
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1491 Session of
1995

INTRODUCED BY PESCI, FLICK, TRELLO, BOSCOLA, BELFANTI, PISTELLA
AND HALUSKA, APRIL 27, 1995

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 27, 1995

AN ACT

1 Providing for inclusion of flexible provisions designed to
2 benefit small businesses and local governments in all
3 Commonwealth rules and regulations.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Regulatory
8 Flexibility Act.

9 Section 2. Findings and purpose.

10 (a) Findings.--The General Assembly finds that:

11 (1) Small businesses are vital to this Commonwealth's
12 economy, provide over one-half of this Commonwealth's
13 economic output, have accounted for nearly all of the
14 increases in employment in this Commonwealth since 1970 and
15 are an important source of major innovations which create new
16 markets and improve the quality of life.

17 (2) Small businesses in this Commonwealth have at times
18 been subjected to regulatory and reporting requirements

1 adopted by agencies, departments and instrumentalities of the
2 Commonwealth which placed a proportionately greater burden on
3 the small business community than on the other segments of
4 the business community of this Commonwealth.

5 (3) Regulations intended to protect the health, safety
6 and economic welfare of the citizens of this Commonwealth
7 have sometimes imposed unreasonable demands and burdensome
8 legal, accounting and consulting costs on many small
9 businesses and local governments of limited resources without
10 a proportionate benefit to citizens' health, safety and
11 economic welfare.

12 (4) Over-regulation and burdensome requirements
13 affecting small businesses are costly, reduce innovation and
14 expansion, reduce competition and threaten the existence of
15 some small businesses.

16 (5) The practice of treating all individuals,
17 businesses, organizations and local governments in a uniform
18 manner for the purpose of regulatory and reporting
19 requirements may lead to the inefficient use of regulatory
20 agency resources, enormous enforcement problems and, in some
21 cases, actions inconsistent with the legislative intent of
22 health, safety, economic welfare and environmental
23 protection.

24 (6) State government information collection at times has
25 not adequately weighed the costs of collection and the
26 privacy rights of small businesses against the government's
27 need for information.

28 (b) Purpose.--It is the purpose of this act to establish as
29 principles of regulatory policy that:

30 (1) Regulatory and reporting requirements fit the scale

1 of those being regulated.

2 (2) Fewer and simpler requirements be made of small
3 businesses and local governments where this is consistent
4 with the protection of this Commonwealth's environment,
5 public health, safety and welfare.

6 (3) To achieve these ends agencies be empowered and
7 encouraged to issue regulations consistent with the
8 protection of this Commonwealth's environment, public health,
9 safety and welfare which include flexible standards designed
10 to meet the particular needs and resources of small
11 businesses and local governments.

12 This act is not intended to justify imposing greater burdens on
13 larger entities than would be imposed without this act.

14 Section 3. Definitions.

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

18 "Agency." Each of the principal departments in the executive
19 branch of the Commonwealth and all bureaus, boards, divisions,
20 commissions, councils, authorities, offices or officers within
21 any of the departments now existing or hereafter established and
22 authorized by statute to make, adopt or promulgate rules and
23 regulations.

24 "Local government." A county, city, borough, incorporated
25 town, township, school district, vocational school district or
26 county institutional district.

27 "Small business." Any for-profit business enterprise or
28 nonprofit corporation or association having 250 or fewer
29 employees.

30 Section 4. Flexible provisions in regulations.

1 Whenever any State agency reviews, proposes or adopts any
2 rule or regulation or amendment to a rule or regulation, the
3 agency shall review the factors set forth in section 5(c) and
4 may include within the regulation flexible provisions to be
5 applied to small businesses and local governments. Flexible
6 provisions may be included within any regulation, if the
7 provisions are not otherwise prohibited by law, and if the
8 provisions are consistent with the protection of this
9 Commonwealth's environment, public health, safety and welfare.
10 Flexible provisions may include, but are not limited to,
11 specialized prescriptive or performance standards, simplified
12 reporting requirements, and simplified permit, licensing or
13 certification procedures and standards.

14 Section 5. Petition for proposed rulemaking.

15 (a) General rule.--Any small business or local government
16 may file an informal petition with any agency requesting the
17 issuance, amendment or waiver of a regulation in order to adopt
18 flexible provisions as provided in section 4.

19 (b) Content.--Any petition filed pursuant to this section
20 shall set forth clearly and concisely the specific regulation,
21 amendment or waiver requested and shall cite by appropriate
22 reference the statutory authority for the regulation. The
23 petition shall set forth the facts upon which the need for the
24 proposed flexible provisions are based and shall explain how the
25 proposed rulemaking will both benefit small businesses and local
26 governments and be consistent with the protection of this
27 Commonwealth's environment, public health, safety and welfare.

28 (c) Hearing and review criteria.--If requested by the
29 petitioner, the agency shall hold a hearing to consider the
30 proposed rulemaking and, in the review of the proposal, shall

1 consider the following factors:

2 (1) The nature of any reports and the estimated cost of
3 their preparation by small businesses and local governments
4 which would be required under the new rule compared to
5 existing agency rules.

6 (2) The nature and estimated costs of other measures or
7 investments that would be required by small businesses and
8 local governments in complying with the new rules compared to
9 existing agency rules.

10 (3) The nature and estimated cost of any legal,
11 consulting and accounting services which small businesses and
12 local governments would incur in complying with the new rule
13 compared to existing agency rules.

14 (4) Compared to current agency rules, the ability of
15 small businesses and local governments to absorb the costs
16 estimated under paragraphs (1), (2) and (3) without suffering
17 economic harm and without adversely affecting competition in
18 the marketplace.

19 (5) The additional cost, if any, to the agency of
20 administering or enforcing a rule which contains flexible
21 provisions for compliance by small businesses and local
22 governments.

23 (6) The impact on the public interest of adopting
24 flexible provisions of compliance for small businesses and
25 local governments.

26 (d) Flexible provisions in regulations.--The agency shall,
27 within 180 days, determine whether it is lawful, desirable and
28 feasible to adopt flexible provisions in regulations for small
29 businesses and local governments and notify the petitioner in
30 writing and, if the agency determines that it is lawful,

1 desirable and feasible to adopt these provisions, the agency
2 shall submit for review a notice of proposed rulemaking
3 containing the appropriate flexible provisions.

4 (e) Effect of decision.--The agency decision regarding any
5 petition filed pursuant to this section shall be final, and
6 shall not constitute an adjudication as defined in 2 Pa.C.S. §
7 101 (relating to definitions), or be subject to appeal as
8 provided by 2 Pa.C.S. § 702 (relating to appeals), or otherwise.

9 Section 6. Cooperation.

10 Every agency of State government is authorized and required
11 to furnish upon request, advice and assistance to any other
12 agency making determinations under this act.

13 Section 7. Effective date.

14 This act shall take effect immediately.