



House of Representatives

General Assembly

File No. 491

February Session, 2016

Substitute House Bill No. 5498

House of Representatives, April 6, 2016

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REVISING THE REGULATION REVIEW PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (g) and (h) of section 4-168 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2016*):

4 (g) (1) An agency may proceed to adopt an emergency regulation in
5 accordance with this subsection without prior notice, public comment
6 period or hearing or upon any abbreviated notice, public comment
7 period and hearing that it finds practicable if (A) the agency finds that
8 adoption of a regulation upon fewer than thirty days' notice is
9 required (i) due to an imminent peril to the public health, safety or
10 welfare or (ii) by the Commissioner of Energy and Environmental
11 Protection in order to comply with the provisions of interstate fishery
12 management plans adopted by the Atlantic States Marine Fisheries
13 Commission or to meet unforeseen circumstances or emergencies
14 affecting marine resources, (B) the agency states in writing its reasons

15 for that finding, and (C) the Governor approves such finding in
16 writing.

17 (2) [An electronic copy shall be submitted] The agency shall submit
18 an electronic copy of the proposed emergency regulation to the
19 standing legislative regulation review committee in the form
20 prescribed in subsection (b) of section 4-170, together with a statement
21 of the terms or substance of the intended action, the purpose of the
22 action and a reference to the statutory authority under which the
23 action is proposed. [, not later than ten days, excluding Saturdays,
24 Sundays and holidays, prior to the proposed effective date of such
25 regulation.] The committee may approve or disapprove the proposed
26 emergency regulation, in whole or in part, [within such ten-day
27 period] not later than fifteen calendar days after its submission to the
28 committee, at a regular meeting, if one is scheduled, or may, upon the
29 call of either chairman or any five or more members, hold a special
30 meeting for the purpose of approving or disapproving the regulation,
31 in whole or in part. Failure of the committee to act on such regulation
32 within such [ten-day] fifteen-day period shall be deemed an approval.
33 If the committee disapproves such regulation, in whole or in part, it
34 shall notify the agency of the reasons for its action. An approved
35 emergency regulation [,] shall be posted on the eRegulations System
36 by the office of the Secretary of the State [, may be effective for a period
37 of not longer than one hundred twenty days renewable once for a
38 period of not exceeding sixty days, provided notification of such sixty-
39 day renewal is posted on the eRegulations System and an electronic
40 copy of such notice is sent to the committee. The sixty-day renewal
41 period may be extended an additional sixty days] and shall be effective
42 for a period of not longer than one hundred eighty days from the date
43 it is approved or deemed approved and posted. Such one-hundred-
44 eighty-day period may be extended an additional sixty days for
45 emergency regulations described in subparagraph (A)(ii) of
46 subdivision (1) of this subsection, provided the Commissioner of
47 Energy and Environmental Protection requests of the standing
48 legislative regulation review committee an extension of the renewal
49 period at the time such regulation is submitted or not less than [ten]

50 fifteen calendar days before the [first sixty-day renewal period]
51 emergency regulation expires and [said] the committee approves such
52 extension. Failure of the committee to act on such request within [ten]
53 fifteen calendar days shall be deemed an approval of the extension.
54 Nothing in this subsection shall preclude an agency proposing [such]
55 an emergency regulation from adopting a permanent regulation that is
56 identical or substantially similar to the emergency regulation, but such
57 action shall not extend the effective date of the emergency regulation.

58 (3) If the necessary steps to adopt a permanent regulation, including
59 the posting of notice of intent to adopt, preparation and submission of
60 a fiscal note in accordance with the provisions of subsection (b) of
61 section 4-170 and approval by the Attorney General and the standing
62 legislative regulation review committee, are not completed prior to the
63 expiration date of an emergency regulation, the emergency regulation
64 shall cease to be effective on [that] such expiration date.

65 (h) [If an agency finds (1) that technical amendments to an existing
66 regulation are necessary because of (A)] An agency may make
67 technical amendments to an existing regulation or repeal an existing
68 regulation to: (1) Facilitate the statutory transfer of functions, powers
69 or duties from the agency named in the existing regulation to another
70 agency, [(B)] (2) reflect a change in the name of the agency, [(C)] (3)
71 transfer or renumber sections of the regulation to correspond with the
72 transferring or renumbering of the section of the general statutes
73 containing the statutory authority for the regulation, [or (D)] or make a
74 correction in the numbering of the regulation, [and] with no
75 substantive changes made, [are proposed] (4) amend an existing
76 regulation solely to conform the regulation to amendments to the
77 general statutes, provided the amendments to the regulation do not
78 entail any discretion by the agency, (5) update or correct contact
79 information contained in the regulation, or [(2) that the] (6) repeal [of]
80 a regulation [is necessary] because the section of the general statutes
81 under which the regulation has been adopted has been repealed and
82 has not been transferred or reenacted, [, it may elect to comply] The
83 agency may adopt any such amendments to or repeal of a regulation in

84 accordance with the requirements of subsection (a) of this section or
85 may proceed without prior notice, public comment period or hearing,
86 provided the agency has posted such amendments to or repeal of [a]
87 the regulation on the eRegulations System. Any such amendments to
88 or repeal of a regulation shall be submitted in the form and manner
89 prescribed in subsection (b) of section 4-170, to the Attorney General,
90 as provided in section 4-169, and to the standing legislative regulation
91 review committee, as provided in section 4-170, for approval and upon
92 approval shall be submitted to the office of the Secretary of the State
93 for posting on the eRegulations System with, in the case of
94 [renumbering of] transferred or renumbered sections only, a correlated
95 table of the former and new section numbers.

96 Sec. 2. Section 4-172 of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective October 1, 2016*):

98 (a) After approval of a regulation as required by sections 4-169 and
99 4-170, or after reversal of a decision of the standing legislative
100 regulation review committee by the General Assembly pursuant to
101 section 4-171, as amended by this act, each agency shall submit to the
102 office of the Secretary of the State a certified electronic copy of such
103 regulation. Concomitantly, the agency shall electronically file with the
104 electronic copy of the regulation a statement from the department head
105 or a duly authorized deputy department head of such agency
106 certifying that the electronic copy of the regulation is a true and
107 accurate copy of the regulation approved in accordance with sections
108 4-169 and 4-170. Each regulation when so electronically submitted
109 shall be in the form prescribed by the Secretary of the State for posting
110 on the eRegulations System, and each section of the regulation shall
111 include the appropriate regulation section number and a section
112 heading. The Secretary of the State shall post each such regulation on
113 the eRegulations System not later than ten calendar days after the
114 agency submission of the regulation.

115 (b) Each regulation hereafter adopted is effective upon its posting
116 on the eRegulations System by the Secretary of the State in accordance

117 with this section, except that: (1) If a later date is required by statute or
118 specified in the regulation, the later date is the effective date; and (2) a
119 regulation may not be effective before the effective date of the public
120 act requiring or permitting the adoption of the regulation. [; and (3)
121 subject to applicable constitutional or statutory provisions, an
122 emergency regulation becomes effective immediately upon electronic
123 submission to the Secretary of the State, or at a stated date less than
124 twenty days thereafter, if the agency finds that this effective date is
125 necessary because of imminent peril to the public health, safety, or
126 welfare.] Each emergency regulation shall be effective when posted on
127 the eRegulations System by the Secretary of the State. The agency's
128 finding and a brief statement of the reasons therefor shall be submitted
129 with the regulation or emergency regulation. The agency shall take
130 appropriate measures to make emergency regulations known to the
131 persons who may be affected by them.

132 Sec. 3. Section 4-171 of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective October 1, 2016*):

134 (a) On or before February fifteenth of each regular session of the
135 General Assembly, the cochairpersons of the standing legislative
136 regulation review committee shall submit to the General Assembly for
137 its study (1) a copy of all proposed regulations which have been
138 disapproved by the standing committee under subsection (c) of section
139 4-170, and (2) a list by agency of each section of the general statutes
140 that requires the agency to adopt regulations on or before January first
141 of the preceding year which the agency did not submit or resubmit to
142 the committee by December first of such year as provided in section 4-
143 170b.

144 (b) [Such] Any such regulations that were disapproved by the
145 standing legislative regulation review committee under subsection (c)
146 of section 4-170 shall be referred by the speaker of the House or by the
147 president pro tempore of the Senate to an appropriate committee for
148 its consideration and the committee shall schedule hearings thereon.
149 The General Assembly may, by resolution, either sustain or reverse a

150 vote of disapproval of the standing committee under the provisions of
151 said subsection (c), except that if the General Assembly fails during its
152 regular session to reverse by resolution the disapproval of a regulation
153 proposed for the purpose of implementing a federally subsidized or
154 assisted program, the vote of disapproval shall be deemed sustained
155 for purposes of this section and the proposed regulation shall not
156 become effective. Any action of the General Assembly under the
157 provisions of this section shall be effective as of the date of passage of
158 the resolution in the second house of the General Assembly.

159 Sec. 4. Section 4-189i of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective from passage*):

161 (a) Not later than July 1, [1996] 2017, and not later than every [five]
162 seven years thereafter, [the regulation review] each committee of
163 cognizance, in consultation with each agency that is within the
164 cognizance of the committee, shall establish the date by which [the]
165 each such agency shall submit a review of [the] its existing regulations
166 [adopted by said agency] and shall notify the administrator of the
167 regulation review committee of each such date and any extension
168 thereof. In establishing such date, or any extension of the date that may
169 be requested by the agency, the committee of cognizance (1) shall
170 consider the volume and complexity of such regulations and the
171 personnel and other resources of the agency [which] that would be
172 available to undertake the review within the agency's available
173 appropriations, and (2) may establish a schedule of dates for the
174 review of various portions of such regulations upon the agreement of
175 the committee of cognizance and the administrative head of the
176 agency.

177 (b) Not later than the date specified by the [regulation review]
178 committee of cognizance pursuant to subsection (a) of this section,
179 each such agency shall submit to the committee of cognizance and to
180 the administrator of the regulation review committee a review of its
181 existing regulations, which shall include, but need not be limited to: (1)
182 The agency's recommendations on how it may substantially reduce the

183 number and length of its existing regulations; (2) the agency's
184 determination of whether each of its existing [regulation] regulations
185 (A) is obsolete, (B) has not been used within the preceding [five] seven
186 years, (C) is inconsistent with any provision of the general statutes,
187 federal law or any regulation adopted under the general statutes or
188 federal law, (D) has been the subject of written complaints, and (E) is
189 otherwise no longer effective; and (3) the agency's recommendation_z
190 [of] if any, regarding any extraordinary circumstances in which
191 waivers from its existing regulations may be appropriate.

192 (c) Upon receipt of an agency's review, the [regulation review]
193 committee of cognizance shall [:(1) Send a copy of the review to the
194 committee of cognizance and (2)] schedule a public hearing_z [jointly
195 with the committee of cognizance,] which shall be held [within thirty]
196 not later than ninety days following such receipt. The [regulation
197 review] committee of cognizance shall [have] make copies of the
198 review available to the public at least [five] fifteen days prior to the
199 hearing.

200 (d) Following the public hearing: (1) The [regulation review]
201 committee of cognizance may request the agency to initiate the process
202 under chapter 54 to carry out a recommendation of the agency under
203 subsection (b) of this section to amend or repeal an existing regulation
204 which, in the determination of the [regulation review] committee of
205 cognizance, does not require the enactment of authorizing legislation_z
206 and (2) the committee of cognizance shall consider any
207 recommendation by the agency under subsection (b) of this section
208 which, in the determination of the committee of cognizance_z [or the
209 regulation review committee,] would require the enactment of
210 authorizing legislation.

211 (e) If an agency fails to submit [to the regulation review committee]
212 a review of [the agency's] its regulations to the committee of
213 cognizance and the administrator of the regulation review committee
214 as required by [subsections (a) and] subsection (b) of this section or if
215 the [regulation review] committee of cognizance determines that the

216 agency has not conducted a satisfactory review of [the agency's] its
 217 regulations as required by said [subsections] subsection, the
 218 [regulation review] committee of cognizance may: (1) Conduct a
 219 review of the existing regulations of the agency, as described in
 220 subsection (b) of this section, (2) request the agency to initiate the
 221 process under chapter 54 to carry out a recommendation of the
 222 [regulation review] committee of cognizance pursuant to such review
 223 to amend or repeal an existing regulation which, in the determination
 224 of the [regulation review] committee of cognizance, does not require
 225 the enactment of authorizing legislation, and (3) [request the
 226 committee of cognizance to consider any recommendation by the
 227 regulation review committee pursuant to such review] recommend the
 228 enactment of legislation to amend or repeal existing regulations which,
 229 in the determination of the [regulation review] committee of
 230 cognizance, would require the enactment of authorizing legislation. If
 231 the agency fails to initiate the process to amend or repeal an existing
 232 regulation pursuant to subdivision (2) of this subsection, the
 233 [regulation review] committee of cognizance may [request the
 234 committee of cognizance to] introduce legislation requiring the agency
 235 to initiate such process.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	4-168(g) and (h)
Sec. 2	October 1, 2016	4-172
Sec. 3	October 1, 2016	4-171
Sec. 4	from passage	4-189i

Statement of Legislative Commissioners:

In Section 1(h) "transferring" and "renumbered" were added for consistency, in Section 2(b) "adoption of the" was added for clarity, in Section 3(b), "legislative regulation review" was added for clarity and in Section 4(c), "within" was changed to "not later than" for clarity.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which transfers the responsibilities of reviewing agency regulations from the Regulation Review Committee to the committees of cognizance, will not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5498*****AN ACT REVISING THE REGULATION REVIEW PROCESS.*****SUMMARY:**

This bill makes several changes to the Uniform Administrative Procedure Act (UAPA), which governs the regulation-adoption process for state agencies. It (1) transfers, from the Regulation Review Committee to state agencies' committees of cognizance, responsibility for conducting periodic reviews of agencies' existing regulations; (2) makes minor changes to certain deadlines and effective periods associated with emergency regulations; and (3) expands the reasons for which agencies may propose amendments to regulations without prior notice or public comment.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016, except that the provision on reviews of existing regulations is effective upon passage.

§ 4 — REVIEWS OF EXISTING REGULATIONS

Under current law, the Regulation Review Committee must, every five years, establish a date by which each state agency must submit to the committee a review of its existing regulations. The committee must establish the date in consultation with each agency. The bill instead requires (1) the agencies' committees of cognizance, rather than the Regulation Review Committee, to establish these dates and conduct these reviews and (2) that these dates be established every seven years, rather than every five. The committees of cognizance must notify the Regulation Review Committee's administrator of the dates and any extensions.

The bill requires agencies and the committees of cognizance to

establish these dates by July 1, 2017. It allows the committees to establish a schedule of dates to review various portions of the regulations upon agreement with the agency's administrative head.

Review Requirements

The bill retains provisions in existing law and makes conforming changes concerning the review's requirements and the committees' authority. By law, the review must include (1) recommendations for reducing regulations' number and length; (2) determinations on whether they are obsolete, unused, inconsistent with other law, no longer effective, or the subject of written complaints; and (3) recommendations regarding extraordinary circumstances warranting their waiver. Agencies must submit the review to the committee of cognizance and the Regulation Review Committee's administrator.

Under current law, the Regulation Review Committee and the committee of cognizance must conduct a joint public hearing on the agency's review. The bill eliminates the requirement that the Regulation Review Committee be part of the hearing. It also extends (1) from 30 days after the agency's submission to 90 days after the submission, the deadline by which the committee of cognizance must hold the hearing and (2) from five days before the hearing to 15 days before the hearing, the deadline by which copies of the review must be made available to the public.

The bill also makes conforming changes by eliminating the Regulation Review Committee's role in certain post-hearing procedures in current law. Under the bill, the committee of cognizance, among other things, (1) may ask an agency to initiate the UAPA's process for amending or repealing an existing regulation when legislative action is not required and (2) must consider any recommendation by the agency requiring legislative action. The committee may also conduct its own review of the agency's regulations if the agency did not, in the committee's judgment, conduct a satisfactory review.

§§ 1 & 2 — EMERGENCY REGULATIONS

By law, an agency may adopt an emergency regulation either without prior notice and hearing or with an abbreviated notice and hearing process. Under current law, an emergency regulation is effective for up to 120 days, but the agency can extend this period for up to 60 days by posting a notice on the eRegulations system and notifying the Regulation Review Committee. The bill instead makes emergency regulations effective for up to 180 days.

Under existing law and the bill, emergency regulations of the Department of Energy and Environmental Protection (DEEP) regarding fishery management and marine resources emergencies may be extended an additional 60 days. The bill requires DEEP to submit requests for these extensions to the Regulation Review Committee 15 calendar days before the regulation expires, rather than 10 days (presumably business days) before the expiration date as current law requires. The bill also changes, from 10 business days to 15 calendar days, the period of time that the Regulation Review Committee has to act on a proposed emergency regulation. Under existing law, an emergency regulation is deemed approved if the committee does not act on it within the specified timeframe.

By law, regulations (including emergency regulations) are generally effective when the secretary of the state posts them on the eRegulations system. The bill eliminates an exception in current law that allows emergency regulations to become effective upon submission to the secretary if the agency finds that this is necessary because of imminent peril to public health, safety, or welfare.

§ 1 — TECHNICAL AMENDMENTS

Under the UAPA, the regulation-adoption process generally requires notice of the proposed regulation and the opportunity for public comment. Agencies may propose, without prior notice or hearing, (1) technical amendments to regulations when necessary to conform to certain changes (e.g., a change to the agency's name) or (2) a repeal of a regulation if the authorizing statute is repealed. The bill also allows an agency to use this expedited process to (1) amend an

existing regulation solely to conform it to amendments to state law, as long as the amendment to the regulation does not involve any discretion by the agency, or (2) update or correct contact information contained in the regulation.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/18/2016)