STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

AN ACT

RELATING TO GENERAL ASSEMBLY -- JOINT COMMITTEE ON REGULATORY OVERSIGHT

<u>Introduced By:</u> Representatives Amore, Filippi, Keable, and O'Grady

Date Introduced: March 23, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative Findings. It is found and declared: 2 The general assembly's delegation of its authority to statutorily created entities for the 3 purpose of those entities using their knowledge and expertise to effectuate a legislative purpose is the foundation of administrative law. 4 5 The failure of many administrative agencies to act within the scope of their authority in 6 promulgating rules and regulations that have the same effect as those laws passed by the 7 legislature has had a detrimental effect on the general assembly's ability to govern. 8 That the people have provided a temporary grant of their authority to three separate and 9 co-equal branches of government to protect their interests and ensure that the constitution and the 10 laws of this state are enforced. 11 That the purpose behind the "Separation of Powers Amendment" does not mean only,

That the purpose behind the "Separation of Powers Amendment" does not mean only, that legislators cannot serve on bodies having executive authority, but that executive and other governmental agencies, no matter where they derive their authority from, cannot infringe upon the legislature's authority either.

SECTION 2. Chapter 22-14 of the General Laws entitled "Legislative Oversight Commission" is hereby repealed in its entirety.

17 CHAPTER 22-14

Legislative Oversight Commission

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1	22-14-1. Establishment Purpose Membership Compensation.
2	(a) There is established an oversight commission empowered to conduct evaluations and
3	reviews of statutes, statutory entities, and associated rules and regulations. The review or
4	evaluation shall include, but not be limited to, the following as its objectives:
5	(1) The elimination of inactive entities or statutes;
6	(2) The elimination of entities or statutes that duplicate other entities or statutes or other
7	governmental programs and activities or determination of an appropriate consolidation for the
8	duplicate entities, statutes, or governmental programs and activities;
9	(3) The elimination or modification of inefficient, unnecessary, or ineffective entities or
10	statutes; and
11	(4) The determination of the impact of rules and regulations promulgated by any entity.
12	(b) The commission shall consist of fourteen (14) members all of whom shall be citizens
13	and residents of this state; four (4) of whom shall be members of the house of representatives, not
14	more than three (3) from the same political party, to be appointed by the speaker; three (3) of
15	whom shall be members of the senate, not more than two (2) from the same political party, to be
16	appointed by the president of the senate; one of whom shall be the director of administration; four
17	(4) of whom shall be members of the general public to be appointed by the governor; one of
18	whom shall be the fiscal assistant to the house finance committee; and one of whom shall be the
19	auditor general.
20	(c) The public members shall be appointed for terms of three (3) years except for the two
21	(2) members originally appointed; one shall be appointed for a term of one year and one shall be
22	appointed for a term of two (2) years.
23	(d) The legislative members shall serve a term of two (2) years. The members shall
24	annually elect one of them as chairperson of the commission.
25	(e) Any vacancy on the commission, occurring for any reason prior to the expiration of
26	the term, including, but not limited to, termination of active membership in the general assembly,
27	shall be filled for the unexpired term by the appointing authority in the same manner as the
28	original appointment.
29	(f) Any member of the commission may, for cause, be summarily removed from office by
30	the appointing authority, which removal shall be subject to judicial review by the superior court,
31	and pending that review the member shall not carry out any duties as a commission member.
32	(g) The director of administration, the fiscal assistant to the house finance committee, and
33	the auditor general respectively may designate a person to represent them at all commission
34	meetings.

1	(h) The members of the commission, except those members from the general public, shall
2	receive no salaries but shall be allowed reasonable expenses in the performance of their official
3	duties.
4	(i) The members from the general public shall not be compensated for service on the
5	board.
6	22-14-2. Quorum Meetings.
7	Six (6) members of the commission shall constitute a quorum for the transaction of any
8	business. Meetings of the commission may be held at any time or place upon call of any member,
9	after a reasonable notice by mail to the other members, and shall be held at the times and places
10	as in the judgment of the commission will best serve the convenience of all parties in interest.
11	22-14-3. Rules and regulations.
12	The commission shall adopt reasonable rules and regulations in compliance with the open
13	meetings law governing its operations and procedure to carry out the purposes of this chapter.
14	These rules and regulations shall include, but are not limited to, public hearings to determine
15	whether or not the existence of any entity due to expire in that year should be continued.
16	22-14-4. Definitions.
17	For the purposes of this chapter:
18	(1) "Statutory entity" or "entity" means any committee, board, commission, or
19	"subdivision of state government" created and continued in existence for the purpose of
20	administering a statute or legislative resolution. Cities and towns and agencies and
21	instrumentalities of cities and towns are exempted from this definition.
22	(2) "Termination date" means the date provided for termination of legislative authority
23	for the existence of a particular entity or statute.
24	(3) "Zero-base budget review and evaluation" means, with respect to a statutory entity, a
25	comprehensive evaluation to determine if the merits of the activities of the entity support its
26	continuation, and a recommended budget level for the entity, based upon a justification by that
27	entity of its budget from a zero base.
28	22-14-5. Repealed.
29	22-14-5.1. Repealed.
30	22-14-5.2. Repealed.
31	22-14-5.3. Entities without expiration date Statutory construction.
32	For the purpose of construing this chapter in determining the expiration date of any
33	statutory entity, the lack of a specific date for expiration of an entity shall mean that it is the intent
34	of the general assembly to continue the entity in existence until the general assembly by specific

1	legislation ends the statutory existence of the entity.
2	22-14-5.4. Repealed.
3	22-14-6. Procedure for re-creation.
4	(a) The procedure for re-creation of any statute or statutory entity to be terminated under
5	the provisions of this chapter shall be established by the commission. Those procedures shall
6	include a zero base budget review and evaluation by the auditor general as well as any other
7	procedures which the commission determines are necessary to meet its objectives.
8	(b) Each entity shall be notified of its termination date, and that a review by the auditor
9	general will begin. The entity shall also be notified of all other procedures with which it will be
10	expected to comply.
11	(c) Upon completion of the zero-based budget review and evaluation the office of auditor
12	general shall transmit its report to the commission. The report shall include, but not be limited to:
13	(1) An identification of other entities, or other programs or activities of the state
14	government, having the same or similar objectives, along with a comparison of the cost and
15	effectiveness of those entities, programs, or activities and any duplication of the entity under
16	review;
17	(2) An examination of the extent to which the objectives of the entity under review have
18	been achieved when compared to the objectives initially set forth for the entity under review and
19	an analysis of any significant variance between projected and actual performance; and
20	(3) A statement of the objectives of the entity for the coming four (4) years with the
21	establishment of measurements of performance where feasible.
22	22-14-7. Commission report.
23	The commission shall adopt and make public regulations and guidelines for determining
24	the continued public need for such governmental bodies. The regulations and guidelines shall
25	include, but not be limited to, the following criteria:
26	(1) Would the termination of the entity or statute significantly harm or endanger the
27	public health, safety, or welfare?
28	(2) Has the entity met the objectives of the statute that created it?
29	(3) Has the entity or statute encouraged participation by the public?
30	(4) Do the functions of the entity or statute overlap or duplicate the functions of any other
31	entity or statute?
32	(5) What are the objectives of the entity or statute for the next five (5) years?
33	22-14-8. Activities by terminated statutory entity.
34	Each entity may continue itself in existence for up to one year after scheduled termination

1	for the purpose of completing its work and activities. During this completion period, termination
2	shall not reduce or otherwise limit the powers or authority of each entity. Upon the expiration of
3	one year after termination, each entity shall cease. All unexpended balances of appropriations or
4	other funds shall revert to the general fund.
5	22-14-9. Repealed.
6	22-14-10. Proceedings against statutory entity.
7	Nothing in this chapter shall cause any right, claim, or cause of action held by any person
8	against any entity to be dismissed, nor shall any right, claim, or cause of action held by any entity
9	which has been terminated pursuant to this chapter lapse because of this chapter.
10	22-14-11. Legislative action.
11	Whenever the general assembly is about to create or re-create any statutory entity it
12	should, whenever possible, request a report from the commission as set forth in § 22-14-7;
13	however, no report is required to be received by the general assembly for any action to be taken,
14	and nothing in this chapter shall be construed to prohibit the legislature from terminating an entity
15	covered by these provisions at a date earlier than that provided in this chapter, nor to prohibit the
16	legislature from considering any other legislation relative to that entity.
17	22-14-12. Retirement systems unaffected.
18	The provisions of this chapter do not apply to retirement systems.
19	22-14-13. State bonds.
20	Notwithstanding any other provisions of this chapter to the contrary, no entity which has
21	outstanding bonds shall be abolished until and unless provision is made for the payment of
22	principal and interest of the bonds at or before maturity or for the assumption of the indebtedness
23	by the state or any agency or subdivision of the state.
24	22-14-14. Severability.
25	If any provisions or item of this chapter or the application of it is held invalid, the
26	invalidity shall not affect other provisions, items, or applications, and to this end the provisions of
27	this chapter are declared severable.
28	SECTION 3. Chapter 22-11 of the General Laws entitled "Joint Committee on
29	Legislative Services" is hereby amended by adding thereto the following section:
30	22-11-4.1. Director of regulatory oversight.
31	(a) The joint committee on legislative services is authorized and empowered to appoint a
32	director of regulatory oversight, who shall perform the duties as prescribed by the joint committee
33	on legislative services and chapter 11.1 of this title.
34	(b) The joint committee on legislative services shall employ a number of qualified

1	persons it deems necessary for the efficient operation of the joint committee on regulatory
2	oversight.
3	SECTION 4. Title 22 of the General Laws entitled "GENERAL ASSEMBLY" is hereby
4	amended by adding thereto the following chapter:
5	CHAPTER 11.1
6	PERMANENT JOINT COMMITTEE ON REGULATORY OVERSIGHT
7	22-11.1-1. Establishment – Purpose – Membership Committee.
8	(a) There is established a permanent joint committee on regulatory oversight empowered
9	to conduct evaluations and reviews of statutes, statutory entities, and associated rules and
10	regulations. The review or evaluation shall include, but not be limited to, the following as its
11	objectives:
12	(1) The elimination of inactive entities or statutes;
13	(2) The elimination of entities or statutes that duplicate other entities or statutes or other
14	governmental programs and activities or determination of an appropriate consolidation for the
15	duplicate entities, statutes, or governmental programs and activities;
16	(3) The elimination or modification of inefficient, unnecessary, or ineffective entities or
17	statutes; and
18	(4) The review of rules and regulations promulgated by any entity before they become
19	effective, and a determination that the rules and regulations:
20	(i) Are enacted under the proper authority of the entity;
21	(ii) Are in furtherance of the legislature's intent in the area of law being regulated;
22	(iii) The fiscal impact, the proposed rule or regulation will have on persons, businesses,
23	and other governmental entities or subdivisions of the state; and
24	(iv) Are not otherwise illegal or unconstitutional under federal and state provisions.
25	(b) The committee shall consist of seven (7) members: four (4) of whom shall be
26	members of the house of representatives, not more than three (3) from the same political party, to
27	be appointed by the speaker; three (3) of whom shall be members of the senate, not more than
28	two (2) from the same political party. The chair of the committee shall be appointed by the
29	speaker of the house and the vice chair shall be appointed by the president of the senate.
30	(c) A director appointed by the joint committee on legislative services shall, in addition to
31	the day-to-day operations, be responsible for providing all research, data and analysis required by
32	the committee in enacting the purposes of this chapter.
33	22-11.1-2. Review of proposed rules and regulations.
34	(a) No rule or regulation promulgated under authority granted by the general assembly or

1	otherwise having legislative effect shall become effective without first being submitted to the
2	joint committee on regulatory oversight for its approval pursuant to this chapter. The committee
3	shall review, approve, or reject, in total or in part, rules and regulations proposed by any entity.
4	(1) Rules and regulations approved by the committee shall become effective upon being
5	properly filed with the secretary of state.
6	(2) Any rule or regulation rejected in total or in part shall be reported to both houses of
7	the general assembly for action.
8	(b) Rules and regulations submitted to the committee after December 1 and before April
9	1 of each year shall be scheduled for action within sixty (60) days from the date the rules or
10	regulations are submitted.
11	(c)(1) Rules and regulations, submitted after April 1, and before December 1, whose
12	approval is immediately necessary shall be filed with the committee along with an affidavit
13	signed by an authorized person of the entity, describing:
14	(i) The reason that rule or regulation is immediately necessary;
15	(ii) The reason that the rule or regulation wasn't submitted in the time frame provided for
16	in subsection (b) of this section; and
17	(iii) Their belief as to the consequences of not acting on the proposed rules or regulations
18	immediately.
19	(2) Based upon the presentation of the affidavit, a majority of the committee may approve
20	the rule or regulation on a temporary basis and until such time the general assembly is in session
21	and the committee can act on it properly.
22	(d)(1) Rules and regulations of an emergency nature, whose approval is immediately
23	necessary shall be filed with the committee along with an affidavit signed by an authorized
24	person of the entity, describing:
25	(i) The nature of the emergency;
26	(ii) The reason that rule or regulation is immediately necessary;
27	(iii) The reason that the entity hadn't taken the proper steps to promulgate the rule or
28	regulation in anticipation of the emergency:
29	(iv) The reason that the rule or regulation wasn't submitted in the time frame provided for
30	in subsection (b) of this section; and
31	(v) Their belief as to the consequences of not acting on the proposed rules or regulations
32	immediately.
33	(2) Based upon the presentation of the affidavit, a majority of the committee may approve
34	the rule or regulation on an emergency basis and until such time the general assembly is in

2	(e) A majority vote of the committee's members present shall decide all votes. A quorum
3	shall consist of a simple majority.
4	(f)(1)Each entity, its director, officers and staff shall assist the committee in its
5	administrative duties and in scheduling meetings and providing all of the information necessary
6	for the committee or its commission to accomplish its purpose.
7	(2) Each entity shall inform the committee in advance of all proposed rules and
8	regulations and provide, at a minimum, a brief synopsis of the purpose behind the proposed rules
9	and regulations.
10	22-11.1-3. Definitions.
11	For the purposes of this chapter:
12	(1) "Committee" means the permanent joint committee on governmental oversight.
13	(2) "Commission" means the public body established under §22-14-1.2.
14	(3) "Fiscal impact" in addition to its ordinary meaning as used throughout the general
15	laws, means and refers to the impact and financial cost that any rule, regulation or order will have
16	on persons, businesses and other governmental entities in the state.
17	(4) "Order" means any rule, regulation or provision enacted by a governmental body
18	other than the general assembly whose regulatory purposes infringes upon the authority of the
19	<u>legislature.</u>
20	(5) "Regulation" means any rule, regulation or provision promulgated or established
21	under the administrative procedures act, any grant of authority, or perceived to have been enacted
22	properly.
23	(6) "Rule" means any rule, regulation or provision promulgated or established under the
24	administrative procedures act, any grant of authority, or perceived to have been enacted properly.
25	(7) "State agency" means a separate agency or unit of state government created or
26	established by law and includes, but is not limited to, the following and the officers of the
27	following: authority, board, branch, bureau, commission, council, department, division,
28	institution, office, officer, or public corporation, as the case may be, except any agency or unit
29	within the legislative branch of state government.
30	(8) "Statutory entity" or "entity" means any committee, board, commission, or
31	"subdivision of state government" created and continued in existence for the purpose of
32	administering a statute or legislative resolution. Cities and towns and agencies and
33	instrumentalities of cities and towns are exempted from this definition.
34	(9) "Termination date" means the date provided for termination of legislative authority

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session and the committee can act on it properly.

1	for the existence of a particular entity or statute.
2	22-11.1-4. Rules and regulations.
3	(a) Consistent with the rules of each house of the general assembly, the joint committee
4	on regulatory oversight is authorized and empowered to adopt any rules and regulations that are
5	deemed necessary to accomplish the purposes of this chapter, a copy of which rules and
6	regulations shall be filed with the secretary of state and available for public inspection.
7	(b) These rules and regulations shall include, but are not limited to, public hearings to
8	determine:
9	(1) The continued need for public entities and statutes enacted by the general assembly;
10	(2) The continued need for rules and regulations promulgated under the authority of the
11	general assembly;
12	(3) The continued need for rules and regulations promulgated by public entities created
13	by the general assembly;
14	(4) If any rule, regulation or entity, promulgated or created outside the authority of the
15	general assembly infringes upon the authority of the legislature;
16	(5) The effect of any matter the committee believes impacts the citizens and businesses of
17	the state by establishing onerous regulations or obligations that should be reserved for the general
18	assembly;
19	(6) A method for the public to petition the committee to conduct an evaluation and
20	review of specific statutes, statutory entities, and associated rules and regulations;
21	(7) The process of making recommendations to:
22	(i) Both houses of the general assembly;
23	(ii) Any constitutional office affected or promulgating the proposed rule, regulation or
24	order; and
25	(iii) The entity that offered the proposed rule or regulation;
26	(8) The process of making requests to the advisory commission; and
27	(9) Procedures under which the advisory commission is authorized to act.
28	(c) Regulations and guidelines regarding the continued need for such public bodies as
29	provided herein shall include, but not be limited to, the following criteria:
30	(1) Would the termination of the entity or statute significantly harm or endanger the
31	public health, safety, or welfare?
32	(2) Has the entity met the objectives of the statute that created it?
33	(3) Has the entity or statute encouraged participation by the public?
34	(4) Do the functions of the entity or statute overlap or duplicate the functions of any other

1	entity or statute?
2	(5) What are the objectives of the entity or statute for the next five (5) years?
3	22-11.1-5. Advisory commission – Establishment – Purpose Membership.
4	(a) The permanent joint committee on regulatory oversight is authorized to empanel an
5	advisory commission composed of voters from this state whose knowledge of law, government,
6	business, education and economics may assist the committee in accomplishing its goals.
7	(b) The commission shall consist of eighteen (18) members: seven (7) of whom shall be
8	members of the permanent joint committee on regulatory oversight; four (4) of whom shall be
9	members of the general public to be appointed by the speaker of the house; four (4) of whom
10	shall be members of the general public to be appointed by the president of the senate; one of
11	whom shall be that auditor general; one of whom shall be the house fiscal advisor, and one of
12	whom shall be the senate fiscal advisor.
13	(c) The public members shall be appointed for terms of three (3) years except for five (5)
14	members originally appointed; two (2) shall be appointed for a term of one year and three (3)
15	shall be appointed for a term of two (2) years.
16	(d) The legislative members shall serve a term of two (2) years while in office.
17	(e)(1) The commission shall take up any matter of review as directed by the committee:
18	<u>or</u>
19	(2) Upon its own motion and the approval of a majority of its members, take up such
20	matters for review that it determines based on their experience may assist the committee in
21	achieving its purpose under this chapter.
22	(f) Commission report. The commission shall report to the committee findings and
23	recommendations of matters brought before it as to the continued public need of governmental
24	entities created by the general assembly and the impact of any statute, rule or regulation has on
25	the people of this state and its economy.
26	(g) Any vacancy on the commission, occurring for any reason prior to the expiration of
27	the term, including, but not limited to, termination of active membership in the general assembly,
28	shall be filled for the unexpired term by the appointing authority in the same manner as the
29	original appointment.
30	(h) Any member of the commission may, for cause, be summarily removed from office
31	by the appointing authority.
32	(i) The members from the general public shall not be compensated for service on the
33	board, but shall be allowed reasonable expenses in the performance of their official duties.
34	(j) The chair of the advisory commission shall be appointed by the senate president and

1	the vice chair shall be appointed by the speaker of the house.
2	22-11.1-6. Entities without expiration date – Statutory construction.
3	For the purpose of construing this chapter in determining the expiration date of any
4	statutory entity, the lack of a specific date for expiration of an entity shall mean that it is the intent
5	of the general assembly to continue the entity in existence until the general assembly, by specific
6	legislation, ends the statutory existence of the entity.
7	22-11.1-7. Procedure for re-creation.
8	(a) The procedure for re-creation of any statute or statutory entity to be terminated under
9	the provisions of this chapter shall be established by the commission. Those procedures shall
10	include a zero-base budget review and evaluation by the auditor general as well as any other
11	procedures which the commission determines are necessary to meet its objectives.
12	(b) Each entity shall be notified of its termination date, and that a review by the auditor
13	general will begin. The entity shall also be notified of all other procedures with which it will be
14	expected to comply.
15	(c) Upon completion of the zero-based budget review and evaluation the office of auditor
16	general shall transmit its report to the commission. The report shall include, but not be limited to:
17	(1) An identification of other entities, or other programs or activities of the state
18	government, having the same or similar objectives, along with a comparison of the cost and
19	effectiveness of those entities, programs, or activities and any duplication of the entity under
20	review;
21	(2) An examination of the extent to which the objectives of the entity under review have
22	been achieved when compared to the objectives initially set forth for the entity under review and
23	an analysis of any significant variance between projected and actual performance; and
24	(3) A statement of the objectives of the entity for the coming four (4) years with the
25	establishment of measurements of performance where feasible.
26	22-11.1-8. Activities by terminated statutory entity.
27	Each entity may continue itself in existence for up to one year after scheduled termination
28	for the purpose of completing its work and activities. During this completion period, termination
29	shall not reduce or otherwise limit the powers or authority of each entity. Upon the expiration of
30	one year after termination, each entity shall cease. All unexpended balances of appropriations or
31	other funds shall revert to the general fund.
32	22-11.1-9. Proceedings against statutory entity.
33	Nothing in this chapter shall cause any right, claim, or cause of action held by any person
34	against any entity to be dismissed, nor shall any right, claim, or cause of action held by any entity

1	which has been terminated pursuant to this chapter tapse because of this chapter.
2	22-11.1-10. Legislative action.
3	Whenever the general assembly is about to create or re-create any statutory entity it
4	should, whenever possible, request a report from the commission as set forth in §22-14-7;
5	however, no report is required to be received by the general assembly for any action to be taken,
6	and nothing in this chapter shall be construed to prohibit the legislature from terminating an entity
7	covered by these provisions at a date earlier than that provided in this chapter, nor to prohibit the
8	legislature from considering any other legislation relative to that entity.
9	22-11.1-11. State bonds.
10	Notwithstanding any other provisions of this chapter to the contrary, no entity which has
11	outstanding bonds shall be abolished until and unless provision is made for the payment of
12	principal and interest of the bonds at or before maturity or for the assumption of the indebtedness
13	by the state or any agency or subdivision of the state.
14	22-11.1-12. Severability.
15	If any provisions or item of this chapter or the application of it is held invalid, the
16	invalidity shall not affect other provisions, items, or applications, and to this end the provisions of
17	this chapter are declared severable.
18	SECTION 5. This act shall take effect January 1, 2018.
	====== LC001927

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO GENERAL ASSEMBLY -- JOINT COMMITTEE ON REGULATORY OVERSIGHT

This act would eliminate previous sections of the general laws and require that all proposed rules and regulations promulgated by state entities be submitted to and approved by the joint committee on regulatory oversight before becoming effective.

This act would take effect January 1, 2018.

LC001927

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