**A** **BILL**

TO AMEND SECTION 1‑23‑110(A)(3) OF THE 1976 CODE, RELATING TO PUBLIC HEARINGS CONCERNING PROPOSED REGULATIONS, TO REQUIRE PUBLIC MEETINGS PRIOR TO AN AGENCY PROMULGATING, AMENDING, OR REPEALING A REGULATION; AND TO AMEND SECTION 1‑23‑110(C) TO PROVIDE THAT ALL WRITTEN AND ORAL SUBMISSIONS FROM THE PUBLIC CONCERNING A REGULATION MUST BE TRANSMITTED TO THE SMALL BUSINESS REGULATORY REVIEW COMMITTEE; TO AMEND SECTION 1‑23‑120(J) OF THE 1976 CODE, RELATING TO REVIEW OF A REGULATION EVERY FIVE YEARS, TO ADD AN EXPIRATION DATE FOR ALL REGULATIONS PROMULGATED AFTER JANUARY 1, 2016 AND TO PROVIDE A PROCESS FOR THE REGULATION TO REMAIN IN EFFECT BEYOND THE EXPIRATION DATE.

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

SECTION 1. Section 1‑23‑110(A)(3) of the 1976 Code is amended to read:

“(3) ~~give notice of~~ hold a public hearing at which the agency will receive data, views, or arguments, orally and in writing, from interested persons on proposed regulations. Notice of the public hearing must be provided in the manner required by subsection (B) and by publication ~~of a notice~~ in the State Register ~~if requested by twenty five persons, by a governmental subdivision or agency, or by an association having not less than twenty five members~~. The notice must include:

(a) the address to which written comments must be sent and the time period of not less than thirty days for submitting these comments;

(b) the date, time, and place of the public hearing which must not be held sooner than thirty days from the date the notice is published in the State Register;

(c) a narrative preamble and the text of the proposed regulation. The preamble shall include a section by section discussion of the proposed regulation and a justification for any provision not required to maintain compliance with federal law including, but not limited to, grant programs;

(d) the statutory authority for its promulgation;

(e) a preliminary fiscal impact statement prepared by the agency reflecting estimates of costs to be incurred by the State and its political subdivisions in complying with the proposed regulation. A preliminary fiscal impact statement is not required for those regulations which are not subject to General Assembly review under Section 1‑23‑120;

(f) a summary of the preliminary assessment report submitted by the agency to the division and notice that copies of the preliminary report are available from the agency. The agency may charge a reasonable fee to cover the costs associated with this distribution requirement. A regulation that does not require an assessment report because it 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;

(g) statement of the need and reasonableness of the regulation as determined by the agency based on an analysis of the factors listed in Section 1‑23‑115(C)(1) through (11). At no time is an agency required to include items (4) through (8) in the reasonableness and need determination. However, comments related to items (4) through (8) received by the agency during the public comment periods must be made part of the official record of the proposed regulations.

(h) the location where a person may obtain from the agency a copy of the detailed statement of rationale as required by this item. For new regulations and significant amendments to existing regulations, an agency shall prepare and make available to the public upon request a detailed statement of rationale which shall state the basis for the regulation, including the scientific or technical basis, if any, and shall identify any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation. This subitem does not apply to regulations which are not subject to General Assembly review under Section 1‑23‑120.”

SECTION 2. Section 1‑23‑110(C) of the 1976 Code is amended to read:

“(C)(1) The agency shall consider fully all written and oral submissions respecting the proposed regulation. All of the written submissions, and transcripts or recordings of oral submissions, must be provided to the Small Business Regulatory Review Committee.

(2) Following the public hearing and consideration of all submissions, an agency must not submit a regulation to the General Assembly for review if the regulation contains a substantive change in the content of regulation as proposed pursuant to subsection (A)(3) and the substantive change was not raised, considered, or discussed by public comment received pursuant to this section. The agency shall refile such a regulation for publication in the State Register as a proposed regulation pursuant to subsection (A)(3).”

SECTION 3. Section 1‑23‑120(J) of the 1976 Code is amended to read:

“(J) ~~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) 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.~~ (1) All regulations promulgated after January 1, 2016 shall expire five years from their effective date.

(2) To remain in effect beyond the initial five‑year period, a regulation must receive approval from the General Assembly through a joint resolution. A joint resolution approving a regulation beyond the initial five‑year period may not be introduced until the conclusion of the third year after a regulation’s effective date. If a regulation receives approval from the General Assembly through a joint resolution to remain in effect beyond the initial five‑year period, it shall remain in effect until it is repealed or amended in accordance with this article.

(3) 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. This act takes effect upon approval by the Governor.

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