

ASSEMBLY, No. 5594

STATE OF NEW JERSEY 222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:

Assemblyman MICHAEL INGANAMORT
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblywoman Fantasia and Assemblyman Scharfenberger

SYNOPSIS

Modifies scope of New Jersey Regulatory Flexibility Act related to economic impact of rules on small businesses and small local government units.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/15/2026)

1 AN ACT concerning aspects of administrative rule-making that
2 impact small businesses and small local government units and
3 amending and supplementing P.L.1986, c.169 (C.52:14B-16 et
4 seq.).

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 2 of P.L.1986, c.169 (C.52:14B-17) is amended to
10 read as follows:

11 2. a. As used in this act [, "small business"] :

12 "Small business" means any business, or an affiliate of any
13 business, which is resident in this State, independently owned and
14 operated and not dominant in its field, and which employs fewer
15 than 100 full-time employees or has gross annual sales of less than
16 \$6 million.

17 "Small local government unit" means a municipality, county,
18 town, township, village, school district, or special district with a
19 population of less than 50,000, as determined by the most recent
20 federal decennial census or American Community Survey five-year
21 estimate.

22 b. Following the effective date of P.L. , c. (pending before
23 the Legislature as this bill), the \$6 million gross annual sales
24 threshold established by subsection a. of this section shall be
25 adjusted triennially by the State Treasurer to reflect changes in the
26 Consumer Price Index since the last adjustment, rounded to the
27 nearest \$100,000. For the purpose of this section, "Consumer Price
28 Index" means the Consumer Price Index for All Urban Consumers,
29 New York-Northern New Jersey-Long Island Metropolitan Area,
30 All Items (1982-84=100), as published by the Bureau of Labor
31 Statistics in the United States Department of Labor. An adjustment
32 to the threshold shall be made only if the percent change in the
33 Consumer Price Index for the period specified is greater than zero.
34 If the reference base of the index is changed, the index used to
35 determine the Consumer Price Index shall be the index converted to
36 the new base by standard statistical methods. A public notice of
37 such adjustment shall be published in the New Jersey Register and
38 on the Department of the Treasury website.

39 (cf: P.L.1986, c.169, s.2)

40
41 2. Section 3 of P.L.1986, c.169 (C.52:14B-18) is amended to
42 read as follows:

43 3. In developing and proposing a rule for adoption, the agency
44 involved shall utilize approaches which will accomplish the
45 objectives of applicable statutes while minimizing any adverse
46 economic impact of the proposed rule on small businesses and small
47 local government units of different types and of differing sizes.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Consistent with the objectives of applicable statutes, the agency **【**,
2 where feasible,**】** shall utilize such approaches as:

3 a. The establishment of differing or less stringent compliance
4 or reporting requirements or timetables that take into account the
5 resources available to small businesses and small local government
6 units;

7 b. The use of performance rather than design standards; **【and】**

8 c. An exemption from coverage by the rule, or by any part
9 thereof, for small businesses and small local government units so
10 long as the public health, safety, or general welfare is not
11 endangered; and

12 d. The consolidation or simplification of compliance or
13 reporting requirements for small businesses and small local
14 government units so long as the public health, safety, or general
15 welfare is not endangered.

16 (cf: P.L.1986, c.169, s.3)

17
18 3. Section 4 of P.L.1986, c.169 (C.52:14B-19) is amended to
19 read as follows:

20 4. In proposing a rule for adoption, the agency involved shall
21 issue a regulatory flexibility analysis regarding the rule, which shall
22 be included in the notice of a proposed rule as required by
23 subsection (a) of section 4 of P.L. 1968, c. 410 (C. 52:14B-4).

24 Each regulatory flexibility analysis shall contain:

25 a. A description of the types and an estimate of the number of
26 small businesses and small local government units, as applicable, to
27 which the proposed rule will apply;

28 b. A description of the reporting, record-keeping and other
29 compliance requirements being proposed for adoption, and the
30 kinds of professional services that a small business or small local
31 government unit is likely to need in order to comply with the
32 requirements;

33 c. An estimate of the initial capital costs and an estimate of the
34 annual cost of complying with the rule, with an indication of any
35 likely variation in the costs for small businesses and small local
36 government units of different types and of differing sizes; and

37 d. An indication of how the rule, as proposed for adoption, is
38 designed to minimize any adverse economic impact of the proposed
39 rule on small businesses or small local government units, or both.

40 **【**This section shall not apply to any proposed rule which the
41 agency finds would not impose reporting, record-keeping, or other
42 compliance requirements on small businesses. The agency's finding
43 and an indication of the basis for its finding shall be included in the
44 notice of a proposed rule as required by subsection (a) of section 4
45 of P.L. 1968, c. 410 (C. 52:14B-4).**】**

46 (cf: P.L.1986, c.169, s.4)

1 4. (New section) The Legislature finds and declares that:

2 a. A vibrant and growing small business sector is critical to
3 creating jobs in a dynamic economy. However, small businesses
4 bear a disproportionate share of regulatory costs and burdens.

5 b. Uniform regulatory and reporting requirements can impose
6 unnecessary and disproportionately burdensome demands, including
7 legal, accounting, and consulting costs, upon small businesses with
8 limited resources. The failure to recognize differences in the scale
9 and resources of regulated businesses can adversely affect
10 competition in the marketplace, discourage innovation, and restrict
11 improvements in productivity. Unnecessary regulations create entry
12 barriers in many industries and discourage potential entrepreneurs
13 from introducing beneficial products and processes.

14 c. The practice of treating all regulated businesses as equivalent
15 may lead to inefficient use of regulatory agency resources,
16 enforcement problems, and, in some cases, to actions inconsistent
17 with the legislative intent of health, safety, environmental, and
18 economic welfare legislation.

19 d. The regulatory and enforcement culture of State agencies
20 can be more responsive to small business without compromising the
21 statutory missions of the agencies. When adopting rules to protect
22 the health, safety, and economic welfare of New Jersey, State
23 agencies should seek to achieve statutory goals as effectively and
24 efficiently as possible without imposing unnecessary burdens on
25 small employers. Alternative regulatory approaches which do not
26 conflict with the stated objective of applicable statutes may be
27 available to minimize the significant economic impact of rules on
28 small businesses.

29 e. Small local government units may also struggle to comply
30 with uniform regulatory and reporting requirements because of
31 limited staff, technological, and financial resources, and may
32 benefit from alternative regulatory approaches that minimize the
33 impact of rules on these government units.

34 f. Therefore, the process by which State rules are developed
35 and adopted should require agencies to solicit the ideas and
36 comments of small businesses and small local government units, as
37 applicable, to examine the impact of proposed and existing rules on
38 such businesses and units, as applicable, and to review the
39 continued need for existing rules. Judicial review for compliance
40 should be available for small businesses and small local government
41 units.

42

43 5. (New section) a. To facilitate greater participation from
44 small businesses and small local government units in the
45 rulemaking process, an agency shall employ special participation
46 methods, including direct electronic notices to affected businesses
47 and local government units, hearing times that accommodate
48 traditional business hours, accessible meeting locations, and

1 simplified portals for the submission of public comments.

2 b. The agency shall designate a small business and small local
3 government unit regulatory coordinator and shall publish the
4 electronic mail address and telephone number of the coordinator in
5 a prominent location on its Internet website. The coordinator shall
6 act as the primary contact for small business and small local
7 government unit regulatory inquiries for the agency.

8
9 6. (New section) a. In proposing a rule for adoption, the
10 agency involved shall, in addition to the regulatory flexibility
11 analysis conducted pursuant to P.L.1986, c.169 (C.52:14B-16 et
12 seq.), prepare an Economic, Small Business, Small Local
13 Government Unit, and Consumer Impact Statement. The statement
14 shall:

15 (1) identify persons directly affected by, or benefiting from, the
16 rule;

17 (2) present a cost benefit analysis, including ranges where
18 appropriate, for the agency, political subdivisions, and directly
19 affected businesses and local government units;

20 (3) quantify, to the extent feasible, small business and small
21 local government unit compliance and administrative costs;

22 (4) consider potential challenges for compliance with the
23 proposed rule, which shall include, but not be limited to, existing
24 federal, State, or local laws or regulations, relevant licensing or
25 permitting requirements, conflicting regulations, and market
26 conditions;

27 (5) evaluate alternatives to reduce such challenges, including,
28 but not limited to, the approaches provided in section 3 of P.L.1986,
29 c.169 (C.52:14B-18), and explain why each alternative was adopted
30 or rejected; and

31 (6) summarize and consider any Small Business and Small
32 Local Government Unit Review Panel report prepared pursuant to
33 section 8 of P.L. , c. (C.) (pending before the Legislature
34 as this bill).

35 b. Within 30 days after the adoption of any rule that has been
36 determined to have a significant economic impact on a substantial
37 number of small businesses or small local government units, or
38 both, the promulgating agency shall publish on its Internet website,
39 and file with the Office of Administrative Law for public access, a
40 plain language small business and small local government unit
41 compliance guide summarizing the requirements of the rule, the
42 evaluation and explanation of alternatives required pursuant to
43 paragraph (5) of subsection a. of this section, effective dates, and
44 agency contacts for technical assistance.

45 c. If the head of the agency determines that the proposed rule
46 will not have a significant economic impact on a substantial number
47 of small businesses or small local government units, or both, the
48 agency head shall certify such determination. Such certification

1 shall be in writing, detail the factual basis for the determination,
2 including data, methods, and assumptions, and be included in the
3 notice of proposal. The certification, and its basis, shall be part of
4 the rulemaking record.

5 d. Any person, small business, or small local government unit
6 that stands to be adversely affected by the proposed rule may seek
7 review of a certification provided pursuant to subsection c. of this
8 section in the Appellate Division of the Superior Court, provided
9 that the person, small business, or small local government unit files
10 with the court within 45 days of publication of the certification.
11 The court shall set aside any certification found to be arbitrary,
12 capricious, or unreasonable, or issued without observance of
13 procedure required by law.

14
15 7. (New section) a. An agency seeking to continue in effect an
16 expiring rule by duly proposing for readoption of the rule, with
17 substantive changes, prior to its expiration pursuant to subsection c.
18 of section 10 of P.L.2001, c.5 (C.52:14B-5.1), shall consider, in
19 addition to other analyses and statements required by law, the
20 following factors to ensure that any adverse economic impact of the
21 rule on small businesses or small local government units, or both, is
22 minimized in a manner consistent with the objectives of the
23 applicable statutes:

24 (1) the continued need for the rule;

25 (2) the nature of complaints or comments received from the
26 public concerning the rule;

27 (3) the complexity of the rule;

28 (4) the extent to which the rule overlaps, duplicates, or conflicts
29 with other federal and State rules; and

30 (5) the length of time since the rule has been evaluated or the
31 degree to which technology, economic conditions, or other factors
32 have changed in the area affected by the rule.

33 b. The agency's consideration of, and findings regarding, these
34 factors shall be described in the regulatory flexibility analysis
35 issued on the proposed readoption of the rule in accordance with
36 section 4 of P.L.1986, c.169 (C.52:14B-19).

37 c. An agency seeking to continue in effect an expiring rule
38 without changes to the existing rule, or a proposed readoption with
39 technical changes, shall consider the additional factors set forth in
40 subsection a. of this section prior to providing notice of the
41 adoption to the Office of Administrative Law. The agency's
42 consideration of, and findings regarding, these factors shall be filed
43 in writing with the notice of readoption, and a copy shall be
44 provided to the New Jersey Business Action Center in the
45 Department of State.

46
47 8. (New section) a. If, based upon the regulatory flexibility
48 analysis conducted pursuant to P.L.1986, c.169 (C.52:14B-16 et

1 seq.) or the Economic, Small Business, Small Local Government
2 Unit, and Consumer Impact Statement prepared pursuant to section
3 6 of P.L. , c. (C.) (pending before the Legislature as this
4 bill), the agency determines that a rule is likely to have a significant
5 economic impact on a substantial number of small businesses or
6 small local government units, or both, the agency shall, prior to
7 publishing a notice of proposed rulemaking pursuant to section 4 of
8 P.L.1968, c.410 (C.52:14B-4), convene a Small Business and Small
9 Local Government Unit Review Panel to obtain input on feasible
10 regulatory alternatives.

11 b. The panel shall consist of nine members as follows:

12 (1) four members shall be agency personnel with subject matter
13 and economic expertise;

14 (2) four members shall be individuals representative of affected
15 small businesses or affected small local government units, or both.
16 A member representative of an affected small business shall be
17 identified in consultation with the New Jersey Business Action
18 Center and relevant industry associations and chambers of
19 commerce. The members shall be determined as follows:

20 (a) if a rule affects only small businesses, four members shall be
21 individuals representative of affected small businesses;

22 (b) if a rule affects only small local government units, four
23 members shall be individuals representative of affected small local
24 government units; or

25 (c) if a rule affects both small businesses and small local
26 government units, two members shall be individuals representative
27 of affected small businesses and two members shall be individuals
28 representative of affected small local government units; and

29 (3) one member shall be a representative designated by the
30 Office of Administrative Law.

31 The members shall serve as long as may be necessary to
32 complete a review of the prospective rule. Any vacancy in the
33 membership of the panel shall be filled for the unexpired term in the
34 manner provided by the original appointment.

35 c. The panel shall solicit, receive, and summarize advice and
36 recommendations from representatives of at least 25 small
37 businesses and small local government units of different industries
38 and sizes regarding: (1) significant regulatory alternatives; (2)
39 compliance or reporting timetables; (3) partial or full exemptions
40 consistent with public health, safety, or general welfare; (4) the use
41 of performance standards rather than design standards; and (5) any
42 other approaches that would accomplish the objectives of applicable
43 law without potential challenges.

44 d. The panel may review any draft material prepared in
45 connection with the regulatory flexibility analysis required by
46 section 4 of P.L.1986, c.169 (C.52:14B-19) or the Economic, Small
47 Business, Small Local Government Unit, and Consumer Impact
48 Statement prepared pursuant to section 6 of P.L. , c. (C.)

1 (pending before the Legislature as this bill), including any
2 preliminary economic analyses, issue statements, or outlines of
3 regulatory approaches, as those materials become available.

4 e. Not later than 60 days after convening, the panel shall issue
5 a written report of its findings and recommendations to the head of
6 the agency. The report shall be included in the rulemaking record
7 and summarized in the preamble and in the regulatory flexibility
8 analysis required by section 4 of P.L.1986, c.169 (C.52:14B-19) for
9 the proposed rule.

10 f. This section shall not apply to an emergency adoption of a
11 rule pursuant to subsection (c) of section 4 of P.L.1968, c.410
12 (C.52:14B-4); however, to the maximum extent practicable, the
13 agency shall solicit input from at least 25 affected small businesses
14 or affected small local government units, or both, prior to such
15 adoption and shall conduct a panel review for any concurrent or
16 subsequent non-emergency proposals addressing substantially
17 similar subject matter.

18
19 9. (New section) a. At least once every 10 years, each agency
20 shall review rules that have been determined, based upon the
21 regulatory flexibility analysis conducted pursuant to P.L.1986,
22 c.169 (C.52:14B-16 et seq.) or the Economic, Small Business,
23 Small Local Government Unit, and Consumer Impact Statement
24 prepared pursuant to section 6 of P.L. , c. (C.) (pending
25 before the Legislature as this bill), to have a significant economic
26 impact on a substantial number of small businesses or small local
27 government units, or both, to determine whether such rules should
28 be continued without change, amended, or repealed to reduce
29 potential challenges while achieving statutory objectives.

30 The review shall consider:

31 (1) the continued need for the rule;

32 (2) the nature of complaints or comments received;

33 (3) the complexity of the rule;

34 (4) the extent to which the rule overlaps, duplicates, or conflicts
35 with federal, State, or local requirements;

36 (5) changes in technology, economic conditions, or other
37 relevant factors; and

38 (6) the availability of alternatives that reduce potential
39 challenges.

40 b. Each agency shall publish a review schedule, solicit public
41 comments, and file review reports with the Office of Administrative
42 Law for public access.

43 c. The review required pursuant to subsection a. of this section
44 shall not be required if the adverse impacts of the rule were
45 considered, and such consideration was documented and filed with
46 the Office of Administrative Law, in accordance with section 7 of
47 P.L. , c. (C.) (pending before the Legislature as this bill), at
48 the time the rule was readopted.

b. In any contested case in which a small business or small local government unit is the prevailing party, the tribunal shall award the reasonable costs and attorney's fees incurred by the small business or small local government unit, unless the State's position was substantially justified or special circumstances would make the award unjust.

12. This act shall take effect on the first day of the sixth month following enactment.

37 This bill modifies the scope of the “New Jersey Regulatory
38 Flexibility Act” with regard to small businesses and small local
39 government units.

46 The bill also requires an agency to issue a regulatory flexibility
47 analysis when proposing any rule for adoption, which must be
48 included in the notice of the proposed rule.

1 Under the bill, an agency will employ special participation
2 methods to facilitate greater participation from small businesses and
3 small local government units in the rulemaking process. The
4 agency will designate a small business regulatory coordinator, who
5 will act as the primary contact for small business regulatory
6 inquiries for the agency.

7 The bill requires an agency to also prepare an Economic, Small
8 Business, Small Local Government Unit, and Consumer Impact
9 Statement for each rule being proposed for adoption. Within 30
10 days after the adoption of any rule that has been determined to have
11 a significant economic impact on a substantial number of small
12 businesses or small local government units, or both, the
13 promulgating agency will publish on its Internet website, and file
14 with the Office of Administrative Law for public access, a plain
15 language small business and small local government unit
16 compliance guide. If the head of the agency determines that the
17 proposed rule will not have a significant economic impact on a
18 substantial number of small businesses or small local government
19 units, or both, the agency head must certify such determination.
20 Any person, small business, or small local government unit that
21 stands to be adversely affected by the proposed rule may seek
22 review of such certification in the Appellate Division of the
23 Superior Court, provided that the person, small business, or small
24 local government unit files with the court within 45 days of
25 publication of the certification.

26 Under the bill, an agency seeking to continue in effect an
27 expiring rule by duly proposing for readoption of the rule, with
28 substantive changes, prior to its expiration, must consider a series
29 of factors, in addition to the other analyses and statements required
30 by law, which are set forth in the bill. This review will be
31 described in the regulatory flexibility analysis issued on the
32 proposed readoption of the rule. An agency seeking to continue in
33 effect an expiring rule without changes to the existing rule, or a
34 proposed readoption with technical changes, will consider the same
35 additional factors and file such consideration in writing, with a copy
36 to be provided to the New Jersey Business Action Center in the
37 Department of State.

38 The bill also requires an agency to convene a Small Business and
39 Small Local Government Unit Review Panel if the agency
40 determines that a rule is likely to have a significant economic
41 impact on a substantial number of small businesses or small local
42 government units, or both. The panel will consist of nine members,
43 who will serve as long as may be necessary to complete a review of
44 the prospective rule. The panel will solicit, receive, and summarize
45 advice and recommendations from representatives of at least 25
46 small businesses and small local government units of different
47 industries and sizes regarding: (1) significant regulatory
48 alternatives; (2) compliance or reporting timetables; (3) partial or

1 full exemptions consistent with public health, safety, or general
2 welfare; (4) the use of performance standards rather than design
3 standards; and (5) any other approaches that would accomplish the
4 objectives of applicable law without potential challenges. The
5 panel will issue a report of its findings and recommendations to the
6 head of the agency not later than 60 days after convening.
7 Emergency adoptions of a rule will not be subject to these
8 provisions. However, to the maximum extent practicable, the
9 agency will solicit input from at least 25 affected small businesses
10 and affected small local government units prior to such adoption
11 and will conduct a panel review for any concurrent or subsequent
12 non-emergency proposals addressing substantially similar subject
13 matter.

14 Under the bill, each agency will, at least once every 10 years,
15 review rules that have been determined to have a significant
16 economic impact on a substantial number of small businesses or
17 small local government units, or both, to determine whether such
18 rules should be continued without change, amended, or repealed.
19 Each agency will publish a review schedule, solicit public
20 comments, and file review reports with the Office of Administrative
21 Law for public access. The review will not be required if the
22 adverse impacts of the rule were considered, and such consideration
23 was documented and filed with the Office of Administrative Law, at
24 the time the rule was readopted.

25 The bill also permits a small business or small local government
26 unit to commence an action in the Superior Court for injunctive
27 relief to prevent imposition of a penalty if the small business or
28 small local government unit is subject to the penalty because: (1)
29 the small business or small local government unit acted or failed to
30 act due to the failure by an agency employee, officer, or agent with
31 regulatory responsibility for that legal requirement to respond
32 within a reasonable time to a specific written question; or (2) the
33 small business or small local government unit acted or failed to act
34 in reasonable reliance on inaccurate written advice given by such
35 agency employee, officer, or agent.