



House of Representatives

File No. 753

General Assembly

February Session, 2016

(Reprint of File No. 491)

Substitute House Bill No. 5498
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 28, 2016

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2 statutes are repealed and the following is substituted in lieu thereof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 [are proposed] made, (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, (6) correct spelling, grammar,
80 punctuation, formatting or typographical errors, with no substantive
81 changes made, or [(2) that the] (7) repeal [of] a regulation [is necessary]
82 because the section of the general statutes under which the regulation
83 has been adopted has been repealed and has not been transferred or

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

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 Section 4-172 of the general statutes is repealed and the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

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

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

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

137 (a) On or before February fifteenth of each regular session of the
138 General Assembly, the cochairpersons of the standing legislative
139 regulation review committee shall submit to the General Assembly for
140 its study (1) a copy of all proposed regulations which have been
141 disapproved by the standing committee under subsection (c) of section
142 4-170, and (2) a list by agency of each section of the general statutes
143 that requires the agency to adopt regulations on or before January first
144 of the preceding year which the agency did not submit or resubmit to
145 the committee by December first of such year as provided in section 4-
146 170b.

147 (b) [Such] Any such regulations that were disapproved by the
148 standing legislative regulation review committee under subsection (c)
149 of section 4-170 shall be referred by the speaker of the House or by the
150 president pro tempore of the Senate to an appropriate committee for

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

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

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

180 (b) Not later than the date specified by the [regulation review]
181 committee of cognizance pursuant to subsection (a) of this section,
182 each such agency shall submit to the committee of cognizance and to
183 the administrator of the regulation review committee a review of its

184 existing regulations, which shall include, but need not be limited to: (1)
185 The agency's recommendations on how it may substantially reduce the
186 number and length of its existing regulations; (2) the agency's
187 determination of whether each of its existing [regulation] regulations
188 (A) is obsolete, (B) has not been used within the preceding [five] seven
189 years, (C) is inconsistent with any provision of the general statutes,
190 federal law or any regulation adopted under the general statutes or
191 federal law, (D) has been the subject of written complaints, and (E) is
192 otherwise no longer effective; and (3) the agency's recommendation,
193 [of] if any, regarding any extraordinary circumstances in which
194 waivers from its existing regulations may be appropriate.

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

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

214 (e) If an agency fails to submit [to the regulation review committee]
215 a review of [the agency's] its regulations to the committee of
216 cognizance and the administrator of the regulation review committee

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

238 Sec. 5. Subsection (a) of section 4-168 of the general statutes is
239 repealed and the following is substituted in lieu thereof (*Effective from*
240 *passage and applicable to regulations noticed on and after January 1, 2017*):

241 (a) Except as provided in subsections (g) and (h) of this section, an
242 agency, not less than thirty days prior to adopting a proposed
243 regulation, shall (1) post a notice of its intended action on the
244 eRegulations System, which notice shall include (A) a specified public
245 comment period of not less than thirty days, (B) a description
246 sufficiently detailed so as to apprise persons likely to be affected of the
247 issues and subjects involved in the proposed regulation, (C) a
248 statement of the purposes for which the regulation is proposed, (D) a
249 reference to the statutory authority for the proposed regulation, (E)
250 when, where and how interested persons may obtain a copy of the

251 small business impact and regulatory flexibility analysis required
252 pursuant to section 4-168a, and (F) when, where and how interested
253 persons may present their views on the proposed regulation; (2) post a
254 copy of the proposed regulation on the eRegulations System; (3) give
255 notice electronically to each joint standing committee of the General
256 Assembly having cognizance of the subject matter of the proposed
257 regulation; (4) prior to January 1, 2017, give notice electronically or
258 provide a paper copy notice, if requested, to all persons who have
259 made requests to the agency for advance notice of its regulation-
260 making proceedings; (5) provide a paper copy or electronic version of
261 the proposed regulation to persons requesting it; and (6) prepare a
262 fiscal note, including an estimate of the cost or of the revenue impact
263 (A) on the state or any municipality of the state, and (B) on small
264 businesses in the state, including an estimate of the number of small
265 businesses subject to the proposed regulation and the projected costs,
266 including, but not limited to, reporting, recordkeeping and
267 administrative, associated with compliance with the proposed
268 regulation and, if applicable, the regulatory flexibility analysis
269 prepared under section 4-168a. The governing body of any
270 municipality, if requested, shall provide the agency, within twenty
271 working days, with any information that may be necessary for analysis
272 in preparation of such fiscal note. On and after January 1, 2017, each
273 such agency shall mail a paper copy of the notice posted pursuant to
274 subdivision (1) of this subsection, not later than five days after posting
275 such notice, to any person who has requested advance notice of the
276 agency's regulation-making proceedings on or after October 1, 2016.

277 Sec. 6. (*Effective from passage*) (a) Not later than September 1, 2016,
278 each agency that provides an electronic notice or paper copy notice of
279 the agency's intent to adopt regulations to persons who have requested
280 such notification pursuant to section 4-168 of the general statutes, as
281 amended by this act, shall provide a list of the electronic mail address
282 or United States Postal Service physical address, as applicable, of each
283 such person to the Office of Policy and Management. Not later than
284 October 1, 2016, the Secretary of the Office of Policy and Management

285 shall notify each person on the list submitted by the agency that on
286 and after January 1, 2017, any such notice of intent shall be provided
287 (1) electronically on the eRegulations System, or (2) by mail to any
288 person who submits a written request to the applicable agency to
289 receive a paper copy of notice on or after the effective date of this
290 section. The office shall include in any such notice provided under
291 subdivision (2) of this subsection instructions on how to subscribe to
292 electronic notifications on the eRegulations System.

293 (b) The office shall provide the notice required under subsection (a)
294 of this section electronically to any person who has provided an
295 electronic mail address and by mail to any person who has requested a
296 paper copy of such notice.

297 Sec. 7. Subsection (e) of section 4-168 of the general statutes is
298 repealed and the following is substituted in lieu thereof (*Effective*
299 *January 1, 2017, and applicable to regulations noticed on and after said date*):

300 (e) After the close of the public comment period and prior to
301 submission to the Attorney General, in accordance with section 4-169,
302 as amended by this act, the agency shall post on the eRegulations
303 System a notice describing whether the agency has decided to move
304 forward with the proposed regulation. [The agency shall provide such
305 notice electronically to all persons who have submitted oral or written
306 comment on the proposed regulation and shall provide a paper copy
307 of such notice to all persons who have submitted comments in a
308 nonelectronic format. The] If any comments have been received, the
309 agency shall also post on the eRegulations System: (1) [The final
310 wording of the proposed regulation; (2) a] A statement of the principal
311 reasons in support of its intended action; and [(3)] (2) a statement of
312 the principal considerations in opposition to its intended action as
313 urged in written or oral comments on the proposed regulation and its
314 reasons for rejecting such considerations. The agency shall distribute
315 its response to comments electronically to all persons who have
316 commented on the regulation and have provided a valid electronic
317 mail address and shall mail a copy of such response to any person who

318 has commented on the regulation and specifically requested a paper
319 copy on or after January 1, 2017.

320 Sec. 8. Section 4-169 of the general statutes is repealed and the
321 following is substituted in lieu thereof (*Effective January 1, 2017, and*
322 *applicable to regulations noticed on and after said date*):

323 No adoption, amendment or repeal of any regulation, except a
324 regulation issued pursuant to subsection (g) of section 4-168, as
325 amended by this act, shall be effective until the proposed regulation
326 and any revision of a proposed regulation to be resubmitted to the
327 standing legislative regulation review committee (1) has been
328 submitted electronically to the Attorney General and the version
329 submitted to the Attorney General posted on the eRegulations System
330 by the agency proposing such regulation, and (2) approved by the
331 Attorney General or by some other person designated by the Attorney
332 General for such purpose. The review of such regulations by the
333 Attorney General shall be limited to a determination of the legal
334 sufficiency of the proposed regulation. If the Attorney General or the
335 Attorney General's designated representative fails to give notice to the
336 agency of any legal insufficiency within thirty days of the receipt of the
337 proposed regulation, the Attorney General shall be deemed to have
338 approved the proposed regulation for purposes of this section. The
339 approval of the Attorney General shall be provided to the agency
340 electronically, included in the regulation-making record and submitted
341 electronically by the agency to the standing legislative regulation
342 review committee. As used in this section "legal sufficiency" means
343 [(1)] (A) the absence of conflict with any general statute or regulation,
344 federal law or regulation or the Constitution of this state or of the
345 United States, and [(2)] (B) compliance with the notice and hearing
346 requirements of section 4-168, as amended by this act.

347 Sec. 9. Section 4-173b of the general statutes is repealed and the
348 following is substituted in lieu thereof (*Effective from passage*):

349 (a) The Secretary of the State shall establish and maintain the

350 eRegulations System, which shall include a compilation of the
351 regulations of Connecticut state agencies adopted by all state agencies
352 subsequent to October 27, 1970. Such compilation may be a revision of
353 the most current compilation published by the Commission on Official
354 Legal Publications. The Commission on Official Legal Publications
355 shall, within available appropriations, provide any assistance
356 requested by the Secretary of the State in the creation of the
357 eRegulations System. On and after the certification date the
358 eRegulations System shall also include the official electronic
359 regulation-making record described in section 4-168b. On and after the
360 date the Secretary of the State certifies the eRegulations System as
361 sufficient pursuant to this section, the regulations of Connecticut state
362 agencies published by the Secretary on said system shall be the official
363 compilation of the regulations of Connecticut state agencies for all
364 purposes, including all legal and administrative proceedings. The
365 Secretary of the State shall update the compilation of the regulations of
366 Connecticut state agencies published on the eRegulations System at
367 least monthly. The eRegulations System shall be easily accessible to
368 and searchable by the public and shall enable members of the public to
369 request and receive an electronic notification when an agency posts a
370 notice of intent to adopt regulations in accordance with section 4-168,
371 as amended by this act. The Secretary of the State may specify the
372 format in which state agencies shall submit the final approved version
373 of such regulations and all other documents required pursuant to this
374 section and sections 4-167, 4-168, as amended by this act, 4-170 and 4-
375 172, as amended by this act, and all state agencies shall follow the
376 instructions of the Secretary of the State with respect to agency
377 submissions to the Secretary.

378 (b) The Secretary of the State shall post on the eRegulations System
379 all effective regulations of Connecticut state agencies as provided by
380 the Commission on Official Legal Publications and any updates
381 thereto. The Secretary of the State shall designate such posting as an
382 unofficial version of the regulations of Connecticut state agencies until
383 such time as the Secretary certifies in writing that the compilation of

384 the regulations of Connecticut state agencies published on the
 385 eRegulations System is technologically sufficient to serve as the official
 386 compilation of the regulations of Connecticut state agencies and the
 387 electronic repository for the regulation-making record. Such
 388 certification shall be published on the Secretary's Internet web site and
 389 in the Connecticut Law Journal. Until such time as the Secretary makes
 390 such certification concerning the official compilation: (1) The Secretary,
 391 upon receipt of the certified electronic copy of an approved regulation
 392 in accordance with section 4-172, as amended by this act, shall forward
 393 an electronic copy of such regulation to the Commission on Official
 394 Legal Publications for publication in accordance with this section, (2)
 395 the Commission on Official Legal Publications shall continue to
 396 publish the regulations of Connecticut state agencies, and (3) such
 397 published version shall be the official version of said regulations.

398 [(b)] (c) Each agency and quasi-public agency with regulatory
 399 authority shall post a conspicuous web site link to the eRegulations
 400 System on the agency's or quasi-public agency's Internet web site and
 401 shall, if practicable, link to the specific provisions of the regulations of
 402 Connecticut state agencies that concern the agency's or quasi-public
 403 agency's particular programs.

404 [(c)] (d) Not later than January 1, 2014, the Secretary of the State
 405 shall develop and implement a plan to maintain a paper copy at the
 406 office of the Secretary of the State of all of the regulations of
 407 Connecticut state agencies posted on the eRegulations System.

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

Sec. 5	<i>from passage and applicable to regulations noticed on and after January 1, 2017</i>	4-168(a)
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>January 1, 2017, and applicable to regulations noticed on and after said date</i>	4-168(e)
Sec. 8	<i>January 1, 2017, and applicable to regulations noticed on and after said date</i>	4-169
Sec. 9	<i>from passage</i>	4-173b

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.

House "A" makes technical revisions regarding the state regulation process that will not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5498 (as amended by House "A")******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' legislative 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; (3) expands the reasons for which agencies may propose amendments to regulations without prior notice or public comment; and (4) modifies provisions concerning the agency's (a) posting of notices of proposed regulations on the eRegulations System, (b) delivery of the notices to certain interested parties, and (c) responses to public comments.

Lastly, the bill makes technical and conforming changes.

*House Amendment "A" adds the provisions on notices of proposed regulations and responses to public comments and makes minor and technical changes.

EFFECTIVE DATE: Upon passage, except that provisions on (1) notifying persons that request advance notice of proposed regulations are applicable to regulations noticed on or after January 1, 2017; (2) responses to public comment and submission to the attorney general are effective January 1, 2017 and applicable to regulations noticed on or after that date; and (3) emergency regulations and technical amendments, as well as a technical change (§ 3), are effective October

1, 2016.

§ 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 the agency's 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 take part in 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 current role in certain post-hearing procedures. 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 an additional 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 from the date they are approved and posted online.

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 a second time for an additional 60 days. The bill requires DEEP to submit requests for these extensions to the Regulation Review Committee at least 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 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 agency discretion; (2) update or correct contact information contained in the regulation; or (3) correct spelling, grammar, punctuation, formatting, or typographical errors, with no substantive changes made.

§§ 501-505 — NOTICES OF PROPOSED REGULATIONS

Notice to Interested Parties (§§ 501-502 & 505)

By law, agencies seeking to adopt regulations must post notice of their intent on the eRegulations System at least 30 days before adoption. Current law requires agencies to provide electronic or paper copy notice of the intent to all persons that have requested advance notice of their regulation-making proceedings.

The bill eliminates this requirement beginning January 1, 2017 and instead requires agencies to mail a paper copy only to those persons who request advance notice on or after October 1, 2016. The agency must mail the notice no later than five days after posting it on the eRegulations System. The bill also requires that the eRegulations System enable members of the public to request and receive an electronic notification when an agency posts a notice of intent to adopt

regulations.

The bill requires agencies, by September 1, 2016, to provide the Office of Policy and Management (OPM) with the email or mailing address, as applicable, of each person that has requested notice of regulation-making proceedings. By October 1, 2016, OPM must notify each of these persons that, on and after January 1, 2017, the notice of intent will be provided (1) electronically on the eRegulations System (2) by mail to any person who submits a written request to the agency. Notices delivered by mail must include instructions on how to subscribe to electronic notifications on the eRegulations System.

Responses to Public Comment and Submission to Attorney General (§§ 503 & 504)

By law, an agency must post on the eRegulations System a notice that states whether the agency has decided to move forward with a proposed regulation. The bill eliminates a requirement that the agency send the notice of its intended action to anyone that submitted written or oral comments on the proposed regulation. It instead requires the agency to distribute to these persons only the agency's response to comments it received. It must send the response electronically to anyone that provided a valid email address and mail a copy to each person that specifically requested a paper copy on or after January 1, 2017.

Under current law, the agency must also post on the eRegulations System statements of the principal reasons (1) in support of its intended action and (2) in opposition to its intended action, as urged in written or oral comments on the proposed regulation, and its reasons for rejecting these considerations. The bill specifies that the agency must post these statements only if it receives comments on the proposed regulation.

The bill also eliminates a requirement that the agency post the final wording of the proposed regulation on the eRegulations System before it submits the regulation to the attorney general for approval.

However, it requires the agency to post on the system the version it submits to the attorney general, presumably at the same time as it submits it to the attorney general.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/18/2016)