

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 136** Session of
2009

INTRODUCED BY ERICKSON, ROBBINS, KITCHEN, ORIE, BRUBAKER,
BROWNE, RAFFERTY, SCARNATI, COSTA, EARLL, WAUGH, PILEGGI,
PICCOLA, EICHELBERGER AND WASHINGTON, JANUARY 30, 2009

AS AMENDED ON THIRD CONSIDERATION, MARCH 31, 2009

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 acceptable data.

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 "Acceptable data." Empirical, replicable and testable data
17 as evidenced in supporting documentation, statistics, reports,
18 studies or research.

19 * * *

1 Section 2. Section 5(a) of the act is amended by adding a
2 paragraph to read:

3 Section 5. Proposed regulations; procedures for review.

4 (a) On the same date that an agency submits a proposed
5 regulation to the Legislative Reference Bureau for publication
6 of notice of proposed rulemaking in the Pennsylvania Bulletin as
7 required by the Commonwealth Documents Law, the agency shall
8 submit to the commission and the committees a copy of the
9 proposed regulation and a regulatory analysis form which
10 includes the following:

11 * * *

12 (14) A description of any data upon which a regulation
13 is based with a detailed explanation of how the data was
14 obtained and why the data is acceptable data. An agency
15 advocating that any data is acceptable data shall have the
16 burden of proving that the data is acceptable.

17 * * *

18 Section 3. Section 5.2 of the act, added December 6, 2002
19 (P.L.1227, No.148), is amended to read:

20 Section 5.2. Criteria for review of regulations.

21 (a) In determining whether a proposed, final-form, final-
22 omitted or existing regulation is in the public interest, the
23 commission shall, first and foremost, determine whether the
24 agency has the statutory authority to promulgate the regulation
25 and whether the regulation conforms to the intention of the
26 General Assembly in the enactment of the statute upon which the
27 regulation is based. In making its determination, the commission
28 shall consider written comments submitted by the committees and
29 current members of the General Assembly, pertinent opinions of
30 Pennsylvania's courts and formal opinions of the Attorney

1 General.

2 (b) Upon a finding that the regulation is consistent with
3 the statutory authority of the agency and with the intention of
4 the General Assembly in the enactment of the statute upon which
5 the regulation is based, the commission shall consider the
6 following in determining whether the regulation is in the public
7 interest:

8 (1) Economic or fiscal impacts of the regulation, which
9 include the following:

10 (i) Direct and indirect costs to the Commonwealth,
11 to its political subdivisions and to the private sector.

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

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

18 (iv) The nature and estimated cost of legal,
19 consulting or accounting services which the public or
20 private sector may incur.

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

25 (2) The protection of the public health, safety and
26 welfare and the effect on this Commonwealth's natural
27 resources. ~~The data used as the basis of a regulation is~~
28 ~~acceptable data.~~ ←

29 (3) The clarity, feasibility and reasonableness of the
30 regulation to be determined by considering the following:

- 1 (i) Possible conflict with or duplication of
2 statutes or existing regulations.
3 (ii) Clarity and lack of ambiguity.
4 (iii) Need for the regulation.
5 (iv) Reasonableness of requirements, implementation
6 procedures and timetables for compliance by the public
7 and private sectors.
8 (v) Whether acceptable data is the basis of the
9 regulation.

10 (4) Whether the regulation represents a policy decision
11 of such a substantial nature that it requires legislative
12 review.

13 (5) Comments, objections or recommendations of a
14 committee.

15 (6) Compliance with the provisions of this act or the
16 regulations of the commission in promulgating the regulation.

17 (7) Whether the regulation is supported by acceptable
18 data.

19 Section 4. This act shall take effect in 60 days.