



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 23, 2012

### **H.R. 4078**

#### **Red Tape Reduction and Small Business Job Creation Act**

*As posted on the Web site the House Committee on Rules on July 16, 2012,  
including an amendment provided to CBO on July 19, 2012*

#### **SUMMARY**

H.R. 4078 would delay or prohibit federal agencies from taking regulatory actions in certain instances, modify the process agencies must follow for developing consent decrees and settlement agreements, and broaden the scope of analysis agencies must undertake when developing new regulations.

CBO expects that, over the 2013-2022 period, enacting H.R. 4078 would affect direct spending, and, together with the staff of the Joint Committee on Taxation (JCT), CBO expects that enacting the bill would affect revenues; therefore, pay-as-you-go procedures apply. However, CBO and JCT cannot estimate the sign or magnitude of those effects. Similarly, implementing H.R. 4078 would have a discretionary cost over the 2013-2017 period, but CBO cannot determine the sign or magnitude of that effect.

CBO expects that several federal and independent regulatory agencies would increase fees to offset the costs of implementing the additional regulatory activities required by the bill; thus, H.R. 4078 would increase the costs of existing mandates as defined in the Unfunded Mandates Reform Act (UMRA) on public and private-sector entities that would be required to pay those fees. Based on information from the affected regulators, CBO estimates that the additional costs of those mandates would be small and would fall well below the annual thresholds for intergovernmental and private-sector mandates established in UMRA (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

Although H.R. 4078 would affect spending subject to appropriation, direct spending, and revenues, CBO and JCT cannot determine the sign or magnitude of such changes.

## **Impact on Spending Subject to Appropriation**

CBO estimates that implementing certain titles would cost at least \$43 million, assuming appropriation of the necessary amounts, over the 2013-2017 period. In the aggregate, however, we cannot determine the sign or magnitude of the bill's discretionary costs because, while other titles of the bill would affect discretionary spending, we cannot estimate the amount of those effects. The estimated effect on discretionary spending of implementing H.R. 4078 is described below.

**Title I.** Title I would prohibit federal agencies from taking significant regulatory actions, with certain exceptions, until the average of monthly unemployment rates for any calendar quarter is 6 percent or less. CBO expects that title I would affect discretionary spending (by reducing spending by some agencies and potentially increasing spending by others); however, the magnitude of that net effect cannot be determined because the budgetary impact of different rules varies significantly.

**Title II.** Title II would prohibit federal agencies from promulgating significant regulatory actions from Election Day through Inauguration Day, with certain exceptions, unless the incumbent President is reelected. Considering the short time frame proposed for prohibiting regulatory actions and the exceptions specified in the bill, CBO estimates that implementing title II would have no significant impact on the budget.

**Title III.** Title III would modify the process of developing consent decrees and settlement agreements that require federal agencies to take specified regulatory actions. CBO estimates that implementing this title would increase federal agencies' costs by \$7 million over the 2013-2017 period, particularly for increased reporting and administrative requirements.

**Title IV.** Title IV would amend the Unfunded Mandates Reform Act of 1995 to increase the information available to the Congress and the public with respect to federal mandates contained in proposed legislation and federal regulations. CBO estimates that this title would increase costs for certain regulatory agencies that would be subject to new requirements under H.R. 4078. Several, but not all, of the agencies that would be affected are authorized to collect fees sufficient to offset their appropriations each year. Assuming appropriation action consistent with that authority, CBO estimates that, on net, implementing title IV would cost \$4 million over the five-year period.

**Title V.** Title V would amend the Administrative Procedures Act, the law that governs how federal agencies propose and establish regulations. Specifically, the title would aim to expedite the review process required by the National Environmental Policy Act for construction projects that are partly or fully financed with federal funds or require permits or approvals from federal regulatory agencies.

CBO estimates that implementing title V would cost \$5 million for federal agencies to meet additional administrative costs associated with the title's new requirements. Over time, we expect that this title could reduce the time needed to commence and complete some construction projects financed with federal funds. Expediting the time required to start such projects would generally reduce the total costs to complete them, but CBO has no basis for estimating the timing or magnitude of such savings. Further, CBO expects that implementing this title could cause agencies to face increased litigation costs as interested parties seek clarification of the new law's requirements or challenge an agency's compliance with those requirements. CBO cannot estimate the level of spending that would occur, however.

**Titles VI and VII.** These titles would broaden the scope of analysis performed by the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) when issuing or amending regulations. CBO estimates that meeting the bill's new requirements would cost the SEC about \$22 million over the 2013-2017 period. Under current law, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, assuming appropriation action consistent with that authority, CBO estimates that the net cost to that agency would not be significant. In addition, CBO estimates that increased costs to the CFTC would total \$27 million.

### **Impact on Direct Spending and Revenues**

Enacting title IV would increase spending by the Federal Deposit Insurance Corporation (FDIC) totaling less than \$500,000 annually. The FDIC is authorized to collect premiums from insured depository institutions to support administrative expenses; therefore, CBO estimates that there would be no net effect on direct spending over the 2013-2022 period.

The budgetary consequences of enacting title I, which would prevent agencies from taking significant regulatory action under certain circumstances, would vary tremendously because the budgetary impact of different rules varies considerably. Delaying or preventing some significant regulatory actions would result in costs to the federal government, while delaying or preventing others would result in savings. On net, CBO estimates that enacting title I would have a significant effect on direct spending, but we cannot determine the magnitude or sign of those changes.

Further, JCT cannot determine the impact of delaying significant regulatory actions on revenues.

### **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO and JCT expect that,

over the 2013-2022 period, enacting H.R. 4078 would affect both direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO and JCT cannot estimate the sign or magnitude of those effects.

## **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

### **Mandates**

H.R. 4078 would increase the costs of existing mandates as defined in UMRA on public and private entities that are required to pay fees assessed by federal and independent regulatory agencies. The bill would expand the scope of analyses that some federal and private regulators are required to conduct as a part of their rulemaking processes. Many of those regulators are authorized to collect fees sufficient to offset the cost of their activities and any new or additional fees would increase the costs of existing mandates.

Based on information from the affected regulators, CBO estimates that the cost of implementing the additional regulatory activities would not be significant, and consequently, neither would subsequent increases in fees be significant. Therefore, CBO estimates that any additional costs would be small and would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).

### **Other Impacts**

By delaying significant regulatory actions, the bill also could slow reimbursements and eliminate or change regulatory requirements. Such effects would not be mandates as defined in UMRA. Depending on the types and number of regulations affected, the costs and savings of those changes could be significant. However, CBO has no basis for estimating either the overall direction or magnitude of those effects on public or private entities because of uncertainty about the nature and number of regulations affected.

## **PREVIOUS CBO ESTIMATES**

CBO transmitted cost estimates for eight individual bills, ordered reported by several different House committees, which constitute the Rules Committee print for H.R. 4078. The Rules Committee version contains modifications to some of those bills; the differences are noted below.

On July 20, 2012, CBO transmitted a cost estimate for H.R. 4078, the Regulatory Freeze for Jobs Act of 2012, as ordered reported by the House Committee on Oversight and Government Reform on April 26, 2012. Title I of the Rules Committee version of

H.R. 4078 modifies the Oversight and Government Reform Committee version by changing several definitions and clarifying agency responsibilities. The modifications in the language do not change CBO's estimate of those provisions' costs.

On April 20, 2012, CBO transmitted a cost estimate for H.R. 4078, the Regulatory Freeze for Jobs Act of 2012, as ordered reported by the House Committee on the Judiciary on March 20, 2012. Title I of the Rules Committee version of H.R. 4078 modifies the Judiciary Committee version by changing several definitions and clarifying agency responsibilities. The modifications in the language do not change CBO's estimate of those provisions' costs.

On May 10, 2012, CBO transmitted a cost estimate for H.R. 4607, the Midnight Rule Relief Act of 2012, as ordered reported by the House Committee on Oversight and Government Reform on April 26, 2012. Title II of the Rules Committee version of H.R. 4078 modifies H.R. 4607 by changing several definitions. The modifications in the language do not change CBO's estimate of those provisions' costs.

On June 25, 2012, CBO transmitted a cost estimate for H.R. 3862, the Sunshine for Regulatory Decrees and Settlements Act of 2012, as ordered reported by the House Committee on the Judiciary on March 27, 2012. Title III of the Rules Committee version of H.R. 4078 modifies H.R. 3862 by providing certain clarifications that do not change CBO's estimate of the cost of those provisions.

On March 28, 2012, CBO transmitted a cost estimate for H.R. 373, the Unfunded Mandates Information and Transparency Act of 2011, as ordered reported by the House Committee on Oversight and Government Reform on November 17, 2011. Title IV of the Rules Committee version of H.R. 4078 modifies H.R. 373 by exempting the Federal Reserve from the bill's requirements. In the cost estimate for H.R. 373, CBO estimated that including the Federal Reserve in the new administrative requirements would reduce revenues by \$9 million over the 2013-2022 period. That revenue loss would not occur under Rules Committee version of those provisions.

On June 25, 2012, CBO transmitted a cost estimate for H.R. 4377, the Responsibility and Professionally Invigorating Development Act of 2012, as ordered reported by the House Committee on the Judiciary on June 6, 2012. Title V of the Rules Committee version of H.R. 4078 modifies H.R. 4377 by exempting certain projects from the new requirements. That change does not affect CBO's estimate of the cost of those provisions.

On April 5, 2012, CBO transmitted a cost estimate for H.R. 2308, the SEC Regulatory Accountability Act, as ordered reported by the House Committee on Financial Services on February 16, 2012. Title VI of the Rules Committee incorporates H.R. 2308 with an amendment to limit the bill's effect on the Public Company Accounting Oversight Board (PCAOB). CBO estimated that enacting H.R. 2308 would increase the deficit by

\$2 million over the 2013-2022 period as a result of provisions affecting the PCAOB. That deficit effect would be eliminated in the Rules Committee version (with the accepted amendment) of H.R. 4078.

On April 9, 2012, CBO transmitted a cost estimate for H.R.1840, a bill to improve consideration of the Commodity Futures Trading Commission of the costs and benefits of its regulations and orders, as ordered reported by the House Committee on Agriculture on January 25, 2012. Title VII of the Rules Committee version of H.R. 4078 is the same as H.R. 1840, and CBO's estimates of the cost of the two versions are the same.

**ESTIMATE PREPARED BY:**

Federal Costs: Matthew Pickford, Sarah Anders, Martin von Gnechten,  
Lisa Ramirez-Branum, Susanne Mehlman, and Susan Willie

Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle and  
Melissa Merrell

Impact on the Private Sector: Paige Piper/Bach, Marin Randall, and Vi Nguyen

**ESTIMATE APPROVED BY:**

Theresa Gullo  
Deputy Assistant Director for Budget Analysis