

HOUSE BILL 3350

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 7; Title 4, Chapter 5, Part 1 and Title 4, Chapter 5, Part 2, relative to statements of benefit.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 5, Part 1, is amended by adding the following language as a new Section:

Section 4-5-1_.

(a) Upon the proposal of any new rule; amendment, in whole or in part of any existing rule; or repeal in whole or in part of any existing rule, an agency shall prepare a statement of benefit which shall be released with the proposed rule.

(b) A statement of benefit must be fully considered as a submission pursuant to § 4-5-205.

(c) If a proposed rule is amended before adoption, the statement of benefit shall be adjusted accordingly.

(d) A statement of benefits must, at minimum:

(1) Clearly define the purpose for the proposed action;

(2) Clearly demonstrate the necessity of the proposed action;

(3) Clearly identify the expected benefits and beneficiaries of the proposed action;

(4) Explain what alternatives, if any, were considered and why the proposed action is preferable;

(5) Identify amount and source of additional funding, if any, necessitated by the proposed action;

(6) Explain other sources of additional funding considered, if any, and why the proposed action is preferable;

(7) Identify any new revenue generated by the proposed action, if any, and the source of that revenue;

(8) Clearly identify and demonstrate the necessity of the imposition of any new fee and any amendment or repeal of an existing fee; and

(9) Identify any expenditure required of a private or governmental entity as a result of the proposed action.

(e) Upon request an agency shall provide the fiscal review committee with any and all written documentation used in consideration of a proposed rule, statement of benefit or any amendment thereto.

(f) Concurrently with the adoption of any rule pursuant to this part, the agency shall transmit a copy of the rule and statement of benefit to the fiscal review committee.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following language as a new section:

Section 4-5-2__.

(a) Agency rule fiscal impact statements shall be provided for all agency rules adopted pursuant to this chapter whose statement of benefit indicates a new fee; an increase in an existing fee; or an additional expenditure by a private or governmental entity. Upon publication of such a proposed rule and statement of benefit an agency shall transmit a copy of the proposed rule and statement of benefit to the fiscal review committee.

(b) Not more than seven (7) days following the adoption of any rule described in subsection (a), the fiscal review committee shall furnish to the adopting agency and the secretary of state a statement of analysis of the fiscal impact of such rule. Such analysis

shall be posted on the agency's web site and the secretary of state's web site and electronically linked to the rule it references.

(c) The fiscal impact statement shall, if, possible include an estimate in dollars of the anticipated change in revenue, expenditures or fiscal liability under the provisions of the rule. It shall also include a statement as to the immediate fiscal effect and, if determinable or reasonably foreseeable, the long-range fiscal effect of the measure. If, after careful investigation, it is determined that no dollar estimate is possible, the fiscal impact statement shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. The statement shall include an explanation of the basis or reasoning on which the estimate is founded, including any assumptions involved.

(d) No comment or opinion shall be included in the fiscal impact statement regarding the merits of the rule for which the statement is prepared; however, technical or mechanical defects may be noted.

SECTION 3. Tennessee Code Annotated, 3-7-103, is amended by adding the following language as a new subsections:

(h) The fiscal review committee has the responsibility of accepting statements of benefit pursuant Section 1(e) of this act and issuance of agency rule fiscal impact statements pursuant to Section 2 of this act

(i) The fiscal review committee has the responsibility of annually preparing a cumulative fiscal impact statement showing the segregated and combined cumulative fiscal impact of the rulemaking process on public and private entities.

SECTION 4. This act shall take effect January 1, 2011, the public welfare requiring it.