

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 626 Session of
2001

INTRODUCED BY ROHRER, ARMSTRONG, M. BAKER, BARRAR, BASTIAN,
BELARDI, BIRMELIN, CLARK, CLYMER, COLEMAN, CORRIGAN, DAILEY,
DeLUCA, EGOLF, FAIRCHILD, FICHTER, FORCIER, GEIST, GRUCELA,
HENNESSEY, HERSHEY, HORSEY, HUTCHINSON, LAUGHLIN, LEH, LYNCH,
McCALL, McNAUGHTON, METCALFE, S. MILLER, NAILOR, ORIE,
READSHAW, SAYLOR, SEMMEL, SHANER, S. H. SMITH, STABACK,
STERN, E. Z. TAYLOR, THOMAS, TULLI, WILT, YEWCIC AND ZUG,
FEBRUARY 12, 2001

REFERRED TO COMMITTEE ON APPROPRIATIONS, FEBRUARY 12, 2001

AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled,
2 as reenacted, "An act providing for independent oversight and
3 review of regulations, creating an Independent Regulatory
4 Review Commission, providing for its powers and duties and
5 making repeals," providing for economic impact statements.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 3 of the act of June 25, 1982 (P.L.633,
9 No.181), known as the Regulatory Review Act, reenacted and
10 amended June 30, 1989 (P.L.73, No.19), is amended by adding a
11 definition to read:

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall
14 have, unless the context clearly indicates otherwise, the
15 meanings given to them in this section:

16 * * *

1 "Economic impact statement." An analysis of the anticipated
2 fiscal savings or cost to private enterprises, municipalities,
3 school districts or municipal authorities which would result
4 from the promulgation or adoption of a regulation. The analysis
5 shall include all of the following information:

6 (1) Municipal, school district and municipal authority
7 expenditures necessary to comply with the regulation.

8 (2) The effect of the regulation on all of the
9 following:

10 (i) Private businesses, including the economic
11 resources required annually to comply with the
12 regulation.

13 (ii) Economic growth and competitiveness in this
14 Commonwealth.

15 (iii) Job creation and retention in this
16 Commonwealth.

17 * * *

18 Section 2. Section 5(a) introductory paragraph, (c) and (d)
19 of the act, amended June 25, 1997 (P.L.252, No.24), are amended
20 to read:

21 Section 5. Proposed regulations; procedures and criteria for
22 review.

23 (a) On the same date that an agency submits a proposed
24 regulation to the Legislative Reference Bureau for publication
25 of notice of proposed rulemaking in the Pennsylvania Bulletin as
26 required by the Commonwealth Documents Law, the agency shall
27 submit to the commission, the chairman and minority chairman of
28 the Appropriations Committee of the Senate and the chairman and
29 minority chairman of the Appropriations Committee of the House
30 of Representatives and the committees a copy of the proposed

1 regulation and a regulatory analysis form which includes the
2 following:

3 * * *

4 (c) From the date of submission of the proposed regulation,
5 the agency shall submit to the commission, the chairman and
6 minority chairman of the Appropriations Committee of the Senate
7 and the chairman and minority chairman of the Appropriations
8 Committee of the House of Representatives and the committees,
9 within five days of receipt, a copy of comments which the agency
10 receives relating to the proposed regulation. The agency shall
11 also, upon request, submit to the commission, the chairman and
12 minority chairman of the Appropriations Committee of the Senate
13 and the chairman and minority chairman of the Appropriations
14 Committee of the House of Representatives and the committees
15 copies of reports from advisory groups and other documents
16 received from or disseminated to the public relating to the
17 proposed regulation and public notices or announcements relating
18 to solicitation of public comments or meetings which the agency
19 held or will hold relating to the proposed regulation.

20 (d) (1) The committees may, within 20 days from the closing
21 date of the public comment period, convey to the agency their
22 comments and objections to the proposed regulation and a copy
23 of any staff reports deemed pertinent. The comments and
24 objections shall include the lack of statutory authority of
25 the agency to promulgate the proposed regulation and
26 deviation of the proposed regulation from the intention of
27 the General Assembly in the enactment of the statute upon
28 which the proposed regulation is based.

29 (2) The chairman and minority chairman of the
30 Appropriations Committee of the Senate and the chairman and

1 minority chairman of the Appropriations Committee of the
2 House of Representatives shall each prepare an economic
3 impact statement for the proposed regulation. The economic
4 impact statements shall be submitted to the agency, the
5 commission and the designated standing committees within ten
6 calendar days from the closing date of the public comment
7 period.

8 * * *

9 Section 3. Section 5.1(a), (b), (c) and (i) of the act,
10 added June 25, 1997 (P.L.252, No.24), are amended and the
11 section is amended by adding a subsection to read:

12 Section 5.1. Final-form regulations and final-omitted
13 regulations; procedures and criteria for review.

14 (a) The agency shall review and consider public comments,
15 the economic impact statements submitted by the chairman and
16 minority chairman of the Appropriations Committee of the Senate
17 and the chairman and minority chairman of the Appropriations
18 Committee of the House of Representatives and the comments of
19 the committees and commission pursuant to this section. Within
20 seven days of receipt of a public comment, the agency shall, by
21 first class or electronic mail, whichever is applicable, notify
22 the commentator of the agency's address and telephone number
23 where the commentator may submit a request for the information
24 concerning the final-form regulation under subsection (b). Upon
25 completion of the agency's review of comments, the agency shall
26 submit to the commission, the chairman and minority chairman of
27 the Appropriations Committee of the Senate and the chairman and
28 minority chairman of the Appropriations Committee of the House
29 of Representatives and the committees a copy of its response to
30 the comments received, the names and addresses of commentators

1 who have requested additional information relating to the final-
2 form regulation and the text of the final-form regulation which
3 the agency intends to adopt. If an agency fails to submit or
4 withdraws and fails to resubmit the final-form regulation within
5 two years of the close of the public comment period but still
6 desires to promulgate the final-form regulation, the agency
7 shall republish the regulation as a proposed regulation with a
8 new public comment period in accordance with the Commonwealth
9 Documents Law. If the agency is prevented from delivering its
10 final-form regulation to the commission and the committees
11 within the time period provided for in this subsection because
12 of the adjournment sine die or expiration of the legislative
13 session in an even-numbered year, the agency shall deliver its
14 final-form regulation in accordance with subsection (f).

15 (b) On the same date that the agency submits the material
16 required in subsection (a) to the commission, the chairman and
17 minority chairman of the Appropriations Committee of the Senate
18 and the chairman and minority chairman of the Appropriations
19 Committee of the House of Representatives and the committees,
20 the agency shall, by first class or electronic mail, whichever
21 is applicable, send a notice of submission and a copy of the
22 text of the final-form regulation or a copy of all changes to
23 the proposed regulation which are incorporated into the final-
24 form regulation to each commentator who requested this
25 information pursuant to subsection (a). The agency is not
26 responsible for notifying each party whose name appears on
27 petitions or membership lists who did not present individual
28 comments on the regulation.

29 (b.1) The chairman and minority chairman of the
30 Appropriations Committee of the Senate and the chairman and

1 minority chairman of the Appropriations of the House of
2 Representatives shall each prepare an update of the economic
3 impact statement required by subsection (d)(2), which reflects
4 any revisions or modifications contained in the final-form
5 regulation, and shall submit the update to the agency, the
6 commission and designated standing committees within ten
7 calendar days from the date of receipt of the information
8 required under subsection (a).

9 (c) The agency shall submit final-omitted regulations to the
10 commission and the committees for review under subsections (d),
11 (e) and (f) on the same date that the agency submits the
12 regulations to the Attorney General for review as provided in
13 section 204(b) of the Commonwealth Attorneys Act. The
14 requirements of section 5, except for the requirements for
15 holding a public comment period and for notifying commentators,
16 are applicable to final-omitted regulations. If the agency makes
17 revisions pursuant to subsection (g), the agency shall deliver
18 copies of the revisions to the Attorney General on the same date
19 that the agency delivers the revisions to the commission and the
20 committees.

21 * * *

22 (i) Upon a finding that the final-form or final-omitted
23 regulation is consistent with the statutory authority of the
24 agency and with the intention of the General Assembly in the
25 enactment of the statute upon which the regulation is based, the
26 commission shall consider the following in determining whether
27 the final-form or final-omitted regulation is in the public
28 interest[:], and in doing so shall consider information provided
29 by the agency, public comment, comments submitted by the
30 standing committees of each House of the General Assembly and

1 the economic impact statements submitted by the chairman and
2 minority chairman of the Appropriations Committee of the Senate
3 and the chairman and minority chairman of the Appropriations
4 Committee of the House of Representatives:

5 (1) Economic or fiscal impacts of the final-form or
6 final-omitted regulation, which include the following:

7 (i) Direct and indirect costs to the Commonwealth,
8 to political subdivisions and to the private sector.

9 (ii) Adverse effects on prices of goods and
10 services, productivity or competition.

11 (iii) The nature of required reports, forms or other
12 paperwork and the estimated cost of their preparation by
13 individuals, businesses and organizations in the private
14 and public sectors.

15 (iv) The nature and estimated cost of legal,
16 consulting or accounting services which the private or
17 public sector may incur.

18 (v) The impact on the public interest of exempting,
19 or setting lesser standards of compliance for,
20 individuals or small businesses when it is lawful,
21 desirable and feasible to do so.

22 (2) The protection of the public health, safety and
23 welfare, and the effect on this Commonwealth's natural
24 resources.

25 (3) The clarity, feasibility and reasonableness of the
26 final-form or final-omitted regulation to be determined by
27 considering the following:

28 (i) Possible conflict with or duplication of
29 statutes or existing regulations.

30 (ii) Clarity and lack of ambiguity.

1 (iii) Need for the regulation.

2 (iv) Reasonableness of requirements, implementation
3 procedures and timetables for compliance by the public
4 and private sectors.

5 (4) Whether the final-form or final-omitted regulation
6 represents a policy decision of such a substantial nature
7 that it requires legislative review.

8 (5) Approval or disapproval by the committees.

9 * * *

10 Section 4. Section 7(c) of the act, amended June 25, 1997
11 (P.L.252, No.24), is amended to read:

12 Section 7. Procedures for subsequent review of disapproved
13 final-form or final-omitted regulations.

14 * * *

15 (c) If the agency decides to revise or modify the final-form
16 or final-omitted regulation in order to respond to objections
17 raised by the commission and adopt that regulation with
18 revisions or modifications, the agency shall submit a report to
19 the chairman and minority chairman of the Appropriations
20 Committee of the Senate and the chairman and minority chairman
21 of the Appropriations Committee of the House of Representatives,
22 the committees and the commission within 40 days of the agency's
23 receipt of the commission's disapproval order. The agency's
24 report shall contain the revised final-form or final-omitted
25 regulation, the findings of the commission, and the agency's
26 response and recommendations regarding the revised final-form or
27 final-omitted regulation. Upon receipt of the agency's report,
28 the chairman and minority chairman of the Appropriations
29 Committee of the Senate and the chairman and minority chairman
30 of the Appropriations Committee of the House of Representatives

1 shall each have five days to submit an update of the economic
2 impact statement required by section 5(b.6), which reflects any
3 revisions or modifications to the final-form regulation, to the
4 designated standing committees and the commission. If the
5 chairman and minority chairman of the Appropriations Committee
6 of the Senate and the chairman and minority chairman of the
7 Appropriations Committee of the House of Representatives and the
8 committees are prevented from receiving the report because of
9 adjournment sine die or expiration of the legislative session in
10 an even-numbered year, the agency shall submit the report to the
11 chairman and minority chairman of the Appropriations Committee
12 of the Senate and the chairman and minority chairman of the
13 Appropriations Committee of the House of Representatives and the
14 commission and the committees on the fourth Monday in January of
15 the next year. If either the chairman and the minority chairman
16 of the Appropriations Committee of the Senate and the chairman
17 and the minority chairman of the Appropriations Committee of the
18 House of Representatives or either committee has not been
19 designated by the fourth Monday in January, the agency may not
20 deliver the report to the chairman and minority chairman of the
21 Appropriations Committee of the Senate and the chairman and
22 minority chairman of the Appropriations Committee of the House
23 of Representatives and the committees and the commission until
24 both chairmen and both committees are designated, but the agency
25 shall deliver its report to the commission, the chairmen and the
26 committees no later than the second Monday after the date by
27 which both committee designations have been published in the
28 Pennsylvania Bulletin. If the agency fails to deliver its report
29 to the commission, the chairmen and the committees in the time
30 prescribed in this subsection, the agency shall be deemed to

1 have withdrawn the final-form or final-omitted regulation. Upon
2 receipt of the agency's report, a chairman and committee shall
3 have ten days to approve or disapprove the report and to notify
4 the commission and the agency of its approval or disapproval. If
5 a chairman or committee fails to notify the commission and the
6 agency of its disapproval within ten days, the chairman or
7 committee, as the case may be, shall be deemed to have approved
8 the agency's report. The commission shall have seven days from
9 the expiration of the chairmen's and committee's ten-day review
10 period or until its next regularly scheduled meeting, whichever
11 is later, to approve or disapprove the agency's report. If the
12 commission, the chairmen and the committee approve the agency's
13 report, the agency may promulgate the final-form or final-
14 omitted regulation. If the commission disapproves the agency
15 report, the agency shall be barred from promulgating that
16 regulation until the review provided for in this subsection and
17 in subsection (d) is completed. If a chairman or committee
18 disapproves an agency's report and the commission approves it or
19 if the commission disapproves an agency report, the commission
20 shall deliver its order to the chairmen and committees for
21 consideration by the General Assembly pursuant to subsection
22 (d). If the commission is prevented from delivering its order to
23 the chairmen and committees within the time period provided for
24 in this subsection because of the adjournment sine die or
25 expiration of the legislative session in an even-numbered year,
26 the commission shall deliver its order on the fourth Monday of
27 January of the next year. If either chairman or either committee
28 has not been designated by the fourth Monday in January, the
29 commission may not deliver its order to the chairmen or
30 committees until both chairmen and both committees are

1 designated, but the commission shall deliver its order no later
2 than the second Monday after the date by which both chairmen and
3 both committee designations have been published in the
4 Pennsylvania Bulletin. If the commission fails to deliver its
5 order disapproving the agency's report and revised final-form or
6 final-omitted regulation in the time prescribed by this
7 subsection, the commission shall be deemed to have approved the
8 agency's report and the revised final-form or final-omitted
9 regulation.

10 Section 5. This act shall take effect in 60 days.