SPONSOR: Rep. Spiegelman & Sen. Pettyjohn;
Reps. D. Short, Briggs King, Gray, Wilson, Carson; Sens. Lavelle, Venables

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 276

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

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

Section 1. Amend § 10115, Title 29 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 10115 Notice.

(a) Whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication, in full or as a summary, in the Register of Regulations pursuant to § 1134 of this title.

(1) The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act and reference to any other regulations that may be impacted or affected by the proposal;

(2) The notice shall state the manner in which persons may present their views: (i) if in writing, of the place to which and the final date by which such views may be submitted; or (ii) if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations.;

(3) The notice shall provide an estimate of the economic effect of the regulation on the business which it is to regulate, if any, and on the public. These estimates must be stated separately, and in each case must include:

(i) Both adverse and beneficial effects; and

(ii) Both immediate and long-term effects;

(4) The notice shall provide an estimate of the cost to the agency for enforcement of the proposed regulation.

(b) If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation a minimum of 20 days prior to

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such public hearing and shall also be advertised at least 20 days prior to such public hearing by electronic posting on a designated State of Delaware website, approved by the Registrar of Regulations by May 1, 2013, which shall be accessible to the public.

(c) The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

Ssynopsis

This Bill requires any administrative agency proposing a regulation under the Administrative Procedures Act to include a cost-benefit estimate in the notice for public comment that must be published before the regulation may be adopted. This cost-benefit analysis must be separated into two estimates – one estimating the cost to a business affected by the regulation and another estimating the cost to the public. The estimates must address the immediate and long-term effects of the regulation, as well as any adverse and beneficial economic effects and costs. These cost estimates will allow the public to provide informed, meaningful commentary during the public comment period, as is anticipated under the Administrative Procedures Act.

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