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S.J.R. 12/S.B. 390 -- Scope of regulations review

Government Administration and Election Committee public hearing -- March 12, 2012
Testimony of Raphael L. Podolsky

Recommended Committee action: OPPOSE

S.B. 390 (and the related S.J.R. 12) are unnecessary and disruptive to the administrative process and inappropriately delegate a function of the full General Assembly to a legislative committee. We urge that they be rejected.

S.B. 390 would authorize the Regulations Review Committee, on its own authority, to determine whether an existing regulation is (a) obsolete, (b) outdated, or (c) "too onerous on persons...who are required to comply with the regulation." If it so determines, it authorizes the Committee to "direct the agency" to amend or repeal the regulation. S.B. 390 should be rejected for at least the following reasons:

- * All existing regulations have previously been reviewed and approved by the Regulations Review Committee itself and the Attorney General after a lengthy review process that includes the opportunity for public input in accordance with the Uniform Administrative Procedures Act. These are not regulations that have somehow been adopted without the knowledge of the Committee. Unilateral action by the Committee will be disruptive of the duty of the agency to implement and enforce the law. Moreover, such intervention is likely to undercut statutory requirements imposed by the General Assembly itself and is likely to make the Committee, rather than the General Assembly, a center point for attacks on agency regulations by the entities that they regulate.
- * The bill inappropriately transfers to a legislative committee a function that should be exercised only by the full legislature. Indeed, that is why a constitutional amendment is necessary. The legislature cannot otherwise delegate to one of its committees the power to countermand regulations issued and approved under the General Statutes. If there are concerns about an agency's regulations, the proper response is for the General Assembly to amend the statute to reflect its desires. That would result in review by the committee of cognizance, which presumably has expertise in the subject matter and reflects the political make-up of the General Assembly. In addition, it would open the review to full public input through the legislative process.
- * The bill raises the very kind of separation of powers issues which led to the separation of powers doctrine in the first place. Authorizing a legislative committee to order an agency repeal a regulation invites damaging interference with the administration of state law.