

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - ADMINISTRATIVE
PROCEDURES ACT

Introduced By: Senators Kettle, Morgan, Cote, Archambault, and Algieri

Date Introduced: March 15, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-35-2.9 of the General Laws in Chapter 42-35 entitled
2 "Administrative Procedures" is hereby amended to read as follows:

3 **42-35-2.9. Regulatory analysis.**

4 (a) An agency shall prepare a regulatory analysis for a proposed rule. The analysis must
5 be completed before notice of the proposed rulemaking is published. The summary of the analysis
6 prepared under subsection (c) must be published with the notice of proposed rulemaking.

7 (b) A regulatory analysis must contain:

8 (1) An analysis of the benefits and costs of a reasonable range of regulatory alternatives
9 reflecting the scope of discretion provided by the statute authorizing the proposed rule;

10 (2) Demonstration that there is no alternative approach among the alternatives considered
11 during the rulemaking proceeding which would be as effective and less burdensome to affected
12 private persons as another regulation. This standard requires that an agency proposing to write
13 any new regulation must identify any other state regulation which is overlapped or duplicated by
14 the proposed regulation and justify any overlap or duplication; and

15 (3) A determination whether:

16 (i) The benefits of the proposed rule justify the costs of the proposed rule; and

17 (ii) The proposed rule will achieve the objectives of the authorizing statute in a more
18 cost-effective manner, or with greater net benefits, than other regulatory alternatives.

1 (iii) An agency preparing a regulatory analysis under this section shall prepare a concise
2 summary of the analysis.

3 (iv) If an agency has made a good-faith effort to comply with this section, a rule is not
4 invalid solely if there are errors or paucity of data in the regulatory analysis for the proposed rule.

5 (c) Unless prohibited by law, whenever an agency publicly proposes for notice and
6 comment or otherwise promulgates a new rule or regulation, it shall identify at least one existing
7 rule or regulation to be repealed.

8 (1) In furtherance of the requirements of this subsection, any new costs associated with a
9 new rule or regulation shall, to the extent permitted by law, be offset by the elimination of
10 existing costs associated with at least one prior rule or regulation. Any agency eliminating
11 existing costs associated with prior rules or regulations under this subsection shall do so in
12 accordance with this chapter and other applicable law.

13 (2) When implementing this section, the directors of all agencies shall take into
14 consideration, among other things, standards for determining the costs of an existing rule or
15 regulation that is considered for elimination; and emergencies and other circumstances that might
16 justify individual waivers of the requirements of this section.

17 (3) Nothing herein shall be construed to impair or otherwise affect the authority granted
18 by law to an agency.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would provide that when an agency publicly proposes for notice and comment or
2 otherwise promulgates a new rule or regulation, it would identify at least one existing rule or
3 regulation to be repealed.

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