SENATE DOCKET, NO. 1696 FILED ON: 1/16/2015

SENATE . . . . . No. 1737

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to reforming the regulatory process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	*First Essex and Middlesex*
Viriato M. deMacedo	*Plymouth and Barnstable*
Donald F. Humason, Jr.	*Second Hampden and Hampshire*
Richard J. Ross	*Norfolk, Bristol and Middlesex*

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By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1737) of Bruce E. Tarr, Viriato M. deMacedo, Donald F. Humason, Jr. and Richard J. Ross for legislation to reform the regulatory process. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1552* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to reforming the regulatory process.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 3 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following sections:-

Section 71. The following words and phrases, as used in this section and section 72, shall have the following meanings unless a different meaning is required by the context:

"Agency", any department, board, commission, division or authority of the state government or subdivision of any of the foregoing, or official of the state government, authorized by law to make regulations or to conduct adjudicatory proceedings, but shall not include the following: the legislative and judicial departments; the governor and council; military or naval boards, commissions or officials; the department of correction; the department of youth

10 services; the parole board; the division of dispute resolution of the division of industrial
11 accidents; the personnel administrator; the civil service commission; and the appellate tax board.

12 "Committee", the joint committee on state administration and regulatory oversight of the
13 general court.

14 (a) An agency shall file a copy of an adopted rule with the committee at the same time it
15 is filed with the secretary of state.

16 (b) The committee may examine rules in effect and newly adopted rules to determine
17 whether:

18 (1) the rule is a valid exercise of delegated legislative authority;

19 (2) the statutory authority for the rule has expired or been repealed;

20 (3) the rule is necessary to accomplish the apparent or expressed intent of the specific
21 statute that the rule implements;

22 (4) the rule is a reasonable implementation of the law as it applies to any affected class of
23 persons; and

24 (5) the agency complied with the regulatory analysis requirements of section 5A of
25 chapter 30 and the analysis properly reflects of the of the rule.

26 (c) The committee may request information from an agency necessary to exercise its
27 powers under subsection (b). The committee shall consult with joint committees of the
28 general court with jurisdiction over the subjects of the rule or regulation under review.

29 Section 72. (a) Not later than 30 days after receiving a copy of an adopted rule from an
30 agency under section 70, the committee may: (1) approve the adopted rule or regulation; (2)
31 disapprove the rule or regulation and propose an amendment to the adopted rule or regulation; or
32 (3) disapprove the adopted rule or regulation.

33 (b) If the committee approves an adopted rule or regulation or does not disapprove and
34 propose an amendment under subsection (a)(2) or disapprove under subsection (a)(3), the
35 adopted rule shall become effective on the date specified.

36 (c) If the committee proposes an amendment to the adopted rule or regulation under
37 subsection (a)(2), the agency may make the amendment and resubmit the rule or regulation, as
38 amended, to the committee. The amended rule or regulation must be one that the agency could
39 have adopted on the basis of the record in the rule or regulation making proceeding and the legal
40 authority granted to the agency. The agency shall provide an explanation for the amended rule or
41 regulation as provided in section 5A. An agency is not required to hold a hearing on an
42 amendment made under this subsection. If the agency makes the amendment, it shall also give
43 notice to the secretary of state for publication of the rule or regulation, as amended, in the
44 Massachusetts Register. The notice must include the text of the rule or regulation as amended. If
45 the committee does not disapprove the rule or regulation, as amended, or propose a further
46 amendment, the rule or regulation shall become effective on the date specified.

47 (d) If the committee disapproves the adoption of a rule under subsection (a)(3), the
48 adopted rule becomes effective on adjournment of the next regular session of the General Court
49 unless before the adjournment the General Court enacts legislation sustaining the action of the
50 committee.

51 (e) An agency may withdraw the adoption of a rule by giving notice of the withdrawal to
52 the committee and to the secretary of state. A withdrawal under this subsection terminates the
53 rulemaking proceeding with respect to the adoption, but does not prevent the agency from
54 initiating a new rulemaking proceeding for the same or substantially similar adoption.

55 SECTION 2. Section 2 of chapter 30A of the General Laws, as so appearing, is hereby
56 amended by inserting, in line 5, after the word "right" the following:-

57 ; or, (d) the regulation has an economic impact on small businesses and an estimate of its
58 fiscal effect will be filed with state secretary pursuant to section 5

59 SECTION 3. Section 3 of chapter 30A of the General Laws, as so appearing, is hereby
60 amended by inserting, in line 26, after the words "include the" the following:-

61 statement of small business consideration and

62 SECTION 4. Chapter 30A of the General Laws, as so appearing, is hereby amended by
63 striking section 5A, in its entirety, and inserting in place thereof the following sections:-

64 Section 5A. (a) In addition to a small business impact statement, an agency shall prepare
65 a subsequent regulatory analysis for a proposed rule or regulation if, within 60 days after the
66 published notice of the proposed rule or regulation adoption, a written request for the analysis is
67 filed in the office of the secretary of state by the governor, the executive office of administration
68 and finance, the joint committee on state administration and regulatory oversight, or 300
69 interested persons signing the request. The secretary of state shall immediately forward to the
70 agency a certified copy of the filed request.

71 (b) Except to the extent that the written request expressly waives one or more of the
72 following, the regulatory analysis must contain:

73 (1) an analysis of the benefits and costs of a reasonable range of regulatory alternatives
74 reflecting the scope of discretion provided by statute authorizing the rule or regulation; and

75 (2) a determination whether the benefits of the proposed rule or regulation justify the
76 costs of the proposed rule or regulation and the proposed rule or regulation will achieve the
77 objectives of the authorizing statute in a more cost effective manner, or with greater net benefits,
78 than other regulatory alternatives.

79 (c) An agency preparing a regulatory analysis under this section shall prepare a concise
80 summary of the analysis.

81 (d) An agency preparing a regulatory analysis under this section shall submit the analysis
82 to the governor, the executive office of administration and finance, the joint committee on state
83 administration and regulatory oversight, or, if applicable, to the interested persons signing the
84 request under subsection (a).

85 Section 5B. (a) Each agency shall review its rules and regulations at least once every 6
86 years after their publication as the final rules or regulations to ensure that those rules and
87 regulations minimize economic impact on small businesses in a manner consistent with the
88 stated objectives of applicable statutes.

89 (b) In reviewing a rule or regulation to minimize economic impact of the rule or
90 regulation on small businesses, the agency shall file a regulatory review report which considers
91 the following factors:

92 (1) the continuing need for the rule or regulation and the effectiveness of the rule or
93 regulation in achieving its objectives, including a summary of any available data supporting the
94 conclusions reached;

95 (2) the nature of complaints or comments received concerning the rule or regulation from
96 the public during the previous 6 years, including any petitions for waiver of the rule tendered to
97 the agency or granted by it;

98 (3) alternative solutions to the complaints or comments and the reasons they were
99 rejected or the changes made in the rule or regulation in response to those complaints or
100 comments and the reasons for the changes

101 (4) the complexity of the rule or regulation;

102 (5) the extent to which the rule or regulation overlaps, duplicates or conflicts with other
103 federal, state and local governmental rules and regulations;

104 (6) the length of time since the rule or regulation has been enacted, changed, amended or
105 modified; and

106 (7) the degree to which technology, economic conditions or other factors have changed in
107 the subject areas affected by the rule or regulation.

108 (c) A copy of the report shall be filed with the joint committee on state administration
109 and regulatory oversight and shall be available for public inspection.

110 SECTION 5. Notwithstanding any general or special law, rule or regulation to the
111 contrary, any agency that approves a state grant in excess of $500,000 to a person or a public or
112 private entity shall submit a detailed cost benefit analysis to the joint committee on state

113 administration and regulatory oversight no later than 30 days after authorization of said grant.
114 The analysis shall contain: a detailed explanation of the process used for the selection of the
115 grantee; the number of applications for the grant; an accounting of an expectation that the
116 issuance of the grant will create or maintain existing jobs in the Commonwealth, if any; and an
117 account of all grants received by the grantee during the present fiscal year from all other state
118 agencies.