

AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled
2 "An act providing for independent oversight and review of
3 regulations, creating an Independent Regulatory Review
4 Commission, providing for its powers and duties and making
5 repeals," further providing for definitions, for proposed
6 regulations and procedures for review and for final-form
7 regulations and final-omitted regulations and procedures for
8 review; providing for regulations deemed withdrawn; further
9 providing for procedures for subsequent review of disapproved
10 final-form or final-omitted regulations by the commission;
11 and providing for concurrent resolution required for
12 economically significant regulations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 3 of the act of June 25, 1982 (P.L.633,
16 No.181), known as the Regulatory Review Act, is amended by
17 adding definitions to read:

18 Section 3. Definitions.

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

22 * * *

1 "Economically significant regulation." A regulation that, if
2 promulgated and implemented, may reasonably be expected to
3 result in direct or indirect cost to the Commonwealth, to its
4 political subdivisions and to the private sector in excess of
5 \$1,000,000 on an annual basis.

6 * * *

7 "Legislative day." A day when both houses of the General
8 Assembly are in voting session.

9 * * *

10 Section 2. Section 5(a)(1.1) and (4) of the act are amended
11 and the section is amended by adding subsections to read:

12 Section 5. Proposed regulations; procedures for review.

13 (a) On the same date that an agency submits a proposed
14 regulation to the Legislative Reference Bureau for publication
15 of notice of proposed rulemaking in the Pennsylvania Bulletin as
16 required by the Commonwealth Documents Law, the agency shall
17 submit to the commission and the committees a copy of the
18 proposed regulation and a regulatory analysis form which
19 includes the following:

20 * * *

21 (1.1) A specific citation to the Federal or State
22 statutory or regulatory authority or the decision of a
23 Federal or State court under which the agency is proposing
24 the regulation, which the regulation is designed to implement
25 or which may mandate or affect compliance with the
26 regulation. In the case of a citation of State statutory
27 authority, the citation must be to a provision of the statute
28 that explicitly states that the agency may promulgate
29 regulations for the specific purpose cited in the statement
30 of need for the regulation under paragraph (3).

1 * * *

2 (4) Estimates of the direct and indirect costs to the
3 Commonwealth, to its political subdivisions and to the
4 private sector. [Insofar as the proposed regulation relates
5 to costs to the Commonwealth, the agency may submit in lieu
6 of its own statement the fiscal note prepared by the Office
7 of the Budget pursuant to section 612 of the act of April 9,
8 1929 (P.L.177, No.175), known as "The Administrative Code of
9 1929."] The estimates shall be prepared by the Independent
10 Fiscal Office and submitted to the agency for inclusion in
11 the regulatory analysis form and shall include an estimate of
12 the annual costs to be used to determine whether the
13 regulation is an economically significant regulation.

14 * * *

15 (d.1) The committees shall, during the public comment
16 period, conduct a public hearing to receive comments regarding a
17 proposed economically significant regulation. The agency shall
18 appear at the hearing if requested to do so by the chair of the
19 committee.

20 * * *

21 (i) All forms required for implementation of a regulation
22 must be included with the regulatory analysis form when
23 submitted to the Legislative Reference Bureau, the committees
24 and the commission under subsection (a).

25 (j) The commission shall transmit comments regarding the
26 cost estimates required under subsection (a)(4) to the
27 Independent Fiscal Office for review.

28 Section 3. Section 5.1(e), (j.2), (j.3) and (l) of the act
29 are amended to read:

30 Section 5.1. Final-form regulations and final-omitted

1 regulations; procedures for review.

2 * * *

3 (e) The commission may have until its next scheduled meeting
4 which occurs no less than 30 days after receipt of the final-
5 form or final-omitted regulation to approve or disapprove the
6 final-form or final-omitted regulation. Notwithstanding
7 subsections (j.1) and (j.2), at any time prior to 24 hours
8 before the commission's meeting to consider a regulation, a
9 committee may notify the commission and the agency that the
10 committee disapproves or intends to further review the final-
11 form regulation. If notified by a committee that the committee
12 disapproves of a regulation, the commission may not approve or
13 disapprove the regulation for a period of 30 days or nine
14 legislative days, whichever is longer. If notified by a
15 committee that the committee intends to further review a final-
16 form regulation, the commission may not approve or disapprove
17 the regulation for a period of 14 days or six legislative days,
18 whichever is longer. The commission shall notify the agency and
19 the committees of its approval or disapproval. If the commission
20 does not disapprove the final-form or final-omitted regulation
21 within the time allotted in this subsection, the commission
22 shall be deemed to have approved the final-form or final-omitted
23 regulation.

24 * * *

25 (j.2) (1) At any time during the commission's review period
26 up to 24 hours prior to the opening of the commission's
27 public meeting, a committee may notify the commission and the
28 agency that it has approved or disapproved a final-form or
29 final-omitted regulation or that it intends to review the
30 regulation.

1 (2) If the commission approves a regulation and a
2 committee has not notified the commission and the agency that
3 it has disapproved the regulation or that it intends to
4 review the regulation, the agency may promulgate the
5 regulation. If the commission approves a regulation and a
6 committee has notified the commission and the agency that it
7 has disapproved the regulation or that it intends to review
8 the regulation, the agency may not promulgate the regulation
9 for 14 days or six legislative days, whichever is longer,
10 after the committee has received the commission's approval
11 order.

12 (3) During [this 14-day period] the period established
13 under paragraph (2), the committee may take action on the
14 regulation pursuant to section 7(d). If at the expiration of
15 the [14-day] period established under paragraph (2) the
16 committee has not taken action on the regulation pursuant to
17 section 7(d), the agency may promulgate the regulation.

18 (j.3) If the committees are prevented from completing their
19 [14-day] review during the period established under subsection
20 (j.2)(2) because of adjournment sine die or expiration of the
21 legislative session in an even-numbered year, their review of
22 the final-form or final-omitted regulation shall automatically
23 be suspended until the fourth Monday in January of the next
24 year. On that date, the agency shall resubmit the final-form or
25 final-omitted regulation and required material to the committees
26 and the commission. If either committee has not been designated
27 by the fourth Monday in January, the agency may not deliver the
28 final-form or final-omitted regulation and required material to
29 the committees and the commission until both committees are
30 designated. If the agency does not deliver the final-form or

1 final-omitted regulation and required material to the commission
2 and the committees by the second Monday after the date by which
3 both committee designations have been published in the
4 Pennsylvania Bulletin, the agency shall be deemed to have
5 withdrawn the final-form or final-omitted regulation. In
6 determining the remaining time for committee review, the number
7 of days in which the committees have had the final-form or the
8 final-omitted regulation under review as of the adjournment sine
9 die or expiration of the prior session shall be subtracted from
10 the [14-day] committee review period established under
11 subsection (j.2)(2), but the committee review period in the next
12 succeeding legislative session shall not be less than ten days.
13 An agency may not submit a final-form or final-omitted
14 regulation to the commission or the committees for review during
15 the period from the adjournment sine die or expiration of the
16 legislative session of an even-numbered year to the date by
17 which both committees have been designated in the next
18 succeeding legislative session. This subsection shall not apply
19 to emergency-certified regulations adopted pursuant to the
20 provisions of section 6(d).

21 * * *

22 (1) Except for emergency-certified regulations adopted under
23 section 6(d), an agency may not promulgate a regulation until
24 completion of the review provided for in this act[.] and, if the
25 regulation is an economically significant regulation, the
26 General Assembly adopts a concurrent resolution under section
27 7.2.

28 Section 4. The act is amended by adding a section to read:
29 Section 5.3. Regulations deemed withdrawn.

30 A regulation shall be deemed withdrawn if there is no

1 provision of a State statute which explicitly states that the
2 agency may promulgate regulations for the specific purpose cited
3 in the statement of need for the regulation under section 5(a)
4 (3) and the regulatory analysis form submitted for the
5 regulation does not comply with the requirements of section 5(a)
6 (1.1).

7 Section 5. Section 7(d) of the act is amended to read:
8 Section 7. Procedures for subsequent review of disapproved
9 final-form or final-omitted regulations.

10 * * *

11 (d) Upon receipt of the commission's order pursuant to
12 subsection (c.1) or at the expiration of the commission's review
13 period if the commission does not act on the regulation or does
14 not deliver its order pursuant to subsection (c.1), [one] the
15 following apply:

16 (1) One or both of the committees may, within 14 calendar
17 days or six legislative days, whichever is longer, report to the
18 House of Representatives or Senate a concurrent resolution and
19 notify the agency. During the [14-calendar-day] period specified
20 in this paragraph, the agency may not promulgate the final-form
21 or final-omitted regulation. If, by the expiration of the [14-
22 calendar-day] period specified in this paragraph, neither
23 committee reports a concurrent resolution, the committees shall
24 be deemed to have approved the final-form or final-omitted
25 regulation, and the agency may promulgate that regulation.

26 (2) If either committee reports a concurrent resolution
27 before the expiration of the [14-day] period specified in
28 paragraph (1), the [Senate and the House of Representatives]
29 chamber to which the concurrent resolution is reported shall
30 [each] have 30 calendar days or ten legislative days, whichever

1 is longer, from the date on which the concurrent resolution has
2 been reported, to adopt the concurrent resolution[.] and
3 transmit it to the other chamber. The other chamber shall have
4 30 calendar days or ten legislative days, whichever is longer,
5 from the date on which the concurrent resolution has been
6 transmitted, to adopt the concurrent resolution.

7 (3) If the General Assembly adopts the concurrent resolution
8 by majority vote in both the Senate and the House of
9 Representatives within 60 calendar days or 20 legislative days,
10 whichever is longer, from the date on which a concurrent
11 resolution has been reported out by a committee, the concurrent
12 resolution shall be presented to the Governor in accordance with
13 section 9 of Article III of the Constitution of Pennsylvania.

14 (4) If the Governor does not return the concurrent
15 resolution to the General Assembly within ten calendar days
16 after it is presented, the Governor shall be deemed to have
17 approved the concurrent resolution.

18 (5) If the Governor vetoes the concurrent resolution, the
19 General Assembly may override that veto by a two-thirds vote in
20 each house. The Senate and the House of Representatives shall
21 each have 30 calendar days or ten legislative days, whichever is
22 longer, to override the veto. If the General Assembly does not
23 adopt the concurrent resolution or override the veto in the time
24 prescribed in this [subsection] paragraph, it shall be deemed to
25 have approved the final-form or final-omitted regulation.

26 (6) Notice as to any final disposition of a concurrent
27 resolution considered in accordance with this [section]
28 subsection shall be published in the Pennsylvania Bulletin.

29 (7) The bar on promulgation of the final-form or final-
30 omitted regulation shall continue until that regulation has been

1 approved or deemed approved in accordance with this subsection.

2 (8) If the General Assembly adopts the concurrent resolution
3 and the Governor approves or is deemed to have approved the
4 concurrent resolution or if the General Assembly overrides the
5 Governor's veto of the concurrent resolution, the agency shall
6 be barred from promulgating the final-form or final-omitted
7 regulation.

8 (9) If the General Assembly does not adopt the concurrent
9 resolution or if the Governor vetoes the concurrent resolution
10 and the General Assembly does not override the Governor's veto,
11 the agency may promulgate the final-form or final-omitted
12 regulation.

13 (10) The General Assembly may, at its discretion, adopt a
14 concurrent resolution disapproving the final-form or final-
15 omitted regulation to indicate the intent of the General
16 Assembly but permit the agency to promulgate that regulation.

17 Section 6. The act is amended by adding a section to read:
18 Section 7.2. Concurrent resolution required for economically
19 significant regulations.

20 (a) If the commission issues an order to approve a final-
21 form regulation or final-omitted regulation that is an
22 economically significant regulation or if the agency decides to
23 proceed with a final-form regulation or final-omitted regulation
24 that is an economically significant regulation for which the
25 commission issued a disapproval order, the agency shall submit a
26 copy of the order and, if applicable, the agency response to the
27 Senate and the House of Representatives and shall request a
28 concurrent resolution approving the regulation. The concurrent
29 resolution shall be referred to the applicable standing
30 committee of the Senate and the applicable standing committee of

1 the House of Representatives. A concurrent resolution that is
2 reported from the standing committee of the Senate shall be
3 placed on the Senate calendar. A concurrent resolution that is
4 reported from the standing committee of the House of
5 Representatives shall be placed on the House calendar. The
6 Senate and the House of Representatives shall each have 30
7 calendar days or ten legislative days, whichever is longer, from
8 the date on which the agency requested the concurrent resolution
9 to consider the concurrent resolution. If the General Assembly
10 does not adopt the concurrent resolution in the time prescribed
11 in this subsection, the final-form regulation or final-omitted
12 regulation shall be deemed not approved and the regulation shall
13 not take effect.

14 (b) This section shall not apply to emergency-certified
15 regulations adopted under section 6(d).

16 Section 7. This act shall apply to any regulation prepared
17 in final form on or after the effective date of this section.

18 Section 8. This act shall take effect in 60 days.