to the agency its comments concerning the proposed regulation including its specific recommendations.

(4) A small business that is affected or aggrieved by final agency action to enforce a rule or regulation is entitled to review of agency compliance with the requirements of this act.

(5) To ensure that any final rule continues to minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes, each agency shall, during any periodic review required by this chapter, consider the following factors:

- (a) The continued need for the rule;
- (b) The nature of complaints or comments received concerning the rule from the public;
- (c) The complexity of the rule;
- (d) The extent to which the rule overlaps, duplicates, or conflicts with other federal, state and local governmental law or rules; and





195 (e) The length of time since the rule has been  
196 evaluated or the degree to which technology, economic conditions,  
197 or other factors have changed in the area affected by the rule.

198 (6) If an agency's economic impact statement reflects that a  
199 proposed rule will have no economic impact upon a small business,  
200 or if an agency fails to file an economic impact statement and the  
201 committee otherwise determines that the agency's proposed rule  
202 will have an economic impact, then the committee may file its own  
203 economic impact statement for the agency's proposed rule with the  
204 Secretary of State and notify the appropriate agency that the  
205 economic impact statement was filed. When the committee files its  
206 economic impact statement, if an agency has not completed the  
207 regulatory process that is required for the applicable proposed  
208 rule to become final, the committee shall have an additional sixty  
209 (60) days from the date of filing its economic impact statement  
210 with the Secretary of State to submit its comments concerning the  
211 proposed regulation and any specific recommendations to the  
212 agency, for its consideration. During the additional sixty (60)  
213 days' committee review process, the director of the promulgating  
214 agency, or his or her designee, shall be available at the request  
215 of the committee to comment on the proposed regulation.

216 **SECTION 4.** This act shall take effect and be in force from  
217 and after July 1, 2025.

