~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 26, 2014

**S. 256**

Introduced by Senators Alexander, S. Martin, Bryant, Bennett and Corbin

S. Printed 3/26/14--S.

Read the first time January 17, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 256) to amend the Code of Laws of South Carolina, 1976, to enact the “South Carolina Regulatory Reform Act” by adding Section 1‑23‑122 so as to clarify, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 3, by striking lines 36 through 41, in Section 1-23-120(D), as contained in SECTION 3, and inserting therein the following:

/ ~~period for automatic approval is tolled. A regulation may not be filed under the emergency provisions of Section 1‑23‑130 if a joint resolution to disapprove the regulation has been introduced by a standing committee to which the regulation was referred.~~ If a joint resolution to approve a regulation receives a negative vote from a majority of the members voting in either body, that regulation must not subsequently be filed under the emergency provisions of Section 1-23-130. ~~Upon a negative vote by either the~~/

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

A. SHANE MASSEY C. BRADLEY HUTTO

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Senate, the House of Representatives and the Legislative Council all report there is no fiscal impact with this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA REGULATORY REFORM ACT” BY ADDING SECTION 1‑23‑122 SO AS TO CLARIFY THE GENERAL ASSEMBLY OR A COMMITTEE OF THE GENERAL ASSEMBLY MAY NOT AMEND OR OTHERWISE CHANGE A REGULATION UNDER GENERAL ASSEMBLY REVIEW; TO AMEND SECTION 1‑23‑120, AS AMENDED, RELATING TO THE APPROVAL OF PROPOSED REGULATIONS, SO AS TO REQUIRE THAT AN AMENDMENT RECEIVE AN AFFIRMATIVE VOTE OF THE GENERAL ASSEMBLY TO TAKE EFFECT AND DELETE THE PROVISION THAT ALLOWED A REGULATION TO TAKE EFFECT AFTER ONE HUNDRED TWENTY DAYS; TO AMEND SECTION 1‑23‑125, AS AMENDED, RELATING TO CERTAIN EVENTS THAT TOLL THE ONE HUNDRED TWENTY DAY PERIOD, SO AS TO MAKE CONFORMING CHANGES; AND TO AMEND SECTION 1‑23‑115, RELATING TO CERTAIN EVENTS THAT TOLL THE ONE HUNDRED TWENTY DAY PERIOD, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known as and may be cited as the “South Carolina Regulatory Reform Act”.

SECTION 2. Article 1, Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Section 1‑23‑122. Neither the General Assembly nor a committee of the General Assembly may amend or otherwise change the language of a regulation submitted for General Assembly review, and only the agency that submitted the regulation may make these changes.”

SECTION 3. Section 1‑23‑120 of the 1976 Code, as last amended by Act 33 of 2011, is further amended to read:

“(A) All regulations except those specifically exempted pursuant to subsection (E) must be filed with Legislative Council for submission to the General Assembly for review in accordance with this article; however, a regulation must not be filed with Legislative Council for submission to the General Assembly more than one year after publication of the drafting notice initiating the regulation pursuant to Section 1‑23‑110, except those regulations requiring a final assessment report as provided in Sections 1‑23‑270 and 1‑23‑280.

(B) To initiate the process of review, the agency shall file with the Legislative Council for submission to the President of the Senate and the Speaker of the House of Representatives a document containing:

(1) a copy of the regulations promulgated;

(2) in the case of regulations proposing to amend an existing regulation or any clearly identifiable subdivision or portion of a regulation, the full text of the existing regulation or the text of the identifiable portion of the regulation; text that is proposed to be deleted must be stricken through, and text that is proposed to be added must be underlined;

(3) a request for review;

(4) a brief synopsis of the regulations submitted, which explains the content and any changes in existing regulations resulting from the submitted regulations;

(5) a copy of the final assessment report and the summary of the final report prepared by the division pursuant to Section 1‑23‑115. A regulation that does not require an assessment report because the regulation does not have a substantial economic impact must include a statement to that effect. A regulation exempt from filing an assessment report pursuant to Section 1‑23‑115(E) must include an explanation of the exemption;

(6) a copy of the fiscal impact statement prepared by the agency as required by Section 1‑23‑110;

(7) a detailed statement of rationale which states the basis for the regulation, including the scientific or technical basis, if any, and identifies any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation;

(8) a copy of the economic impact statement, as provided in Section 1‑23‑270(C)(1)(a); and

(9) a copy of the regulatory flexibility analysis, as provided in Section 1‑23‑270(C)(1)(b).

(C) Upon receipt of the regulation, the President and Speaker shall refer the regulation for review to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. A copy of the regulation or a synopsis of the regulation must be given to each member of the committee, and Legislative Council shall notify all members of the General Assembly when regulations are submitted for review either through electronic means or by addition of this information to the website maintained by Legislative Printing Information and Technology Services, or both. ~~The committees to which regulations are referred have one hundred twenty days from the date regulations are submitted to the General Assembly to consider and take action on these regulations. However, if a regulation is referred to a committee and no action occurs in that committee on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting.~~

(D) ~~If a~~ A joint resolution to approve a regulation ~~is not enacted within one hundred twenty days after the regulation is submitted to the General Assembly or if a joint resolution to disapprove a regulation has not been introduced by a standing committee to which the regulation was referred for review, the regulation is effective upon publication in the State Register~~ must receive an affirmative vote from a majority of the members voting in each body in order to become effective. It is disapproved if it fails to receive these votes. ~~Upon introduction of the first joint resolution disapproving a regulation by a standing committee to which the regulation was referred for review, the one‑hundred‑twenty‑day period for automatic approval is tolled.~~ A regulation may not be filed under the emergency provisions of Section 1‑23‑130 if a joint resolution to ~~disapprove~~ approve the regulation ~~has been introduced by a standing committee to which the regulation was referred~~ does not receive an affirmative vote from a majority of the members voting in each body. ~~Upon a negative vote by either the Senate or House of Representatives on the resolution disapproving the regulation and the notification in writing of the negative vote to the Speaker of the House of Representatives and the President of the Senate by the Clerk of the House in which the negative vote occurred, the remainder of the period begins to run. If the remainder of the period is less than ninety days, additional days must be added to the remainder to equal ninety days. The introduction of a joint resolution by the committee of either house does not prevent the introduction of a joint resolution by the committee of the other house to either approve or disapprove the regulations concerned.~~ A joint resolution approving ~~or disapproving~~ a regulation must include:

(1) the synopsis of the regulation as required by subsection (B)(4);

(2) the summary of the final assessment report prepared by the division pursuant to Section 1‑23‑115 or, as required by subsection (B)(5), the statement or explanation that an assessment report is not required or is exempt.

~~(E)~~ ~~The one‑hundred‑twenty‑day period of review begins on the date the regulation is filed with the President and Speaker. Sine die adjournment of the General Assembly tolls the running of the period of review, and the remainder of the period begins to run upon the next convening of the General Assembly excluding special sessions called by the Governor.~~

~~(F)~~ ~~Any member of the General Assembly may introduce a joint resolution approving or disapproving a regulation thirty days following the date the regulations concerned are referred to a standing committee for review and no committee joint resolution approving or disapproving the regulations has been introduced and the regulations concerned have not been withdrawn by the promulgating agency pursuant to Section 1‑23‑125, but the introduction does not toll the one‑hundred‑twenty‑day period of automatic approval.~~

~~(G)~~ ~~A regulation is deemed withdrawn if it has not become effective, as provided in this article, by the date of publication of the next State Register published after the end of the two‑year session in which the regulation was submitted to the President and Speaker for review. Other provisions of this article notwithstanding, a regulation deemed withdrawn pursuant to this subsection may be resubmitted by the agency for legislative review during the next legislative session without repeating the requirements of Section 1‑23‑110, 1‑23‑111, or 1‑23‑115 if the resubmitted regulation contains no substantive changes for the previously submitted version.~~

~~(H)~~(E) General Assembly review is not required for regulations promulgated:

(1) to maintain compliance with federal law including, but not limited to, grant programs; however, the synopsis of the regulation required to be submitted by subsection (B)(4) must include citations to federal law, if any, mandating the promulgation of or changes in the regulation justifying this exemption. If the underlying federal law which constituted the basis for the exemption of a regulation from General Assembly review pursuant to this item is vacated, repealed, or otherwise does not have the force and effect of law, the state regulation is deemed repealed and without legal force and effect as of the date the promulgating state agency publishes notice in the State Register that the regulation is deemed repealed. The agency must publish the notice in the State Register no later than sixty days from the effective date the underlying federal law was rendered without legal force and effect. Upon publication of the notice, the prior version of the state regulation, if any, is reinstated and effective as a matter of law. The notice published in the State Register shall identify the specific provisions of the state regulation that are repealed as a result of the invalidity of the underlying federal law and shall provide the text of the prior regulation, if any, which is reinstated. The agency may promulgate additional amendments to the regulation by complying with the applicable requirements of this chapter;

(2) by the state Board of Financial Institutions in order to authorize state‑chartered banks, state‑chartered savings and loan associations, and state‑chartered credit unions to engage in activities that are authorized pursuant to Section 34‑1‑110;

(3) by the South Carolina Department of Revenue to adopt regulations, revenue rulings, revenue procedures, and technical advice memoranda of the Internal Revenue Service so as to maintain conformity with the Internal Revenue Code as defined in Section 12‑6‑40;

(4) as emergency regulations under Section 1‑23‑130.

~~(I)~~ ~~For purposes of this section, only those calendar days occurring during a session of the General Assembly, excluding special sessions, are included in computing the days elapsed.~~

~~(J)~~(F) Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection ~~(H)~~(E) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:

(1) for which the agency intends to begin the process of repeal in accordance with this article;

(2) for which the agency intends to begin the process of amendment in accordance with this article; and

(3) which do not require repeal or amendment.

Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with this article before or after it is identified in the report to the Code Commissioner.

SECTION 4. Section 1‑23‑125 of the 1976 Code, as last amended by Act 104 of 2007, is further amended to read:

“(A) The legislative committee to which a regulation is submitted is not authorized to amend a particular regulation and then introduce a joint resolution approving the regulation as amended; however, this provision does not prevent the introduction of a resolution disapproving one or more of a group of regulations submitted to the committee and approving others submitted at the same time or deleting a clearly separable portion of a single regulation and approving the balance of the regulation in the committee resolution.

(B) If a majority of a committee determines that it cannot approve a regulation in the form submitted, it shall notify the promulgating agency in writing along with its recommendations as to changes that would be necessary to obtain committee approval. The agency may:

(1) withdraw the regulation from the General Assembly and resubmit it with the recommended changes to the Speaker and the Lieutenant Governor, but any regulation not resubmitted within thirty days is considered permanently withdrawn;

(2) withdraw the regulation permanently;

(3) take no action and abide by whatever action is taken or not taken by the General Assembly on the regulation concerned.

~~(C)~~ ~~The notification tolls the one‑hundred‑twenty‑day period for automatic approval, and when an agency withdraws regulations from the General Assembly prior to the time a committee resolution to approve or disapprove the regulation has been introduced, the remainder of the period begins to run only on the date the regulations are resubmitted to the General Assembly. Upon resubmission of the regulations, additional days must be added to the days remaining in the review period for automatic approval, if less than twenty days, to equal twenty days, and a copy of the amended regulation must be given to each member of the committee. If an agency decides to take no action pursuant to subsection (B)(3), it shall notify the committee in writing and the remainder of the period begins to run only upon this notification.~~

~~(D)~~(C) This section, as it applies to approval, disapproval, or modification of regulations, does not apply to joint resolutions introduced by other than the committees to which regulations are initially referred by the Lieutenant Governor or the Speaker of the House of Representatives.

~~(E)~~(D) A regulation submitted to the General Assembly for review may be withdrawn by the agency for any reason. The regulation may be resubmitted by the agency for legislative review during the legislative session without repeating the requirements of Section 1‑23‑110, 1‑23‑111, or 1‑23‑115 if the resubmitted regulation contains no substantive changes from the previously submitted version.”

SECTION 5. Section 1‑23‑115(A) of the 1976 Code is amended to read:

“(A) Upon written request by two members of the General Assembly, made before submission of a promulgated regulation to the General Assembly for legislative review, a regulation that has a substantial economic impact must have an assessment report prepared pursuant to this section and in accordance with the procedures contained in this article. In addition to any other method as may be provided by the General Assembly, the legislative committee to which the promulgated regulation has been referred, by majority vote, may send a written notification to the promulgating agency informing the agency that the committee cannot approve the promulgated regulation unless an assessment report is prepared and provided to the committee. ~~The written notification tolls the running of the one hundred‑twenty‑day legislative review period, and the period does not begin to run again until an assessment report prepared in accordance with this article is submitted to the committee. Upon receipt of the assessment report, additional days must be added to the days remaining in the one hundred‑twenty‑day review period, if less than twenty days, to equal twenty days.~~ A copy of the assessment report must be provided to each member of the committee.”

SECTION 6. This act takes effect upon approval by the Governor.

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