
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 965 Session of
2015

INTRODUCED BY GODSHALL, KILLION, TOEPEL, METZGAR, BARRAR,
CAUSER, PICKETT, MILLARD, QUIGLEY AND MURT, APRIL 14, 2015

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 14, 2015

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," further providing for definitions, for
6 proposed regulations and procedures for review, for final-
7 form regulations and final-omitted regulations and procedures
8 for review and for procedures for subsequent review of
9 disapproved final-form or final-omitted regulations by the
10 commission.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

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

16 Section 3. Definitions.

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

20 * * *

21 "Committee chairperson." Any of the following:

22 (1) The Senator appointed by the President pro tempore

1 of the Senate to serve as a majority chairperson of the
2 committee.

3 (2) The Senator appointed by the Minority Leader of the
4 Senate to serve as a minority chairperson of the committee.

5 (3) The Representative appointed by the Speaker of the
6 House of Representatives to serve as a majority chairperson
7 of the committee.

8 (4) The Representative appointed by the Minority Leader
9 of the House of Representatives to serve as a minority
10 chairperson of the committee.

11 * * *

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

14 * * *

15 Section 2. Section 5(a), (c), (d) and (g) of the act,
16 amended December 6, 2002 (P.L.1227, No.148) and June 29, 2012
17 (P.L.657, No.76), are amended and the section is amended by
18 adding a subsection to read:

19 Section 5. Proposed regulations; procedures for review.

20 (a) On the same date that an agency submits a proposed
21 regulation to the Legislative Reference Bureau for publication
22 of notice of proposed rulemaking in the Pennsylvania Bulletin as
23 required by the Commonwealth Documents Law, the agency shall
24 submit to the commission and the [committees] committee
25 chairpersons a copy of the proposed regulation and a regulatory
26 analysis form which includes the following:

27 (1) The title of the agency and the names, office
28 addresses and telephone numbers of the agency officials
29 responsible for responding to questions regarding the
30 regulation or for receiving comments relating to the

1 regulation.

2 (1.1) A specific citation to the Federal or State
3 statutory or regulatory authority or the decision of a
4 Federal or State court under which the agency is proposing
5 the regulation, which the regulation is designed to implement
6 or which may mandate or affect compliance with the
7 regulation.

8 (2) A concise and, when possible, nontechnical
9 explanation of the proposed regulation.

10 (3) A statement of the need for the regulation.

11 (4) Estimates of the direct and indirect costs to the
12 Commonwealth, to its political subdivisions and to the
13 private sector. Insofar as the proposed regulation relates to
14 costs to the Commonwealth, the agency may submit in lieu of
15 its own statement the fiscal note prepared by the Office of
16 the Budget pursuant to section 612 of the act of April 9,
17 1929 (P.L.177, No.175), known as "The Administrative Code of
18 1929."

19 (5) A statement of legal, accounting or consulting
20 procedures and additional reporting, recordkeeping or other
21 paperwork, including copies of forms or reports, which will
22 be required for implementation of the regulation and an
23 explanation of measures which have been taken to minimize
24 these requirements.

25 (7) A schedule for review of the proposed regulation,
26 including the date by which the agency must receive comments;
27 the date or dates on which public hearings will be held; the
28 expected date of promulgation of the proposed regulation as a
29 final-form regulation; the expected effective date of the
30 final-form regulation; the date by which compliance with the

1 final-form regulation will be required; and the date by which
2 required permits, licenses or other approvals must be
3 obtained.

4 (9) An identification of the types of persons, small
5 businesses, businesses and organizations which would be
6 affected by the regulation.

7 (10) An identification of the financial, economic and
8 social impact of the regulation on individuals, small
9 businesses, business and labor communities and other public
10 and private organizations and, when practicable, an
11 evaluation of the benefits expected as a result of the
12 regulation.

13 (10.1) For any proposed regulation that may have an
14 adverse impact on small businesses, an economic impact
15 statement that includes the following:

16 (i) An identification and estimate of the number of
17 the small businesses subject to the proposed regulation.

18 (ii) The projected reporting, recordkeeping and
19 other administrative costs required for compliance with
20 the proposed regulation, including the type of
21 professional skills necessary for preparation of the
22 report or record.

23 (iii) A statement of the probable effect on impacted
24 small businesses.

25 (iv) A description of any less intrusive or less
26 costly alternative methods of achieving the purpose of
27 the proposed regulation.

28 (11) A description of any special provisions which have
29 been developed to meet the particular needs of affected
30 groups and persons, including minorities, the elderly, small

1 businesses and farmers.

2 (12) A description of any alternative regulatory
3 provisions which have been considered and rejected and a
4 statement that the least burdensome acceptable alternative
5 has been selected.

6 (12.1) A regulatory flexibility analysis in which the
7 agency shall, where consistent with health, safety,
8 environmental and economic welfare, consider utilizing
9 regulatory methods that will accomplish the objectives of
10 applicable statutes while minimizing adverse impact on small
11 businesses. The agency shall consider, without limitation,
12 each of the following methods of reducing the impact of the
13 proposed regulation on small businesses:

14 (i) the establishment of less stringent compliance
15 or reporting requirements for small businesses;

16 (ii) the establishment of less stringent schedules
17 or deadlines for compliance or reporting requirements for
18 small businesses;

19 (iii) the consolidation or simplification of
20 compliance or reporting requirements for small
21 businesses;

22 (iv) the establishment of performance standards for
23 small businesses to replace design or operational
24 standards required in the proposed regulation; and

25 (v) the exemption of small businesses from all or
26 any part of the requirements contained in the proposed
27 regulation.

28 (13) A description of the plan developed for evaluating
29 the continuing effectiveness of the regulation after its
30 implementation.

1 (14) A description of any data upon which a regulation
2 is based with a detailed explanation of how the data was
3 obtained and why the data is acceptable data. An agency
4 advocating that any data is acceptable data shall have the
5 burden of proving that the data is acceptable.

6 (a.1) The committee chairpersons shall, within five business
7 days, distribute to each committee member of the committee
8 chairperson's caucus a copy of the information submitted to the
9 committee chairpersons pursuant to subsection (a). Committee
10 chairpersons may distribute an electronic copy of the
11 information in lieu of a paper copy. The information required
12 under subsection (a)(3) or any other statement of purpose for
13 the regulation may be submitted to the commission and the
14 committee chairpersons, but may not be submitted to the
15 Legislative Reference Bureau for publication of notice of
16 proposed rulemaking in the Pennsylvania Bulletin.

17 * * *

18 (c) From the date of submission of the proposed regulation,
19 the agency shall submit to the commission and the [committees]
20 committee chairpersons, within five business days of receipt, a
21 copy of comments which the agency receives relating to the
22 proposed regulation. The agency shall also, upon request, submit
23 to the commission and the [committees] committee chairpersons
24 copies of reports from advisory groups and other documents
25 received from or disseminated to the public relating to the
26 proposed regulation and public notices or announcements relating
27 to solicitation of public comments or meetings which the agency
28 held or will hold relating to the proposed regulation. The
29 committee chairpersons shall, within five business days of
30 receipt, distribute to each committee member of the committee

1 chairperson's caucus any information received pursuant to this
2 subsection. A committee chairperson may distribute an electronic
3 copy of the information in lieu of a paper copy.

4 (d) [The] Any member of the committees may, at any time
5 prior to the submittal of the regulation in final-form, convey
6 to the agency and the commission their comments, recommendations
7 and objections to the proposed regulation and a copy of any
8 staff reports deemed pertinent. The comments, recommendations
9 and objections may refer to the criteria in section 5.2. A
10 committee member making a comment, recommendation or objection
11 to the proposed regulation must also submit the comments to each
12 committee chairperson. The majority committee chairperson may
13 convene a meeting of the committee to adopt any comment,
14 recommendation or objection to the proposed regulations or may
15 conduct an informational hearing on the proposed regulations.
16 The majority committee chairperson must conduct an informational
17 hearing if petitioned to do so by a majority of the committee
18 members.

19 * * *

20 (g) The commission may, within thirty days after the close
21 of the public comment period, convey to the agency and
22 [committees] committee chairpersons any comments,
23 recommendations and objections to the proposed regulation. The
24 committee chairpersons shall, within five business days of
25 receipt, distribute the commission's comments, recommendations
26 or objections to the proposed regulation to the committee
27 members of the committee chairperson's caucus. The comments,
28 recommendations and objections shall specify the regulatory
29 review criterion set forth in section 5.2 which the proposed
30 regulation has not met. If the commission does not comment on,

1 make recommendations regarding or object to any portion of the
2 proposed regulation within the time provided in this subsection,
3 the commission shall be deemed to have approved that portion of
4 the proposed regulation. Disapproval of the final-form
5 regulation by the commission shall relate only to comments,
6 recommendations and objections raised by the commission to the
7 proposed regulation; to changes which the agency made to the
8 proposed regulation; or to recommendations, comments or
9 objections which a committee conveyed to the agency or the
10 commission.

11 * * *

12 Section 3. Sections 5.1(a), (e) and (j.2) and 7(d) of the
13 act, amended December 6, 2002 (P.L.1227, No.148), are amended to
14 read:

15 Section 5.1. Final-form regulations and final-omitted
16 regulations; procedures for review.

17 (a) The agency shall review and consider public comments and
18 the comments of the committees and commission pursuant to this
19 section. Within five business days of receipt of a public
20 comment, the agency shall notify the commentator of the agency's
21 address and telephone number where the commentator may submit a
22 request for the information concerning the final-form regulation
23 under subsection (b). Upon completion of the agency's review of
24 comments, the agency shall submit to the commission and the
25 [committees] committee chairpersons a copy of its response to
26 the comments received, the names and addresses of commentators
27 who have requested additional information relating to the final-
28 form regulation and the text of the final-form regulation which
29 the agency intends to adopt. A committee chairperson must,
30 within five business days of receipt, distribute the information

1 required under this subsection to the committee members of the
2 committee chairperson's caucus. If an agency does not submit or
3 withdraws and does not resubmit the final-form regulation within
4 two years of the close of the public comment period but still
5 desires to promulgate the final-form regulation, the agency
6 shall republish the regulation as a proposed regulation with a
7 new public comment period in accordance with the Commonwealth
8 Documents Law. If the agency is prevented from delivering its
9 final-form regulation to the commission and the committees
10 within the time period provided for in this subsection because
11 of the adjournment sine die or expiration of the legislative
12 session in an even-numbered year, the agency shall deliver its
13 final-form regulation in accordance with subsection (f).

14 * * *

15 (e) The commission may have until its next scheduled meeting
16 which occurs no less than 30 days after receipt of the final-
17 form or final-omitted regulation to approve or disapprove the
18 final-form or final-omitted regulation. Notwithstanding
19 subsections (j.1) and (j.2), at any time prior to 24 hours
20 before the commission's meeting to consider a regulation, a
21 committee may notify the commission and the agency that the
22 committee disapproves or intends to further review the final-
23 form regulation. If notified by a committee that it disapproves
24 of a regulation, the commission may not approve or disapprove
25 the regulation for a period of 30 days or 9 legislative days,
26 whichever is longer. If notified by a committee that the
27 committee intends to further review a final-form regulation, the
28 commission may not approve or disapprove the regulation for a
29 period of 14 days or 6 legislative days, whichever is longer.
30 The commission shall notify the agency and the committees of its

1 approval or disapproval. If the commission does not disapprove
2 the final-form or final-omitted regulation within the time
3 allotted in this subsection, the commission shall be deemed to
4 have approved the final-form or final-omitted regulation.

5 * * *

6 (j.2) At any time during the commission's review period up
7 to 24 hours prior to the opening of the commission's public
8 meeting, a committee may notify the commission and the agency
9 that it has approved or disapproved a final-form or final-
10 omitted regulation or that it intends to review the regulation.
11 [If the commission approves a regulation and a committee has not
12 notified the commission and the agency that it has disapproved
13 the regulation or that it intends to review the regulation, the
14 agency may promulgate the regulation.] If the commission
15 approves a regulation and a committee has notified the
16 commission and the agency that it has disapproved the regulation
17 or that it intends to review the regulation, the agency may not
18 promulgate the regulation for 14 days or 6 legislative days,
19 whichever is longer, after the committee has received the
20 commission's approval order. During this 14-day period, the
21 committee may take action on the regulation pursuant to section
22 7(d). If at the expiration of the 14-day period the committee
23 has not taken action on the regulation pursuant to section 7(d),
24 the agency may promulgate the regulation.

25 * * *

26 Section 7. Procedures for subsequent review of disapproved
27 final-form or final-omitted regulations.

28 * * *

29 (d) Upon receipt of the commission's order pursuant to
30 subsection (c.1) or at the expiration of the commission's review

1 period if the commission does not act on the regulation or does
2 not deliver its order pursuant to subsection (c.1), one or both
3 of the committees may, within 14 calendar days or 6 legislative
4 days, whichever is longer, report to the House of
5 Representatives or Senate a concurrent resolution and notify the
6 agency. During the 14-calendar-day or 6-legislative-day period,
7 the agency may not promulgate the final-form or final-omitted
8 regulation. If, by the expiration of the 14-calendar-day or 6-
9 legislative-day period, neither committee reports a concurrent
10 resolution, the committees shall be deemed to have approved the
11 final-form or final-omitted regulation, and the agency may
12 promulgate that regulation. If either committee reports a
13 concurrent resolution before the expiration of the [14-day] 14-
14 calendar-day or 6-legislative-day period, the Senate [and] or
15 the House of Representatives shall each have 30 calendar days or
16 ten legislative days, whichever is longer, from the date on
17 which the concurrent resolution has been reported, to adopt the
18 concurrent resolution. If the General Assembly adopts the
19 concurrent resolution by majority vote in both the Senate and
20 the House of Representatives within 60 calendar days or 15
21 legislative days, whichever is longer, from the date on which a
22 concurrent resolution has been reported out by a committee, the
23 concurrent resolution shall be presented to the Governor in
24 accordance with section 9 of Article III of the Constitution of
25 Pennsylvania. If the Governor does not return the concurrent
26 resolution to the General Assembly within ten calendar days
27 after it is presented, the Governor shall be deemed to have
28 approved the concurrent resolution. If the Governor vetoes the
29 concurrent resolution, the General Assembly may override that
30 veto by a two-thirds vote in each house. The Senate and the

1 House of Representatives shall each have 30 calendar days or ten
2 legislative days, whichever is longer, to override the veto. If
3 the General Assembly does not adopt the concurrent resolution or
4 override the veto in the time prescribed in this subsection, it
5 shall be deemed to have approved the final-form or final-omitted
6 regulation. Notice as to any final disposition of a concurrent
7 resolution considered in accordance with this section shall be
8 published in the Pennsylvania Bulletin. The bar on promulgation
9 of the final-form or final-omitted regulation shall continue
10 until that regulation has been approved or deemed approved in
11 accordance with this subsection. If the General Assembly adopts
12 the concurrent resolution and the Governor approves or is deemed
13 to have approved the concurrent resolution or if the General
14 Assembly overrides the Governor's veto of the concurrent
15 resolution, the agency shall be barred from promulgating the
16 final-form or final-omitted regulation. If the General Assembly
17 does not adopt the concurrent resolution or if the Governor
18 vetoes the concurrent resolution and the General Assembly does
19 not override the Governor's veto, the agency may promulgate the
20 final-form or final-omitted regulation. The General Assembly
21 may, at its discretion, adopt a concurrent resolution
22 disapproving the final-form or final-omitted regulation to
23 indicate the intent of the General Assembly but permit the
24 agency to promulgate that regulation.

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