

113TH CONGRESS
2D SESSION

H. R. 4655

To amend the Unfunded Mandates Reform Act of 1995 to provide for regulatory impact analyses for certain rules, consideration of the least burdensome regulatory alternative, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2014

Mr. YODER introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on the Judiciary, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Unfunded Mandates Reform Act of 1995 to provide for regulatory impact analyses for certain rules, consideration of the least burdensome regulatory alternative, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unfunded Mandates
5 Accountability Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The public has a right to know the benefits
2 and costs of regulation. Regulations impose signifi-
3 cant costs on individuals, employers, State, local,
4 and tribal governments, diverting resources from
5 other important priorities.

6 (2) Better regulatory analysis and review
7 should improve the quality of agency decisions, in-
8 creasing the benefits and reducing unwarranted
9 costs of regulation.

10 (3) Disclosure and scrutiny of key information
11 underlying agency decisions should make Govern-
12 ment more accountable to the public it serves.

13 **SEC. 3. REGULATORY IMPACT ANALYSES FOR CERTAIN**
14 **RULES.**

15 Section 202 of the Unfunded Mandates Reform Act
16 of 1995 (2 U.S.C. 1532) is amended—

17 (1) by striking the section heading and insert-
18 ing the following:

19 **“SEC. 202. REGULATORY IMPACT ANALYSES FOR CERTAIN**
20 **RULES.”;**

21 (2) by redesignating subsections (b) and (c) as
22 subsections (d) and (e), respectively;

23 (3) by striking subsection (a) and inserting the
24 following:

1 “(a) DEFINITION.—In this section, the term ‘cost’
2 means the cost of compliance and any reasonably foresee-
3 able indirect costs, including revenues lost as a result of
4 an agency rule subject to this section.

5 “(b) IN GENERAL.—Before promulgating any pro-
6 posed or final rule that may have an annual effect on the
7 economy of \$100,000,000 or more (adjusted for inflation),
8 or that may result in the expenditure by State, local, and
9 tribal governments, in the aggregate, of \$100,000,000 or
10 more (adjusted for inflation) in any 1 year, each agency
11 shall prepare and publish in the Federal Register an initial
12 and final regulatory impact analysis. The initial regulatory
13 impact analysis shall accompany the agency’s notice of
14 proposed rulemaking and shall be open to public comment.
15 The final regulatory impact analysis shall accompany the
16 final rule.

17 “(c) CONTENT.—The initial and final regulatory im-
18 pact analysis under subsection (b) shall include—

19 “(1)(A) an analysis of the anticipated benefits
20 and costs of the rule, which shall be quantified to
21 the extent feasible;

22 “(B) an analysis of the benefits and costs of a
23 reasonable number of regulatory alternatives within
24 the range of the agency’s discretion under the stat-

1 ute authorizing the rule, including alternatives
2 that—

3 “(i) require no action by the Federal Gov-
4 ernment; and

5 “(ii) use incentives and market-based
6 means to encourage the desired behavior, pro-
7 vide information upon which choices can be
8 made by the public, or employ other flexible
9 regulatory options that permit the greatest
10 flexibility in achieving the objectives of the stat-
11 utory provision authorizing the rule; and

12 “(C) an explanation that the rule meets the re-
13 quirements of section 205;

14 “(2) an assessment of the extent to which—

15 “(A) the costs to State, local, and tribal
16 governments may be paid with Federal financial
17 assistance (or otherwise paid for by the Federal
18 Government); and

19 “(B) there are available Federal resources
20 to carry out the rule;

21 “(3) estimates of—

22 “(A) any disproportionate budgetary ef-
23 fects of the rule upon any particular regions of
24 the Nation or particular State, local, or tribal
25 governments, urban or rural or other types of

1 communities, or particular segments of the pri-
2 vate sector; and

3 “(B) the effect of the rule on job creation
4 or job loss, which shall be quantified to the ex-
5 tent feasible; and

6 “(4)(A) a description of the extent of the agen-
7 cy’s prior consultation with elected representatives
8 (under section 204) of the affected State, local, and
9 tribal governments;

10 “(B) a summary of the comments and concerns
11 that were presented by State, local, or tribal govern-
12 ments either orally or in writing to the agency; and

13 “(C) a summary of the agency’s evaluation of
14 those comments and concerns.”;

15 (4) in subsection (d) (as redesignated by para-
16 graph (2) of this subsection), by striking “subsection
17 (a)” and inserting “subsection (b)”; and

18 (5) in subsection (e) (as redesignated by para-
19 graph (2) of this subsection), by striking “subsection
20 (a)” each place that term appears and inserting
21 “subsection (b)”.

22 **SEC. 4. LEAST BURDENSOME OPTION OR EXPLANATION RE-**
23 **QUIRED.**

24 Section 205 of the Unfunded Mandates Reform Act
25 of 1995 (2 U.S.C. 1535) is amended to read as follows:

1 **“SEC. 205. LEAST BURDENSOME OPTION OR EXPLANATION**
 2 **REQUIRED.**

3 “Before promulgating any proposed or final rule for
 4 which a regulatory impact analysis is required under sec-
 5 tion 202, the agency shall—

6 “(1) identify and consider a reasonable number
 7 of regulatory alternatives within the range of the
 8 agency’s discretion under the statute authorizing the
 9 rule, including alternatives required under section
 10 202(c)(1)(B); and

11 “(2) from the alternatives described under
 12 paragraph (1), select the least costly, most cost-ef-
 13 fective, or least burdensome alternative that achieves
 14 the objectives of the statute.”.

15 **SEC. 5. INCLUSION OF APPLICATION TO INDEPENDENT**
 16 **REGULATORY AGENCIES.**

17 (a) IN GENERAL.—Section 421(1) of the Congres-
 18 sional Budget and Impoundment Control Act of 1974 (2
 19 U.S.C. 658(1)) is amended by striking “, but does not in-
 20 clude independent regulatory agencies”.

21 (b) EXEMPTION FOR MONETARY POLICY.—The Un-
 22 funded Mandates Reform Act of 1995 (2 U.S.C. 1501 et
 23 seq.) is amended by inserting after section 5 the following:

24 **“SEC. 6. EXEMPTION FOR MONETARY POLICY.**

25 “Nothing in title II, III, or IV shall apply to rules
 26 that concern monetary policy proposed or implemented by

1 the Board of Governors of the Federal Reserve System
2 or the Federal Open Market Committee.”.

3 **SEC. 6. JUDICIAL REVIEW.**

4 Section 401 of the Unfunded Mandates Reform Act
5 of 1995 (2 U.S.C. 1571) is amended to read as follows:

6 **“SEC. 401. JUDICIAL REVIEW.**

7 “(a) IN GENERAL.—For any rule subject to section
8 202, a party aggrieved by final agency action is entitled
9 to judicial review of an agency’s analysis under and in
10 compliance with subsections (b) and (c)(1) of section 202
11 and section 205. The scope of review shall be governed
12 by chapter 7 of title 5, United States Code.

13 “(b) JURISDICTION.—Each court having jurisdiction
14 to review a rule subject to section 202 for compliance with
15 section 553 of title 5, United States Code, or under any
16 other provision of law, shall have jurisdiction to review any
17 claims brought under subsection (a) of this section.

18 “(c) RELIEF AVAILABLE.—In granting relief in an
19 action under this section, the court shall order the agency
20 to take remedial action consistent with chapter 7 of title
21 5, United States Code, including remand and vacatur of
22 the rule.”.

1 **SEC. 7. EFFECTIVE DATE.**

2 This Act shall take effect 90 days after the date of
3 enactment of this Act.

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