
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1030 Session of
2017

INTRODUCED BY MOUL, MILLARD, CAUSER, PICKETT, BARRAR, GROVE,
ROTHMAN, KEEFER, KAUFFMAN, B. MILLER AND ZIMMERMAN,
MARCH 30, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 30, 2017

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, is amended by
17 adding a definition 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 "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 7 and 8 of the act are amended to read:

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

10 * * *

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

23 * * *

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

28 (1) Prior to [the expiration of the date on which either
29 of the committees takes action on the final-form or final-
30 omitted regulation, pursuant to subsection (j.2) or (j.3) or]

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

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

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

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

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

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

22 * * *

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

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

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

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

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

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

23 * * *

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

26 (a) [If the commission disapproves a final-form or final-
27 omitted regulation, the] The commission shall deliver its
28 [disapproval order] recommendation notice to the Legislative
29 Reference Bureau, the committees and the agency. The commission
30 shall notify commentators who have requested additional

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

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

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

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

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

14 Section 7. Procedures for subsequent review of disapproved
15 final-form or final-omitted regulations.

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

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

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

23 (3) To withdraw the final-form or final-omitted
24 regulation.

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

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

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

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

16 (c.1) The commission may have until its next scheduled
17 meeting, which occurs no less than 15 days from receipt of the
18 agency's report to [approve or disapprove the agency's report.
19 The commission shall deliver its approval or disapproval order]
20 issue a recommendation notice to the committees for
21 consideration [by the General Assembly] pursuant to subsection
22 (d). If the commission is prevented from delivering [its order]
23 the recommendation notice to the committees within the time
24 period provided for in this subsection because of the
25 adjournment sine die or expiration of the legislative session in
26 an even-numbered year, the commission shall deliver its order on
27 the fourth Monday of January of the next year. If either
28 committee has not been designated by the fourth Monday in
29 January, the commission may not deliver its order to the
30 committees until both committees are designated, but the

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

9 (d) Upon receipt of the commission's [order] recommendation
10 notice or notification pursuant to subsection (c.1) [or at the
11 expiration of the commission's review period if the commission
12 does not act on the regulation or does not deliver its order
13 pursuant to subsection (c.1), one or] both of the committees
14 [may, within 14 calendar days, report to the House of
15 Representatives or Senate a concurrent resolution and notify the
16 agency. During the 14-calendar-day period, the agency may not
17 promulgate the final-form or final-omitted regulation. If, by
18 the expiration of the 14-calendar-day period, neither committee
19 reports a concurrent resolution, the committees shall be deemed
20 to have approved the final-form or final-omitted regulation, and
21 the agency may promulgate that regulation. If either committee
22 reports a concurrent resolution before the expiration of the 14-
23 day period, the Senate and the House of Representatives shall
24 each have 30 calendar days or ten legislative days, whichever is
25 longer, from the date on which the concurrent resolution has
26 been reported, to adopt the concurrent resolution. If the
27 General Assembly adopts the concurrent resolution by majority
28 vote in both the Senate and the House of Representatives, the
29 concurrent resolution shall be presented to the Governor in
30 accordance with section 9 of Article III of the Constitution of

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

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

1 succeeding legislative session shall not be less than three
2 session days. The commission may not act on a regulation until
3 the committee review period has expired. This section does not
4 apply to emergency-certified regulations adopted pursuant to the
5 provisions of section 6(d).

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

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

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

14 Section 3. This act shall take effect in 60 days.