

1981 S.C. Op. Atty. Gen. 78 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-51, 1981 WL 96577

Office of the Attorney General

State of South Carolina

Opinion No. 81-51

June 3, 1981

***1 SUBJECT: General Assembly approval of regulations; Administration Procedures Act**

When an agency withdraws its proposed regulations from either one of the standing committees, the time period for review by the General Assembly is extended to a period equal to the time of withdrawal and resubmission by the agency.

TO: Speaker
House of Representatives

QUESTION:

Whether regulations promulgated by a state agency pursuant to the Administrative Procedures Act can become effective if the house committee to which they were referred approves and reports them to the House, but the agency thereafter withdraws the regulations from the appropriate senate committee pursuant to [Code Section 1-23-125](#)?

OPINION:

It is the opinion of this office that when an agency withdraws its proposed regulations from either one of the standing committees, the time period for review by the General Assembly is extended to a period equal to the time of withdrawal and resubmission by the agency.

[Code § 1-23-120](#) provides that:

‘The General Assembly shall have a period of ninety days to review any regulations promulgated by any agency. To initiate the process of review, the agency shall file with the President of the Senate and the Speaker of the House of Representatives a copy of any regulations promulgated, along with a request for review. Upon receipt of the request, the President and Speaker reviewing such request shall submit it for consideration to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency . . .’ [Code § 1-23-125](#) provides in pertinent part:

‘If a committee determines that it cannot approve a regulation in the form submitted, it may notify the promulgating agency, along with its recommendation as to changes that would be necessary to obtain committee approval. The agency may thereupon:

- (a) Withdraw the regulation from the committee and resubmit it with the recommended changes to the Speaker and the Lieutenant Governor;

- (b) Withdraw the regulation permanently;

. . .

If the agency temporarily withdraws the regulation pursuant to (a) above and resubmits it at a later date for legislative review, the General Assembly shall have an additional period in which to review and act on the regulation equal to the period between

the time of its withdrawal and resubmission regardless of the date of its original submission to the Speaker and to the Lieutenant Governor.

These Code Sections clearly state that both bodies of the General Assembly have a period of ninety days to review the regulations, that if the regulations are withdrawn and resubmitted, both bodies' committees are to receive any modified versions and that both bodies have an additional period to review if the regulations are withdrawn and resubmitted. Withdrawal by the agency from either committee tolls the time period which the General Assembly has to review the regulations and the regulations cannot become effective by way of legislative inaction without an agency resubmitting the regulations to both committees and the required amount of time for review expires.

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