
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2355 Session of
2015

INTRODUCED BY MOUL, CAUSER, PICKETT, TALLMAN, B. MILLER,
ZIMMERMAN AND CUTLER, SEPTEMBER 21, 2016

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 21, 2016

AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled,
2 as reenacted and amended, "An act providing for independent
3 oversight and review of regulations, creating an Independent
4 Regulatory Review Commission, providing for its powers and
5 duties and making repeals," further providing for
6 definitions, for final-form regulations and final-omitted
7 regulations and procedures for review, for procedures for
8 disapproval of final-form and final-omitted regulations and
9 emergency-certified regulations, for procedures for
10 subsequent review of disapproved final-form or final-omitted
11 regulations and for changes in final-form and final-omitted
12 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, reenacted and
17 amended June 30, 1989 (P.L.73, No.19), is amended by adding a
18 definition to read:

19 Section 3. Definitions.

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

23 * * *

1 "Recommendation notice." A report adopted by a majority vote
2 of the Independent Regulatory Review Commission recommending the
3 approval or disapproval of a final-form or final-omitted
4 regulation according to the criteria established in section 5.2.

5 * * *

6 Section 2. Sections 5.1(e), (g), (j.1), (j.2) and (j.3), 6
7 and 7 of the act, amended December 6, 2002 (P.L.1227, No.148),
8 are amended to read:

9 Section 5.1. Final-form regulations and final-omitted
10 regulations; procedures for review.

11 * * *

12 (e) The commission may have until its next scheduled meeting
13 which occurs no less than 30 days after receipt of the final-
14 form or final-omitted regulation to [approve or disapprove the
15 final-form or final-omitted regulation. The commission shall
16 notify the agency and the committees of its approval or
17 disapproval.] issue a recommendation notice to the committees
18 and the agency. If the commission does not [disapprove the
19 final-form or final-omitted regulation] issue a recommendation
20 notice within the time allotted in this subsection, the
21 commission shall be deemed to have [approved] recommended the
22 approval of the final-form or final-omitted regulation and shall
23 notify the committees.

24 * * *

25 (g) Except as provided in this subsection, the agency may
26 not make any changes to a final-form or final-omitted regulation
27 after the agency submits the final-form or final-omitted
28 regulation to the commission and the committees.

29 (1) Prior to [the expiration of the date on which either
30 of the committees takes action on the final-form or final-

1 omitted regulation, pursuant to subsection (j.2) or (j.3) or]
2 the expiration of the commission's review period prescribed
3 in subsection (e), [whichever occurs first,] the agency may,
4 unless the commission or a committee shall object, toll the
5 time for the commission's and the committees' review of the
6 final-form or final-omitted regulation in order to allow time
7 for the agency to consider revisions to the final-form or
8 final-omitted regulation recommended by the commission or a
9 committee.

10 (2) Tolling under paragraph (1) may last for up to 30
11 days. If within 30 days the agency does not submit revisions
12 to the committees and the commission or does not notify the
13 commission and the committees in writing that it will not
14 submit revisions but wishes the commission and the committees
15 to resume their review, the agency shall be deemed to have
16 withdrawn the final-form or final-omitted regulation.

17 (3) The [committees shall have the remainder of the 20-
18 day review period or ten days from the date of receipt of the
19 revised final-form or final-omitted regulation or written
20 notification under paragraph (2), whichever is longer, to
21 take action pursuant to subsection (j.2) or (j.3), and the]
22 commission may have until its next scheduled meeting which
23 occurs [after the expiration of the committee review period
24 but] not less than 15 days after receipt of the revised
25 final-form or final-omitted regulation or written
26 notification under paragraph (2) to review the final-form or
27 final-omitted regulation and issue a recommendation notice to
28 the committees. If the commission does not [disapprove the
29 final-form or final-omitted regulation or a committee does
30 not notify the commission and the agency that it has

1 disapproved the regulation or that it intends to review the
2 regulation pursuant to subsection (j.2), within the
3 respective time periods, the regulation shall be deemed
4 approved.] issue a recommendation notice within this time
5 period, the commission shall be deemed to have recommended
6 the approval of the final-form or final-omitted regulation
7 and shall notify the committees. The committees shall, within
8 12 session days from the date of receiving the recommendation
9 notice required by this section, take action pursuant to
10 subsection (j.1).

11 (4) The agency may not toll the time for review of any
12 final-form or final-omitted regulation more than one time.

13 (5) The agency may not submit revisions or notification
14 that the regulation will not be revised after the adjournment
15 sine die or the expiration of the legislative session in an
16 even-numbered year. If the committees and the commission are
17 prevented from completing their review pursuant to this
18 subsection because of the adjournment sine die or the
19 expiration of the legislative session in an even-numbered
20 year, the agency shall resubmit the final-form or final-
21 omitted regulation and review shall proceed in accordance
22 within subsection [(j.3)] (j.1).

23 * * *

24 (j.1) [A committee shall have at least 20 days from receipt
25 of the information required under subsection (a) or receipt of
26 the information required under subsection (c) to] The committees
27 shall, within 12 session days of receiving notification from the
28 commission required by subsection (e), take action pursuant to
29 subsection (j.2). If the committees are prevented from
30 completing their [20-day] review within 12 session days because

1 of the adjournment sine die or expiration of the legislative
2 session in an even-numbered year, their review of the final-form
3 or final-omitted regulation shall automatically be suspended
4 until the fourth Monday in January of the next year. On that
5 date, the agency shall resubmit the final-form or final-omitted
6 regulation and required material to the committees and the
7 commission. If either committee has not been designated by the
8 fourth Monday in January, the agency may not deliver the final-
9 form or final-omitted regulation and required material to the
10 commission and the committees until both committees have been
11 designated. If the agency does not deliver the final-form or
12 final-omitted regulation and required material to the commission
13 and the committees by the second Monday after the date by which
14 both committee designations have been published in the
15 Pennsylvania Bulletin, the agency shall be deemed to have
16 withdrawn the regulation. In computing the remaining time for
17 committee review, the number of session days in which the
18 committees have had the final-form or the final-omitted
19 regulation under review as of the adjournment sine die or
20 expiration of the prior session shall be subtracted from the [20
21 day] 12-session-day committee review period, but the committee
22 review period in the next succeeding legislative session shall
23 not be less than [ten] three session days. The commission shall
24 not act on a regulation until the committee review period has
25 expired. This section shall not apply to emergency-certified
26 regulations adopted pursuant to the provisions of section 6(d).

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

1 omitted regulation or that it intends to review the regulation.
2 If the commission approves a regulation and a committee has not
3 notified the commission and the agency that it has disapproved
4 the regulation or that it intends to review the regulation, the
5 agency may promulgate the regulation. If the commission approves
6 a regulation and a committee has notified the commission and the
7 agency that it has disapproved the regulation or that it intends
8 to review the regulation, the agency may not promulgate the
9 regulation for 14 days after the committee has received the
10 commission's approval order. During this 14-day period, the
11 committee may take action on the regulation pursuant to section
12 7(d). If at the expiration of the 14-day period the committee
13 has not taken action on the regulation pursuant to section 7(d),
14 the agency may promulgate the regulation.

15 (j.3) If the committees are prevented from completing their
16 14-day review because of adjournment sine die or expiration of
17 the legislative session in an even-numbered year, their review
18 of the final-form or final-omitted regulation shall
19 automatically be suspended until the fourth Monday in January of
20 the next year. On that date, the agency shall resubmit the
21 final-form or final-omitted regulation and required material to
22 the committees and the commission. If either committee has not
23 been designated by the fourth Monday in January, the agency may
24 not deliver the final-form or final-omitted regulation and
25 required material to the committees and the commission until
26 both committees are designated. If the agency does not deliver
27 the final-form or final-omitted regulation and required material
28 to the commission and the committees by the second Monday after
29 the date by which both committee designations have been
30 published in the Pennsylvania Bulletin, the agency shall be

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

17 (j.2) Both committees shall approve or disapprove of the
18 final-form or final-omitted regulation. An agency may not
19 promulgate the final-form or final-omitted regulation until both
20 committees approve the regulation. If a committee disapproves
21 the final-form or final-omitted regulation, the agency shall be
22 barred from promulgating the regulation and shall proceed
23 further with the final-form or final-omitted regulation pursuant
24 to section 7.

25 * * *

26 Section 6. Procedures for disapproval of final-form and final-
27 omitted regulations; emergency-certified regulations.

28 (a) [If the commission disapproves a final-form or final-
29 omitted regulation, the] The commission shall deliver its
30 [disapproval order] recommendation notice to the Legislative

1 Reference Bureau, the committees and the agency. The commission
2 shall notify commentators who have requested additional
3 information under section 5.1(a) of the commission's [vote to
4 disapprove. The disapproval order] recommendation notice. If the
5 recommendation notice advises the committees to disapprove a
6 final-form or final-omitted regulation, the recommendation
7 notice shall specify the regulatory review criteria which the
8 final-form or final-omitted regulation has not met. [The agency
9 shall review the commission's order and proceed pursuant to
10 section 7(a).]

11 (b) [The commission's order disapproving] A committee's vote
12 to disapprove a final-form or final-omitted regulation shall bar
13 the agency from promulgating that regulation pending subsequent
14 review under section 7. An agency may not promulgate a final-
15 form or final-omitted regulation until both committees have
16 approved the regulation.

17 (c.1) If a committee disapproves a final-form or final-
18 omitted regulation, the committee shall deliver a disapproval
19 order to the Legislative Reference Bureau, the commission and
20 the agency. The disapproval order shall specify the regulatory
21 review criteria which the final-form or final-omitted regulation
22 has not met and may include any suggested revisions to the
23 regulation the committee may have. The agency shall review the
24 committee's disapproval order and proceed pursuant to section 7.

25 (d) [The commission] A committee may not issue an order
26 barring an agency from promulgating a final-form or final-
27 omitted regulation if the Attorney General certifies that the
28 final-form or final-omitted regulation is required pursuant to
29 the decree of any court or to implement the provisions of a
30 statute of the United States or regulations issued thereunder by

1 a Federal agency or if the Governor certifies that the final-
2 form or final-omitted regulation is required to meet an
3 emergency which includes conditions which may threaten the
4 public health, safety or welfare; cause a budget deficit; or
5 create the need for supplemental or deficiency appropriations of
6 greater than \$1,000,000. In those cases, the final-form or
7 final-omitted regulation may take effect on the date of
8 publication or on a later date specified in the order adopting
9 the final-form or final-omitted regulation. The commission and
10 the committees shall review the final-form or final-omitted
11 regulation pursuant to the procedures provided for in this act.
12 If the final-form or final-omitted regulation is disapproved
13 pursuant to those procedures, that regulation shall be rescinded
14 after 120 days or upon final disapproval, whichever occurs
15 later.

16 Section 7. Procedures for subsequent review of disapproved
17 final-form or final-omitted regulations.

18 [(a) An agency may select one of the following options for
19 proceeding with a regulation which has been disapproved by the
20 commission:

21 (1) To proceed further with the final-form or final-
22 omitted regulation pursuant to subsection (b).

23 (2) To proceed further with the final-form or final-
24 omitted regulation pursuant to subsection (c).

25 (3) To withdraw the final-form or final-omitted
26 regulation.

27 (b) If the agency decides to adopt the final-form or final-
28 omitted regulation without revisions or further modifications,
29 the agency shall submit a report to the committees and the
30 commission within 40 days of the agency's receipt of the

1 commission's disapproval order. The agency's report shall
2 contain the final-form or final-omitted regulation, the
3 commission's disapproval order and the agency's response and
4 recommendations regarding the final-form or final-omitted
5 regulation. If the committees are prevented from receiving the
6 report because of adjournment sine die or expiration of the
7 legislative session in an even-numbered year, the agency shall
8 submit its report to the commission and the committees on the
9 fourth Monday in January of the next year. If either committee
10 has not been designated by the fourth Monday in January, the
11 agency may not deliver the report to the committees and the
12 commission until both committees are designated, but the agency
13 shall deliver its report to the commission and the committees no
14 later than the second Monday after the date by which both
15 committee designations have been published in the Pennsylvania
16 Bulletin. If the agency does not deliver the report to the
17 committees and the commission in the time prescribed in this
18 subsection, the agency shall be deemed to have withdrawn the
19 final-form or final-omitted regulation.]

20 (a) If a committee disapproves a final-form or final-omitted
21 regulation, the agency shall withdraw the final-form or final-
22 omitted regulation or proceed further with the regulation
23 pursuant to subsection (c).

24 (c) If the agency decides to revise or modify the final-form
25 or final-omitted regulation in order to respond to objections
26 raised by the commission or by a committee and adopt that
27 regulation with revisions or modifications, the agency shall
28 submit a report to the committees and the commission within 40
29 days of the agency's receipt of the [commission's] committee's
30 disapproval order. The agency's report shall contain the revised

1 final-form or final-omitted regulation, the findings of the
2 commission and the committees, and the agency's response and
3 recommendations regarding the revised final-form or final-
4 omitted regulation. If the committees are prevented from
5 receiving the report because of adjournment sine die or
6 expiration of the legislative session in an even-numbered year,
7 the agency shall submit the report to the commission and the
8 committees on the fourth Monday in January of the next year. If
9 either committee has not been designated by the fourth Monday in
10 January, the agency may not deliver the report to the committees
11 and the commission until both committees are designated, but the
12 agency shall deliver its report to the commission and the
13 committees no later than the second Monday after the date by
14 which both committee designations have been published in the
15 Pennsylvania Bulletin. If the agency does not deliver its report
16 to the commission and the committees in the time prescribed in
17 this subsection, the agency shall be deemed to have withdrawn
18 the final-form or final-omitted regulation.

19 (c.1) The commission may have until its next scheduled
20 meeting, which occurs no less than 15 days from receipt of the
21 agency's report to [approve or disapprove the agency's report.
22 The commission shall deliver its approval or disapproval order]
23 issue a recommendation notice to the committees for
24 consideration [by the General Assembly] pursuant to subsection
25 (d). If the commission is prevented from delivering [its order]
26 the recommendation notice to the committees within the time
27 period provided for in this subsection because of the
28 adjournment sine die or expiration of the legislative session in
29 an even-numbered year, the commission shall deliver its order on
30 the fourth Monday of January of the next year. If either

1 committee has not been designated by the fourth Monday in
2 January, the commission may not deliver its order to the
3 committees until both committees are designated, but the
4 commission shall deliver its order no later than the second
5 Monday after the date by which both committee designations have
6 been published in the Pennsylvania Bulletin. If the commission
7 does not deliver its order disapproving the agency's report and
8 revised final-form or final-omitted regulation in the time
9 prescribed by this subsection, the commission shall be deemed to
10 have approved the agency's report and the revised final-form or
11 final-omitted regulation and shall notify the committees.

12 (d) Upon receipt of the commission's [order] recommendation
13 notice or notification pursuant to subsection (c.1) [or at the
14 expiration of the commission's review period if the commission
15 does not act on the regulation or does not deliver its order
16 pursuant to subsection (c.1), one or] both of the committees
17 [may, within 14 calendar days, report to the House of
18 Representatives or Senate a concurrent resolution and notify the
19 agency. During the 14-calendar-day period, the agency may not
20 promulgate the final-form or final-omitted regulation. If, by
21 the expiration of the 14-calendar-day period, neither committee
22 reports a concurrent resolution, the committees shall be deemed
23 to have approved the final-form or final-omitted regulation, and
24 the agency may promulgate that regulation. If either committee
25 reports a concurrent resolution before the expiration of the 14-
26 day period, the Senate and the House of Representatives shall
27 each have 30 calendar days or ten legislative days, whichever is
28 longer, from the date on which the concurrent resolution has
29 been reported, to adopt the concurrent resolution. If the
30 General Assembly adopts the concurrent resolution by majority

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

1 disapproving the final-form or final-omitted regulation to
2 indicate the intent of the General Assembly but permit the
3 agency to promulgate that regulation.] shall, within six session
4 days, review the revised final-form or final-omitted regulation.
5 If a committee disapproves the revised final-form or final-
6 omitted regulation, the agency shall withdraw the revised final-
7 form or final-omitted regulation or proceed further with the
8 revised final-form or final-omitted regulation pursuant to
9 subsection (c). If both committees approve the revised final-
10 form or final-omitted regulation, the agency may promulgate the
11 regulation. If the committees are prevented from completing
12 their review within six session days because of the adjournment
13 sine die or expiration of the legislative session in an even-
14 numbered year, their review of the final-form or final-omitted
15 regulation shall automatically be suspended until the fourth
16 Monday in January of the next year. On that date, the agency
17 shall resubmit the final-form or final-omitted regulation and
18 required material to the committees and the commission. If
19 either committee has not been designated by the fourth Monday in
20 January, the agency may not deliver the final-form or final-
21 omitted regulation and required material to the commission and
22 the committees until both committees have been designated. If
23 the agency does not deliver the final-form or final-omitted
24 regulation and required material to the commission and the
25 committees by the second Monday after the date by which both
26 committee designations have been published in the Pennsylvania
27 Bulletin, the agency shall be deemed to have withdrawn the
28 regulation. In computing the remaining time for committee
29 review, the number of session days in which the committees have
30 had the final-form or the final-omitted regulation under review

1 as of the adjournment sine die or expiration of the prior
2 session shall be subtracted from the six-session-day committee
3 review period, but the committee review period in the next
4 succeeding legislative session shall not be less than three
5 session days. The commission may not act on a regulation until
6 the committee review period has expired. This section does not
7 apply to emergency-certified regulations adopted pursuant to the
8 provisions of section 6(d).

9 Section 3. Section 8 of the act, amended June 25, 1997
10 (P.L.252, No.24), is amended to read:

11 Section 8. Changes in final-form and final-omitted regulations.

12 (a) Except as provided in subsection (b), an agency may not
13 make changes to a final-form or final-omitted regulation after
14 that regulation has been approved [or has been deemed approved]
15 by the committees [or the commission] pursuant to this act.

16 (b) Subsection (a) does not apply to changes made at the
17 direction of the Office of Attorney General pursuant to its
18 review under section 204(b) of the Commonwealth Attorneys Act.

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