

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL**

N.D. Admin. Code Chapter) **REPORT OF THE**
75-01-04, Human Services Grant) **DEPT. OF HUMAN SERVICES**
Program) **December 7, 2015**
(Pages 1399-1400))

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For its report, the North Dakota Department of Human Services states:

1. The proposed creation of N.D. Admin. Code chapter 75-01-04 is a result of a statutory change made by the Legislative Assembly in 2015 Senate Bill No. 2206.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on July 27, 2015. The record was held open until 5:00 p.m. on August 6, 2015, to allow written comments to be submitted. No comments were received. A summary of the comments is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2,211.65.
6. The proposed rules create chapter 75-01-04. Specifically:
 - Section 75-01-04-01. Section 75-01-04-01 is created to establish definitions relevant to the Human Services Grant Program.
 - Section 75-01-04-02. Section 75-01-04-02 is created to identify how a county may apply for a grant and the deadline by which a county's application must be submitted.
 - Section 75-01-04-03. Section 75-01-04-03 is created to explain how a county is verified as eligible for and approved to receive a grant and how the department will adjust grant awards if the amount for which grants are applied exceeds the amount of the appropriation for the program.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. These rules have an anticipated fiscal impact of \$3.9 million, not to exceed \$1.9 million in the first year of the biennium and \$2 million in the second year of the biennium. All of the funding for the Human Services Grant Program is from the state general fund. This amount was included in the Department's appropriation for the 2015-2017 biennium.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were adopted as emergency (interim final) rules as directed by 2015 Senate Bill No. 2206. The chapter took effect on June 19, 2015.

Prepared by:

Julie Leer
Legal Advisory Unit
North Dakota Department of Human Services
December 7, 2015



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Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

**SUMMARY OF COMMENTS RECEIVED
REGARDING PROPOSED CREATION OF
N.D. ADMIN. CODE 75-01-04
HUMAN SERVICES GRANT PROGRAM**

The North Dakota Department of Human Services held a public hearing on July 27, 2015, in Bismarck, ND, concerning the proposed creation of N.D. Administrative Code Chapter 75-01-04, Human Services Grant Program.

Written comments on these proposed amendments could be offered through 5:00 p.m. on Thursday, August 6, 2015.

No one attended or provided comments at the public hearing. No written comments were received within the comment period.

SUMMARY OF COMMENTS

No comments were received.

There will be no change to the proposed rule as no comments were received.

Prepared by:

Julie Leer, Director
Legal Advisory Unit
N.D. Dept. of Human Services

August 13, 2015

MEMO

TO: Julie Leer, Director, Legal Advisory Unit

FROM: Debra A. McDermott

RE: Regulatory Analysis of Proposed North Dakota Administrative Code chapter 75-01-04 Human Services Grant Program

DATE: June 10, 2015

The purpose of this regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08. This analysis pertains to proposed to North Dakota Administrative Code Article 75-01-04. These amendments are not anticipated to have a fiscal impact on the regulated community in excess of \$50,000. Federal law does not mandate the proposed rules.

Classes of Persons Who Will be Affected

The classes of person who will most likely be affected by these rules are: Local tax payers as the Human Services Grant Program is replacing the authority for a county to levy under Levy 1222, which was eliminated in 2015 Senate Bill 2144. Without the Human Services Grant Program, counties who have historically levied under Levy 1222 would not have adequate funding to operate their county social service programs for Calendar Years 2015 and 2016.

Probable Impact

The proposed amendments may impact the regulated community as follows: The Human Services Grant Program is replacing the authority for a county to levy under Levy 1222, which was eliminated in 2015 Senate Bill 2144. Without the Human Services Grant Program, counties who have historically levied under Levy 1222 would not have adequate funding to operate their county social service programs for Calendar Years 2015 and 2016.

Probable Cost of Implementation

There is no expected fiscal impact on the regulated community as a result of adoption of the rules. The Human Services Grant Program has an appropriation of \$3.9 million for the 2015-2017 biennium; which was included in the Department of Human Services Appropriation (2015 Senate Bill 2012).

Consideration of Alternative Methods

No other methods were considered. Section 6 of 2015 Senate Bill 2206 requires the Department to adopt emergency rules for the Human Services Grant Program.

MEMORANDUM

TO: Julie Leer, Director, Legal Advisory Unit

FROM: Debra A. McDermott

DATE: June 10, 2015

SUBJECT: Small Entity Regulatory Analysis Regarding Proposed Amendments to N.D. Admin. Code chapter 75-01-04

The purpose of this small entity regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08.1. This regulatory analysis pertains to proposed N.D. Admin. Code chapter 75-01-04. Federal law does not mandate the proposed rules.

Consistent with public health, safety, and welfare, the Department has considered using regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. For this analysis, the Department has considered the following methods for reducing the rules' impact on small entities:

1. Establishment of Less Stringent Compliance or Reporting Requirements

The only small entities affected by these proposed amendments are small political subdivisions consisting of Counties who have historically levied under Levy 1222. The eligible counties will submit a one-page application for funding and, additional supporting documentation, if needed, to justify their request for funding under the Human Services Grant Program.

2. Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Entities

The proposed amendments will not alter in any material way any required schedules or deadlines for compliance or reporting requirement of County Social Service Boards. The deadlines for submitting the application for funding under the Human Services Grant Program are consistent with the requirements of the Department to award funding to ensure Counties know their award amounts by September 1 of each year.

3. Consolidation or Simplification of Compliance or Reporting Requirements for Small Entities

The proposed amendments will not alter in any material way any required compliance or reporting requirements of County Social Service Boards. For this reason, the establishment of less stringent schedules or deadlines for compliance or reporting requirements for these small entities was not considered.

4. Establishment of Performance Standards for Small Entities to Replace Design or Operational Standards Required in the Proposed Rules

The County Social Service Boards are responsible to meet performance standards as well as operational standards imposed by federal and state law. The proposed amendments do not impose any design standards or impose any additional operational standards or operational standards for County Social Service Boards.

5. Exemption of Small Entities From All or Any Part of the Requirements Contained in the Proposed Rules

The requirements of the proposed amendments are imposed on counties seeking funding under the Human Services Grant Program authorized via Section 6 of 2015 Senate Bill 2206. No exemptions were considered as part of this rule making.

MEMORANDUM

TO: Julie Leer, Director, Legal Advisory Unit

FROM: Debra A. McDermott

DATE: June 10, 2015

SUBJECT: Small Entity Economic Impact Statement Regarding Proposed Amendments to N.D. Admin. Code chapter 75-01-04.

The purpose of this small entity economic impact statement is to fulfill the requirements of N.D.C.C. § 28-32-08.1. This impact statement pertains to proposed amendments to N.D. Admin. Code chapter 75-01-04. The proposed rules are required in Section 6 of 2015 Senate Bill 2206. The proposed rules are not expected to have an adverse economic impact on small entities.

1. Small Entities Subject to the Proposed Rules

The small entities that are subject to the proposed amended rules are county social services.

2. Costs For Compliance

The administrative and other costs required for compliance with the proposed rule are expected to be: No administrative or other costs are required by the small entities for compliance with the proposed rules.

3. Costs and Benefits

The probable cost to private persons and consumers who are affected by the proposed rule: There will not be probable cost to private persons or consumers for the proposed rules.

The probable benefit to private persons and consumers who are affected by the proposed rule: Local tax payers and recipients of county social services in the eligible counties would benefit as the Human Services Grant Program is replacing the authority for a county to levy under Levy 1222, which was eliminated in 2015 Senate Bill 2144. Without the Human Services Grant Program, counties who have historically levied under Levy 1222 would not have adequate funding to operate their county social service programs for Calendar Years 2016 and 2017.

4. Probable Effect on State Revenue

The probable effect of the proposed rule on state revenues is expected to be: No effects on state revenue expected because of the proposed rules.

5. Alternative Methods

The Department did not consider alternative methods because Section 6 of 2015 Senate Bill 2206 requires the Department to adopt Emergency Rules for the Human Service Grant Program.



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

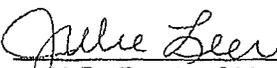
TAKINGS ASSESSMENT

concerning proposed creation of N.D. Admin. Code chapter 75-01-04.

This document constitutes the written assessment of the constitutional takings implications of this proposed rulemaking as required by N.D.C.C. § 28-32-09.

1. This proposed rulemaking does not appear to cause a taking of private real property by government action which requires compensation to the owner of that property by the Fifth or Fourteenth Amendment to the Constitution of the United States or N.D. Const. art. I, § 16. This proposed rulemaking does not appear to reduce the value of any real property by more than fifty percent and is thus not a "regulatory taking" as that term is used in N.D.C.C. § 28-32-09. The likelihood that the proposed rules may result in a taking or regulatory taking is nil.
2. The purpose of this proposed rule is clearly and specifically identified in the public notice of proposed rulemaking which is by reference incorporated in this assessment.
3. The reasons this proposed rule is necessary to substantially advance that purpose are described in the regulatory analysis which is by reference incorporated in this assessment.
4. The potential cost to the government if a court determines that this proposed rulemaking constitutes a taking or regulatory taking cannot be reliably estimated to be greater than \$0. The agency is unable to identify any application of the proposed rulemaking that could conceivably constitute a taking or a regulatory taking. Until an adversely impacted landowner identifies the land allegedly impacted, no basis exists for an estimate of potential compensation costs greater than \$0.
5. There is no fund identified in the agency's current appropriation as a source of payment for any compensation that may be ordered.
6. I certify that the benefits of the proposed rulemaking exceed the estimated compensation costs.

Dated this 10th day of June, 2015.

by: 
N.D. Dept. of Human Services



— State of —
North Dakota
Office of the Governor

Jack Dalrymple
Governor

June 16, 2015

Maggie Anderson
Department of Human Services
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Maggie,

On June 16, 2015, I received your request for approval of emergency rulemaking to amend North Dakota Administrative Code Chapter 75-01-04 relating to the Human Services Grant Program.

I have reviewed the request pursuant to N.D.C.C. § 28-32-03 and I find that an emergency rulemaking is reasonably necessary to comply with section 50-06-201. I therefore approve adoption of your proposed rules as interim final rules.

Sincerely,

A handwritten signature in cursive script that reads "Jack Dalrymple".

Jack Dalrymple
Governor

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