Budget Amendment ID: FY2014-S3-130

GOV 130

Regulatory Reform

Messrs. Ross, Hedlund, Knapik and Tarr moved that the proposed new text be amended by adding the following new section:-

"SECTION XX. Chapter 3 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting at the end thereof the following sections: -

Section 70. The following words and phrases, as used in this section and section 71, 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 services; the parole board; the division of dispute resolution of the division of industrial accidents; the personnel administrator; the civil service commission; and the appellate tax board.

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

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

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

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

(2) the statutory authority for the rule has expired or been repealed;

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

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

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

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

Section 71. (a) Not later than 30 days after receiving a copy of an adopted rule from an agency under section 70, the committee may: (1) approve the adopted rule or regulation; (2) disapprove the rule or regulation and propose an amendment to the adopted rule or regulation; or (3) disapprove the adopted rule or regulation.

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

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

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

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

SECTION__. Section 2 of chapter 30A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 5, after the word “right” the following:- ; or, (d) the regulation has an economic impact on small businesses and an estimate of its fiscal effect will be filed with state secretary pursuant to section 5

SECTION__. Said section 2 of said chapter 30A is hereby amended by inserting, in line 29, after the word “consideration” the following:-and the full text of said small business impact statement

SECTION__. Section 3 of said chapter 30A is hereby amended by inserting, in line 27, after the words “include the” the following:- statement of small business consideration and the full text of said

SECTION__. Said chapter 30A is hereby amended by striking section 5A, in its entirety, and inserting in place thereof the following sections:-

Section 5A. (a) In addition to a small business impact statement, an agency shall prepare a subsequent regulatory analysis for a proposed rule or regulation if, within 60 days after the published notice of the proposed rule or regulation adoption, a written request for the analysis is

filed in the office of the secretary of state by the governor, the executive office of administration and finance, the joint committee on state administration and regulatory oversight, or 300 interested persons signing the request. The secretary of state shall immediately forward to the agency a certified copy of the filed request.

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

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

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

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

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

Section 5B. (a) Each agency shall review its rules and regulations at least once every 2 years after their publication as the final rules or regulations to ensure that those rules and regulations minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

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

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

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

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

(4) the complexity of the rule or regulation;

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

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

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

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