



SPONSOR: Rep. Spiegelman & Sen. Buckson
Reps. Gray, Matthews, Morris, Vanderwende, Yearick;
Sens. Hocker, Lawson, Pettyjohn, Richardson, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 21

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LEGISLATIVE OVERSIGHT OF AGENCY REGULATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 9, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 915. Joint Committee on Oversight of Agency Regulations.

4 (a) There is created a Joint Committee on Oversight of Agency Regulations (“Committee”). The Committee’s
5 purpose is to conduct the review of agency regulations required under § 10120 of this title.

6 (b) The Committee is composed of the following members:

7 (1) Five members of the Senate, appointed by the President Pro Tempore of the Senate, not more than 3 of
8 whom may be from the same political party.

9 (2) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives,
10 not more than 3 of whom may be from the same political party.

11 (c)(1) In odd-numbered years, the President Pro Tempore of the Senate shall appoint 1 of the members appointed
12 under paragraph (b)(1) of this section as Chair and the Speaker of the House of Representatives shall appoint 1 of the
13 members appointed under paragraph (b)(2) of this section as Vice Chair.

14 (2) In even-numbered years, the Speaker of the House of Representatives shall appoint 1 of the members
15 appointed under paragraph (b)(2) of this section as Chair and the President Pro Tempore of the Senate shall appoint 1
16 of the members appointed under paragraph (b)(1) of this section as Vice Chair.

17 (d)(1) Six members of the Committee constitute a quorum to transact business.

18 (2) A motion is carried by a majority of the members of the Committee. A vacancy on the Committee is not
19 counted to determine the number of members needed to achieve a majority.

20 (e)(1) Employees of the Division of Research of Legislative Council serve as the permanent staff of the
21 Committee.

22 (2) The Committee may, by the affirmative vote of at least 6 members, provide for other assistance,
23 equipment, or expenditures that are within the limits of the Committee’s budget.

24 (3) The General Assembly shall appropriate funds that the General Assembly considers necessary to carry out
25 the Committee’s purpose.

26 (f) The Committee may request that the Office of the Controller General prepare a fiscal note on any regulation
27 adopted under Subchapter II of Chapter 101 of Title 29.

28 Section 2. Amend Subchapter II, Chapter 101, Title 29 of the Delaware Code by making deletions as shown by
29 strike through and insertions as shown by underline as follows:

30 § 10120. Legislative review of agency regulations; expiration and removal of expiration of regulations; agency
31 duties.

32 (a) As used in this section:

33 (1) “Committee” means the Joint Committee on Oversight of Agency Regulations as established under § 915
34 of this title.

35 (2) “Committee staff” means the employees of the Division of Research of Legislative Council who are
36 assigned to support the Committee.

37 (3) “Highest administrative officer” means an individual in charge of an agency.

38 (4) “Individual” means as defined under § 10403 of this title.

39 (b) Notwithstanding this subchapter or any other law to the contrary, on or after [the effective date of this Act], a
40 regulation adopted by an agency between each November 1 and October 31 expires at 5:00 p.m. on the following June 30
41 unless the General Assembly enacts a law to remove the expiration of the regulation.

42 (c) The Committee shall do all of the following:

43 (1) Exercise continuous oversight of the process of adopting regulations.

44 (2) Examine each regulation adopted by an agency during the period under subsection (b) of this section for
45 all of the following to determine if the expiration of the regulation is to be removed:

46 a. Whether the regulation is within the agency’s authority to act, as delegated to the agency by the
47 General Assembly by law. A regulation is not within the agency’s authority to act merely because the regulation is
48 not contrary to a law.

49 b. Whether the regulation complies with the intent of the General Assembly in delegating regulatory
50 authority to the agency.

51 c. The regulation’s impact on all of the following:

52 1. The economy of this State.

53 2. Individuals.

54 3. Businesses.

55 4. State, county, and municipal government.

56 d. The regulation's total cost to entities regulated by this State.

57 e. The regulation's benefit to the citizens of this State.

58 f. Any other criteria adopted by the Committee by rule.

59 (3) Hold a public hearing to consider a recommendation to the General Assembly that a regulation be
60 permitted to expire.

61 (d) The Registrar of Regulations shall notify, in the form and manner prescribed by the Committee by rule, the
62 Committee and the Committee staff of each regulation adopted during the period under subsection (b) of this section.

63 (e)(1) The Committee staff shall prepare and submit a staff report to the Committee not later than January 30 of
64 each year. The staff report must include information that assists the Committee in conducting a thorough review of each
65 regulation adopted during the period under subsection (b) of this section and meets the Committee's duties under this
66 section. The staff report must include at least all of the following:

67 a. Background information on the regulation.

68 b. The Committee staff's analysis, conclusions, and recommendations arising from the Committee staff's
69 independent research and information provided by the agency that adopted the regulation.

70 c. The agency's response, if any, to the Committee staff's analysis, conclusions, and recommendations.

71 d. Any additional information that the Committee may request.

72 (2) The Committee staff shall provide the agency that adopted the regulation an opportunity to review and
73 comment on the staff report before submitting the report to the Committee or making the report available to the public.

74 (3) The Committee, or the Committee staff on the Committee's behalf, may do all of the following:

75 a. Access records of an agency related to each regulation adopted during the period under subsection (b)
76 of this section. The agency shall provide the access requested by the Committee or Committee staff.

77 b. Request from an agency records, reasonable information, and data related to each regulation adopted
78 during the period under subsection (b) of this section. The agency shall provide the records, information, and data
79 requested by the Committee or Committee staff.

80 (f)(1) The Committee shall convene a public hearing at which the Committee shall do all of the following:

81 a. Hear and discuss the staff report prepared under subsection (e) of this section.

82 b. Hear and receive evidence from each agency regarding each regulation the Committee staff
83 recommends be allowed to expire.

84 c. Hear and receive evidence from the public regarding every regulation reviewed in the Committee
85 staff's staff report.

86 d. Determine all of the following:

87 1. Which regulations the Committee recommends be allowed to expire. If the Committee staff
88 recommended the regulation not be allowed to expire, the Committee must schedule a subsequent public
89 hearing.

90 2. Which regulations the Committee recommends not be allowed to expire.

91 e. Schedule a subsequent public hearing to consider a regulation that the Committee staff recommended
92 not be allowed to expire, but that the Committee recommended under paragraph (f)(1)d.1. of this section be
93 allowed to expire.

94 (2) At a subsequent public hearing under paragraph (f)(1)e. of this section, the Committee shall do all of the
95 following:

96 a. Hear and receive evidence from each agency regarding each regulation to be considered at the
97 subsequent public hearing.

98 b. Hear and receive evidence from the public regarding each regulation to be considered at the subsequent
99 public hearing.

100 c. Determine all of the following:

101 1. Which regulations considered at the subsequent public hearing the Committee recommends be
102 allowed to expire.

103 2. Which regulations considered at the subsequent public hearing the Committee recommends not be
104 allowed to expire.

105 (3) Whenever possible, the Committee shall give 2 weeks' notice to an agency required to attend a hearing
106 under this subsection.

107 (4)a. The highest administrative officer of an agency required to attend a hearing under this subsection must
108 be present at the hearing.

109 b. The Committee Chair may excuse the highest administrative officer from a hearing under this
110 subsection at the request of the highest administrative officer, at the recommendation of Committee staff, or as the
111 Chair may determine is appropriate.

112 c. The highest administrative officer may, with the Chair's approval, designate an individual to meet the
113 highest administrative officer's obligations under this subsection.

114 d. The Committee may designate an individual other than the highest administrative officer to meet the
115 highest administrative officer's obligations under this subsection.

116 (g) After the public hearings required under subsection (f) of this section, the Committee shall do all of the
117 following not later than May 15 of each year:

118 (1) Submit an annual report, compiled by the Committee staff and approved by the Committee, to all of the
119 following:

120 a. The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

121 b. The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

122 c. The Director and Librarian of the Division of Research of Legislative Council.

123 d. The Director of the Delaware Public Archives.

124 e. The Governor.

125 (2) If the Committee recommends a regulation not be allowed to expire, draft and introduce a bill that
126 removes the expiration of each regulation the Committee recommends not be allowed to expire.

127 (h) If a bill to remove the expiration of a regulation set to expire under subsection (b) of this section is not enacted
128 before the date required under subsection (b) of this section, the regulation expires.

129 (i)(1) Each agency shall revise each of the agency's regulations to conform with the action taken by the General
130 Assembly under this section.

131 (2)a. An agency may not again adopt a regulation that has been allowed to expire by action of the General
132 Assembly, unless the authority to re-adopt the regulation has been explicitly granted to the agency by the General
133 Assembly by a bill amending the Delaware Code or Delaware Constitution.

134 b. If an agency adopts a regulation in violation of paragraph (i)(2)a. of this section, the regulation is void.

135 (3)a. If a regulation expires under subsection (b) of this section, the regulation is void.

136 b. If a regulation is void under paragraph (i)(3)a. of this section, the regulation in effect before the
137 regulation set to expire under subsection (b) of this section is not revived.

138 (j) The Committee is the committee of reference for a bill introduced to remove the expiration of a regulation set
139 to expire under subsection (b) of this section, other than the bill required under paragraph (g)(2) of this section.

140 (k)(1) The Committee may issue process to a witness at any place in this State and compel the witness's
141 attendance or compel the production of a document, book, record, paper, or other object that may be necessary or proper for
142 the purpose of this section or § 915 of this title.

143 (2) The Committee may issue an attachment when necessary to obtain compliance with a subpoena or other
144 process. An attachment issued under this subsection may be addressed to and served by any peace officer in this State.

145 (3)a. The Committee Chair shall issue, in the name of the Committee, a subpoena or other lawful process that
146 the Committee requests by affirmative vote of a majority of Committee members.

147 b. If the Committee Chair is unavailable, the Chair's designee shall perform the duty of the Committee
148 Chair.

149 (4) Testimony taken under subpoena must be given under oath subject to the penalties of perjury and must be
150 reduced to writing.

151 Section 3. Amend § 710, Title 29 of the Delaware Code by making deletions as shown by strike through and
152 insertions as shown by underline as follows:

153 § 710. Compensation of Lieutenant Governor and members of General Assembly.

154 (c) A member of the Senate or the House of Representatives who is elected or appointed to any of the following
155 positions is to receive, while serving in the position, additional yearly compensation as follows:

156 (13) Chair and Vice Chair of the Joint Committee on Oversight of Agency Regulations, \$4,670.

157 (14) Members of the Joint Committee on Oversight of Agency Regulations, \$3,929.

SYNOPSIS

This Act creates the Joint Committee on Oversight of Agency Regulations ("Committee") to engage in review and oversight of regulations adopted by State agencies.

Like laws in states such as Colorado and Utah, this Act does all of the following:

(1) Requires that all regulations adopted by an agency between each November 1 and October 31 expire at 5:00 p.m. on the following June 30 unless the General Assembly enacts a law to remove the expiration of the regulation.

(2) Establishes criteria for the Committee's review of State agency regulations.

(3) Establishes a process for the Committee's review and oversight of State agency regulations, including the requirement of a staff report, public hearings, and Committee recommendations to the General Assembly.

(4) If the Committee recommends a regulation not be allowed to expire, requires the Committee to draft and introduce a bill that removes the expiration of each regulation the Committee recommends not be allowed to expire.

(5) The Committee Chair, Vice Chair, and members receive the same additional compensation as the Joint Legislative Oversight and Sunset Committee.