



OFFICE OF MANAGEMENT & BUDGET

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The Honorable Representative Evan P. Shanley
Chairperson
House Committee on State Government and Elections
Rhode Island House of Representatives
82 Smith Street
Providence, RI 02903

**RE: H 7307 – AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT – RHODE ISLAND
REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY ACT**

Dear Chairperson Shanley:

Thank you for providing the Office of Management and Budget (OMB) the opportunity to submit our concerns in response to House Bill No. 7307, which would create a new chapter of Rhode Island General Laws (R.I.G.L.) to require legislative approval of “major regulations.” OMB is concerned that the bill’s new proposed procedural requirements and delay of regulatory time frames will lead to profoundly negative policy impacts across the State’s regulatory environments.

The referenced legislation seeks to require approval from the General Assembly before any “major regulation” becomes effective. A “major regulation” is defined as a proposed regulation that the agency estimates will have aggregate implementation or compliance costs of \$1.0 million or more over a two-year period. The proposed legislation would require agencies to submit an economic impact statement for proposed regulations to the House and Senate Finance Committees prior to initiating the rulemaking process, and it would require legislative approval for any “major regulation” prior to the regulation becoming effective and enforceable.

It is unclear how the proposed requirements would interact with the State’s existing regulatory review framework under the Administrative Procedures Act (APA) and Executive Order (E.O.) 15-07. The APA, modernized in 2016, governs a rulemaking process that ensures transparency and public participation. This process includes a requirement that agencies conduct an analysis of the benefits, costs, and regulatory alternatives considered for proposed rulemakings. In addition to regulatory analysis requirements, rulemaking agencies subject to OMB review must indicate small business impact, document state and municipal expenditure impacts, and proceed through interagency review. These procedural requirements are designed to ensure transparency, oversight of rulemaking agencies, and cost-effective regulatory decisions.

OMB has the following three major concerns about the proposed legislation:

- The proposed procedures could inadvertently override or bypass input from the public, depending on how the process for legislative approval intersects with current rulemaking processes.

- The legislation would introduce an additional layer of procedural oversight, resulting in substantial delays to regulatory processes, which are already subject to statutory deadlines.
- The proposed requirements for emergency regulations conflict with the APA and constrain the executive branch from quickly reacting to emergency situations, especially when the General Assembly is not in session.

The proposed bill does not specify when legislative approval of a “major regulation” shall occur relative to required public processes. If General Assembly approval occurs before an agency has received and responded to public comments, then the proposed procedures may inadvertently override input from the public, thereby undermining the APA objectives of transparency and public involvement.

The proposed legislation would substantially delay existing regulatory processes, which are already subject to statutory timeframes, by introducing an additional layer of procedural oversight and would limit the promulgation of “major regulations” to when the General Assembly is in session. The current framework requires agencies to demonstrate legal authority for promulgating a regulatory adoption or amendment. These enabling statutes often provide flexibility for how the executive branch can implement the enacted law. Under current procedures, if the legislature wishes to have more input into how a particular statute is implemented, the legislature can amend the enabling statute to provide more prescriptive requirements.

Finally, the proposed legislation would make a major change to emergency regulations. Under the APA, an agency may promulgate an emergency regulation when there is “an imminent peril to public health, safety, or welfare or loss of federal funding.” An emergency regulation is effective immediately after the agency head and the Governor (or the Governor’s designee) has signed the regulation and is in effect for 120 days (with the option of one 60-day extension). H 7307 exempts emergency regulations necessary for public health, safety, or welfare from prior legislative approval, but would require such emergency regulations to be submitted to the General Assembly within 30 days and would expire after 90 days, unless expressly ratified by the General Assembly. This process is in direct conflict with APA requirements, and it is unclear how this process would work when the legislature is not in session.

OMB appreciates the opportunity to share our concerns over this legislation with the Committee. If there are any questions, please feel free to contact my office at your convenience.

Sincerely,



Brian M. Daniels
Director, Office of Management and Budget

cc: The Honorable Members of the House Committee on State Government and Elections
The Honorable Paul M. Santucci
Nicole McCarty, Esq., Chief Legal Counsel to the Speaker of the House
Steven Sepe, Committee Clerk