**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “REGULATORY REVIEW AND RESCISSION ACT”, BY ADDING ARTICLE 7 TO CHAPTER 23, TITLE 1 SO AS TO REQUIRE THE REVENUE AND FISCAL AFFAIRS OFFICE TO PERFORM A COST BENEFIT ANALYSIS OF PROPOSED REGULATIONS, TO PROVIDE THAT THE COST BENEFIT ANALYSIS IS A PUBLIC DOCUMENT, TO ESTABLISH WHEN A COST BENEFIT ANALYSIS IS NOT REQUIRED, TO ALLOW FOR RETROSPECTIVE REVIEW AND COST BENEFIT ANALYSIS OF REGULATIONS ADOPTED BEFORE DECEMBER 31, 2014, TO PROVIDE CERTAIN FACTORS THAT MUST BE CONSIDERED IN THE RETROSPECTIVE COST BENEFIT ANALYSIS, AND TO AUTHORIZE THE GOVERNOR TO TAKE CERTAIN ACTIONS WITH RESPECT TO REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Article 7

Regulatory Review and Rescission Act

Section 1‑23‑700. (A) The Revenue and Fiscal Affairs Office shall perform a cost benefit analysis on each proposed regulation and provide it to the Legislative Council, the Governor, the House Regulations and Administrative Procedures committee, and the relevant committee in the Senate.

(B) If the proposed regulation has an impact of at least five hundred thousand dollars, the cost benefit analysis performed by the Revenue and Fiscal Affairs Office shall replace and be the controlling fiscal analysis.

(C) In preparing a cost benefit analysis, the Revenue and Fiscal Affairs Office shall consider in its analysis any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed regulation. A cost benefit analysis prepared under this section is a public document, subject to the following:

(1) This subsection does not empower the Revenue and Fiscal Affairs Office or an agency to require an interested party or a regulated person to provide any materials, documents, or other information in connection with a cost benefit analysis. If an interested party or a regulated person voluntarily provides materials, documents, or other information, in connection with a cost benefit analysis, the Revenue and Fiscal Affairs Office, as applicable, shall ensure the adequate protection of any confidential and proprietary business plans and other confidential information. Interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims. The Revenue and Fiscal Affairs Office and any agency involved in proposing the regulation, or in administering the regulation upon its adoption, shall exercise all necessary caution to avoid disclosure of any confidential information supplied by an interested party or a regulated person.

(2) The Revenue and Fiscal Affairs Office shall make the cost benefit analysis and other related public documents available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed regulation at least thirty days before presenting the cost benefit analysis to the Governor and the relevant oversight committee under subsection (A).

(D) If the Revenue and Fiscal Affairs Office is unable to obtain verified data for the cost benefit analysis, the report shall identify which data was unavailable for purposes of the cost benefit analysis.

(E) If the Revenue and Fiscal Affairs Office finds that a proposed regulation is a technical amendment with no substantive effect on an existing regulation, it is not required to prepare a cost benefit analysis. The agency shall submit the regulation and a statement explaining how the proposed regulation meets the requirements of this section. If the Revenue and Fiscal Affairs Office finds that the proposed regulation meets these requirements, the regulation shall provide these findings in writing to the Legislative Council, the Governor, the House Regulation and Administrative Procedures Committee, and the relevant committee in the Senate.

Section 1‑23‑710. (A) This section applies to all regulations adopted under the Administrative Procedures Act and that have taken effect after December 31, 2014.

(B) The Revenue and Fiscal Affairs Office shall perform a cost benefit analysis of a regulation subject to review under this section with respect to the period encompassing the first three years following the regulation’s effective date. The cost benefit analysis must be submitted no later than six months after the third anniversary of the regulation’s effective date to the Governor, the House Regulations and Administrative Procedures committee, and the relevant committee in the Senate.

(C) The cost benefit analysis must include:

(1) the estimate of the primary and direct benefits of the regulation, including the impact on:

(a) consumer protection;

(b) worker safety;

(c) employment;

(d) energy reliability;

(e) the environment; and

(f) business competitiveness;

(2) the estimate of the secondary and indirect benefits of the regulation and the explanation of how the conduct regulated is linked to primary and secondary benefits;

(3) the estimate of any cost savings to regulated individuals or businesses as a result of the regulation, including any savings from:

(a) a change in an existing requirement;

(b) the imposition of a new requirement; and

(c) the imposition of cumulative requirements.

(4) a statement of the number of regulated persons, classified by industry sector, subject to the regulation;

(5) a comparison of:

(a) the cost benefit analysis for the regulation prepared before the regulation’s implementation; and

(b) the actual costs and benefits during the first three years of the regulation’s implementation, including:

(i) actual primary and direct benefits of the regulation, including the impact on consumer protection, worker safety, employment, energy reliability, the environment, and business competitiveness;

(ii) actual secondary and indirect benefits of the regulation and an explanation of how the conduct regulated is linked to the primary and secondary benefits; and

(iii) actual cost savings to regulated persons as a result of the regulation, including any savings from a change in existing requirement or from the imposition of a new requirement.

(D) The Revenue and Fiscal Affairs Office shall follow the requirements of Section 1‑23‑700 while completing a cost benefit analysis pursuant to this section.

(E) The Governor may:

(1) prescribe the form of the cost benefit analysis;

(2) rescind the regulation if the Revenue and Fiscal Affairs Office determines the costs exceed the benefits; and

(3) prescribe the process, deadlines, and other requirements for submitting a cost benefit analysis pursuant to this section.”

SECTION 2. This act takes effect upon approval by the Governor.

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