SENATE DOCKET, NO. FILED ON: 6/29/2012

SENATE . . . . . No. 2334

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act providing regulatory reform to promote job growth.

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 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.

Section 71. Review of regulations

(a) The committee may examine any existing regulation promulgated under chapter 30A to determine whether:

(1) The regulation is a valid exercise of delegated legislative authority;

(2) The statutory authority for the regulation has expired or been repealed;

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

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

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

25 (b) When examining a regulation under subsection (a) the committee must hold a public
26 hearing. Before holding a hearing, the committee must give 30 days notice to the clerks of the
27 house of representatives and the senate, to the agency that promulgated the regulation or its
28 successor, to any other committee of the general court that has jurisdiction over the subject
29 matter of the regulation, and to the public.

30 (c) Within 60 days of the hearing the committee shall issue a written report to the agency
31 with any recommended changes to the regulations voted upon by the committee and the reasons
32 for the proposed changes.

33 (d) Within 90 days of receipt of the report, the agency shall review the report and shall
34 either initiate a rule making process under chapter 30A or file with the chairmen of the
35 committee a letter stating that it does not intend to initiate a rule making process under chapter
36 30A and the reasons for that decision. If the committee does not issue a report within the
37 timeframe contained in subsection (c), the agency need not take any further action.

38 (e) Except under extraordinary circumstances, the committee shall not examine the same
39 regulation more frequently than once every 5 years.

40 (f) The committee may request information from any agency that is necessary to
41 exercise its powers under this section.

42 SECTION 2. Section 2 of chapter 30A of the General Laws, as appearing in the 2010
43 Official Edition, is hereby amended by inserting, in line 5, after the word “right” the following:-

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

46 SECTION 3. Said section 2 of said chapter 30A is hereby amended by inserting, in line
47 29, after the word “consideration” the following:- and the full text of said small business impact
48 statement

49 SECTION 4. Section 3 of said chapter 30A is hereby amended by inserting, in line 27,
50 after the words “include the” the following:- statement of small business consideration and the
51 full text of said

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

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

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

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

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

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

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

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

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

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

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

79 SECTION 6. Subsection (b) of clause (1) of section 44D of chapter 149 of the General
80 Laws, as appearing in the 2010 Official Edition is hereby amended by adding the following
81 paragraph:-

82 The applicant shall provide, under the penalties of perjury, truthful and complete
83 information in all bids and offers. Whoever violates any provision of this paragraph shall be
84 punished by imprisonment in a jail or house of correction for not more than 6 months or by a fine
85 of not more than $2,000, or by such fine and imprisonment. These sanctions shall also apply to
86 any public agency, as defined by clause (1) section 44A of Chapter 149, that circumvents bids
87 and offers, and bidding requirements provided in subsection 2, clauses A through D of Section

88 44A of Chapter 149, through a force account practice or any similar practice in which a public
89 agency performs or authorizes construction in a manner that does not follow these bidding
90 requirements.