THE REGULATORY PROCESS IN SOUTH CAROLINA
As Amended by Act 1 of 2019
Prepared by Deidre Brevard Smith, Editor
South Carolina State Register

ASSESSMENT REPORT
If requested by two members of the General Assembly during the drafting period, a regulation that has a substantial economic impact must have an assessment report prepared by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office based on a preliminary assessment report provided to the office by the agency before the date the hearing notice is published in the State Register. [1-23-110(A)(2)]. A summary of the preliminary assessment report must be filed with the proposed regulation [1-23-110(A)(3)(b)]. The office shall prepare a final assessment report within sixty days after the public hearing [1-23-115(B)]. The final assessment report and a summary of the final assessment report must be filed with the regulation when submitted for General Assembly review. [1-23-120(B)(3)].

DRAFTING NOTICE
Prior to promulgation, amendment or repeal of a regulation, the agency must give notice of a drafting period in the State Register [1-23-110(A)(1)]. No regulation may be filed with Legislative Council for submission to the General Assembly more than one year after publication of the drafting notice. [1-23-120(A)].

PROPOSED REGULATION
When submitting proposed regulations for publication in the State Register, an agency must give 30 days notice of a public hearing and the opportunity to submit comments. The agency also must submit the statutory authority for promulgation, the full text of the regulation, a narrative preamble which includes a section-by-section discussion, a statement of need and reasonableness, a preliminary fiscal impact statement, notice of public hearing and, if requested by two members of the General Assembly pursuant to Section 1-23-115, a summary of the preliminary assessment report. [1-23-110(A)].

PUBLIC HEARING
The public hearing, which may not be held sooner than 30 days from the date of publication of the notice in the State Register, must be granted if requested by 25 persons, a governmental subdivision or agency, or by an association having not less than 25 members. [1-23-110(A)(3)]. Hearings held by a department for which the governing authority is a single director must be conducted by an administrative law judge assigned by the chief judge. Hearings held by a department for which the governing authority is a board or commission must be conducted by the board or commission, with the chairman presiding. [1-23-111(A)].

EMERGENCY REGULATIONS
Agency files regulation and statement of the situation requiring immediate promulgation with Legislative Council. Regulation becomes effective as of time of filing for 90 days. [1-23-130(A)].

If filed or expires while General Assembly is in session, regulations in effect for 90 days only and may not be refiled. If filed and expires when not in session, regulation may be refiled for an additional 90 days. [1-23-130(C)].

The statement of need for and reasonableness of immediate promulgation and a summary of the final assessment report, if requested, are required for refilement and must be published with the emergency regulation in next issue of the State Register following the date of refilement. [1-23-130(D)].

Emergency regulations may be permanently promulgated by complying with the Administrative Procedures Act. [1-23-130(E)].

GENERAL ASSEMBLY REVIEW
Agency submits the full text of the regulation, a synopsis explaining changes to existing regulations, fiscal impact statement, statement of rationale, and assessment report, if requested, to Legislative Council to be forwarded to the President of the Senate and the Speaker of the House with a request for General Assembly review. General Assembly has 120 calendar days (during session) to review regulations. [1-23-120(B)].

REGULATIONS EXEMPT FROM GENERAL ASSEMBLY REVIEW
- Compliance with Federal law
- State Board of Financial Institutions, State-chartered banks
- Department of Revenue to conform to Internal Revenue Code
- Emergency regulations
  Filed as final. Effective upon publication in the State Register.
The President and Speaker refer the regulation to the standing committees of the Senate and House most concerned with the function of the agency. [1-23-120(C)]

SENATE STANDING COMMITTEE

HOUSE STANDING COMMITTEE

If no action occurs in the committee within 60 days, the regulation must be placed on the agenda of the next scheduled full committee meeting. [1-23-120(C)]

COMMITTEE ACTION

Committee has four alternatives: NO COMMITTEE ACTION

If no legislation is introduced to disapprove or enacted to approve the regulation prior to the expiration of the 120 day review period, the regulation is approved on the 120th day and effective upon publication in the State Register [1-23-120(D)]. Any member of the General Assembly may introduce a Joint Resolution approving or disapproving a regulation 30 days after the regulation is submitted to a standing committee if the standing committee has not introduced a Joint Resolution and the agency has not withdrawn the regulation; but the introduction does not toll the 120 day period for automatic approval.

Introduction of a Joint Resolution approving regulation.

Resolution enacted by General Assembly.

Regulation approved. Effective upon publication in the State Register.

Introduction of a Joint Resolution approving an identifiable portion of the regulation and disapproving the remainder. [1-23-125 (A)]

Resolution enacted by General Assembly.

Regulation approved. Becomes effective on the date of publication in the State Register.

Requests agency to withdraw regulation from General Assembly review and resubmit with recommended changes needed to obtain committee approval. [1-23-125 (B)(1)]

Resolution enacted by General Assembly.

Regulation approved in part and disapproved in part.

Notification of request tolls 120 day automatic approval; period begins to run on date regulation resubmitted. [1-23-125 (C)]

Regulations may not be filed under emergency provisions of Section 1-23-130. [1-23-120(D)]

Resolution receives negative vote. [1-23-120(D)]

Regulator receives proposal tolls 120 day automatic approval period begins to run on date regulation resubmitted. [1-23-125 (C)]

Remainder of 120 day period begins to run. If remainder is less than 90 days, additional days added to equal 90. [1-23-120(D)]

Agency withdraws and resubmits with recommended changes. [1-23-125(B)(1)]

Agency withdraws. If not resubmitted within 30 days, it is considered permanently withdrawn. [1-23-125(B)(1)]

Agency withdraws regulation permanently. [1-23-125(B)(3)]

Agency takes no action. Abides by action of General Assembly. [1-23-125(C)]

Upon resubmission, additional days must be added to the review period, if less than 20 days to equal 20 days. [1-23-125(C)]

The committee, by majority vote, may request an assessment report. 120 day review period tolled. Remainder of review period begins to run upon receipt of report. Additional days must be added to the days remaining in the review period, if less than 20 days to equal 20 days. [1-23-115(A)]
Agency withdraws regulation on its own for any reason.

Agency withdraws and resubmits with no substantive changes. The regulation may be resubmitted by the agency during the legislative session without repeating the requirements of Sections 1-23-110 and 1-23-111 and 1-23-115, if applicable, if the resubmitted regulation contains no substantive changes from the previously submitted version. [1-23-125(E)]

The agency must notify the committees and the Editor of the State Register of the withdrawal.

END OF TWO-YEAR SESSION
A regulation is deemed withdrawn if it has not become effective 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. A regulation deemed withdrawn may be resubmitted by the agency for legislative review during the next legislative session without repeating the requirements of Sections 1-23-110 and 1-23-111 and 1-23-115, if applicable, if the resubmitted regulation contains no substantive changes from the previously submitted version. [1-23-120(G)]