

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1237 Session of 2017

INTRODUCED BY KEEFER, BLOOM, SACCONI, RYAN, HEFFLEY, DIAMOND, BARRAR, MACKENZIE, BAKER, MILLARD, MCGINNIS, ORTITAY, DUNBAR, KAUFFMAN, IRVIN, DOWLING, ZIMMERMAN, PICKETT, EVERETT, M. QUINN, SCHEMEL, W. KELLER, SAYLOR, WARD, HELM, RAPP, CAUSER, WHEELAND, MAHER, RADER, PHILLIPS-HILL, MILNE, PYLE, GROVE, DUSH, GILLEN, CORR, C. QUINN, FRITZ, METCALFE, ROAE, NELSON, CUTLER, GREINER AND KLUNK, APRIL 17, 2017

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 6, 2018

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8 review; PROVIDING FOR REGULATIONS DEEMED WITHDRAWN; FURTHER 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 a definition 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

1 meanings given to them in this section:

2 * * *

3 "Economically significant regulation." A regulation that, if
4 promulgated and implemented, may reasonably be expected to
5 result in direct or indirect cost to the Commonwealth, to its
6 political subdivisions and to the private sector in excess of
7 \$1,000,000 on an annual basis.

8 * * *

9 ~~Section 2. Sections 5(a)(4) and 5.1(1) of the act are~~ <--
10 ~~amended to read:~~

11 "LEGISLATIVE DAY." A DAY WHEN BOTH HOUSES OF THE GENERAL <--
12 ASSEMBLY ARE IN VOTING SESSION.

13 * * *

14 SECTION 2. SECTION 5(A)(1.1) AND (4) OF THE ACT ARE AMENDED
15 AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

16 Section 5. Proposed regulations; procedures for review.

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

24 * * *

25 (1.1) A SPECIFIC CITATION TO THE FEDERAL OR STATE <--
26 STATUTORY OR REGULATORY AUTHORITY OR THE DECISION OF A
27 FEDERAL OR STATE COURT UNDER WHICH THE AGENCY IS PROPOSING
28 THE REGULATION, WHICH THE REGULATION IS DESIGNED TO IMPLEMENT
29 OR WHICH MAY MANDATE OR AFFECT COMPLIANCE WITH THE
30 REGULATION. IN THE CASE OF A CITATION OF STATE STATUTORY

1 AUTHORITY, THE CITATION MUST BE TO A PROVISION OF THE STATUTE
2 THAT EXPLICITLY STATES THAT THE AGENCY MAY PROMULGATE
3 REGULATIONS FOR THE SPECIFIC PURPOSE CITED IN THE STATEMENT
4 OF NEED FOR THE REGULATION UNDER PARAGRAPH (3).

5 * * *

6 (4) Estimates of the direct and indirect costs to the
7 Commonwealth, to its political subdivisions and to the
8 private sector. [Insofar as the proposed regulation relates
9 to costs to the Commonwealth, the agency may submit in lieu
10 of its own statement the fiscal note prepared by the Office
11 of the Budget pursuant to section 612 of the act of April 9,
12 1929 (P.L.177, No.175), known as "The Administrative Code of
13 1929."] ~~The estimates shall be verified by the Independent~~ <--
14 ~~Fiscal Office prior to the agency submitting them to the~~
15 ~~commission.~~

16 * * * 1929."] THE ESTIMATES SHALL BE PREPARED BY THE <--
17 INDEPENDENT FISCAL OFFICE AND SUBMITTED TO THE AGENCY FOR
18 INCLUSION IN THE REGULATORY ANALYSIS FORM AND SHALL INCLUDE
19 AN ESTIMATE OF THE ANNUAL COSTS TO BE USED TO DETERMINE
20 WHETHER THE REGULATION IS AN ECONOMICALLY SIGNIFICANT
21 REGULATION.

22 * * *

23 (D.1) THE COMMITTEES SHALL, DURING THE PUBLIC COMMENT
24 PERIOD, CONDUCT A PUBLIC HEARING TO RECEIVE COMMENTS REGARDING A
25 PROPOSED ECONOMICALLY SIGNIFICANT REGULATION. THE AGENCY SHALL
26 APPEAR AT THE HEARING IF REQUESTED TO DO SO BY THE CHAIR OF THE
27 COMMITTEE.

28 * * *

29 (I) ALL FORMS REQUIRED FOR IMPLEMENTATION OF A REGULATION
30 MUST BE INCLUDED WITH THE REGULATORY ANALYSIS FORM WHEN

1 SUBMITTED TO THE LEGISLATIVE REFERENCE BUREAU, THE COMMITTEES
2 AND THE COMMISSION UNDER SUBSECTION (A).

3 (J) THE COMMISSION SHALL TRANSMIT COMMENTS REGARDING THE
4 COST ESTIMATES REQUIRED UNDER SUBSECTION (A) (4) TO THE
5 INDEPENDENT FISCAL OFFICE FOR REVIEW.

6 SECTION 3. SECTION 5.1(E), (J.2), (J.3) AND (L) OF THE ACT
7 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. NOTWITHSTANDING
15 SUBSECTIONS (J.1) AND (J.2), AT ANY TIME PRIOR TO 24 HOURS
16 BEFORE THE COMMISSION'S MEETING TO CONSIDER A REGULATION, A
17 COMMITTEE MAY NOTIFY THE COMMISSION AND THE AGENCY THAT THE
18 COMMITTEE DISAPPROVES OR INTENDS TO FURTHER REVIEW THE FINAL-
19 FORM REGULATION. IF NOTIFIED BY A COMMITTEE THAT THE COMMITTEE
20 DISAPPROVES OF A REGULATION, THE COMMISSION MAY NOT APPROVE OR
21 DISAPPROVE THE REGULATION FOR A PERIOD OF 30 DAYS OR NINE
22 LEGISLATIVE DAYS, WHICHEVER IS LONGER. IF NOTIFIED BY A
23 COMMITTEE THAT THE COMMITTEE INTENDS TO FURTHER REVIEW A FINAL-
24 FORM REGULATION, THE COMMISSION MAY NOT APPROVE OR DISAPPROVE
25 THE REGULATION FOR A PERIOD OF 14 DAYS OR SIX LEGISLATIVE DAYS,
26 WHICHEVER IS LONGER. THE COMMISSION SHALL NOTIFY THE AGENCY AND
27 THE COMMITTEES OF ITS APPROVAL OR DISAPPROVAL. IF THE COMMISSION
28 DOES NOT DISAPPROVE THE FINAL-FORM OR FINAL-OMITTED REGULATION
29 WITHIN THE TIME ALLOTTED IN THIS SUBSECTION, THE COMMISSION
30 SHALL BE DEEMED TO HAVE APPROVED THE FINAL-FORM OR FINAL-OMITTED

1 REGULATION.

2 * * *

3 (J.2) (1) AT ANY TIME DURING THE COMMISSION'S REVIEW PERIOD
4 UP TO 24 HOURS PRIOR TO THE OPENING OF THE COMMISSION'S
5 PUBLIC MEETING, A COMMITTEE MAY NOTIFY THE COMMISSION AND THE
6 AGENCY THAT IT HAS APPROVED OR DISAPPROVED A FINAL-FORM OR
7 FINAL-OMITTED REGULATION OR THAT IT INTENDS TO REVIEW THE
8 REGULATION.

9 (2) IF THE COMMISSION APPROVES A REGULATION AND A
10 COMMITTEE HAS NOT NOTIFIED THE COMMISSION AND THE AGENCY THAT
11 IT HAS DISAPPROVED THE REGULATION OR THAT IT INTENDS TO
12 REVIEW THE REGULATION, THE AGENCY MAY PROMULGATE THE
13 REGULATION. IF THE COMMISSION APPROVES A REGULATION AND A
14 COMMITTEE HAS NOTIFIED THE COMMISSION AND THE AGENCY THAT IT
15 HAS DISAPPROVED THE REGULATION OR THAT IT INTENDS TO REVIEW
16 THE REGULATION, THE AGENCY MAY NOT PROMULGATE THE REGULATION
17 FOR 14 DAYS OR SIX LEGISLATIVE DAYS, WHICHEVER IS LONGER,
18 AFTER THE COMMITTEE HAS RECEIVED THE COMMISSION'S APPROVAL
19 ORDER.

20 (3) DURING [THIS 14-DAY PERIOD] THE PERIOD ESTABLISHED
21 UNDER PARAGRAPH (2), THE COMMITTEE MAY TAKE ACTION ON THE
22 REGULATION PURSUANT TO SECTION 7(D). IF AT THE EXPIRATION OF
23 THE [14-DAY] PERIOD ESTABLISHED UNDER PARAGRAPH (2) THE
24 COMMITTEE HAS NOT TAKEN ACTION ON THE REGULATION PURSUANT TO
25 SECTION 7(D), THE AGENCY MAY PROMULGATE THE REGULATION.

26 (J.3) IF THE COMMITTEES ARE PREVENTED FROM COMPLETING THEIR
27 [14-DAY] REVIEW DURING THE PERIOD ESTABLISHED UNDER SUBSECTION
28 (J.2) (2) BECAUSE OF ADJOURNMENT SINE DIE OR EXPIRATION OF THE
29 LEGISLATIVE SESSION IN AN EVEN-NUMBERED YEAR, THEIR REVIEW OF
30 THE FINAL-FORM OR FINAL-OMITTED REGULATION SHALL AUTOMATICALLY

1 BE SUSPENDED UNTIL THE FOURTH MONDAY IN JANUARY OF THE NEXT
2 YEAR. ON THAT DATE, THE AGENCY SHALL RESUBMIT THE FINAL-FORM OR
3 FINAL-OMITTED REGULATION AND REQUIRED MATERIAL TO THE COMMITTEES
4 AND THE COMMISSION. IF EITHER COMMITTEE HAS NOT BEEN DESIGNATED
5 BY THE FOURTH MONDAY IN JANUARY, THE AGENCY MAY NOT DELIVER THE
6 FINAL-FORM OR FINAL-OMITTED REGULATION AND REQUIRED MATERIAL TO
7 THE COMMITTEES AND THE COMMISSION UNTIL BOTH COMMITTEES ARE
8 DESIGNATED. IF THE AGENCY DOES NOT DELIVER THE FINAL-FORM OR
9 FINAL-OMITTED REGULATION AND REQUIRED MATERIAL TO THE COMMISSION
10 AND THE COMMITTEES BY THE SECOND MONDAY AFTER THE DATE BY WHICH
11 BOTH COMMITTEE DESIGNATIONS HAVE BEEN PUBLISHED IN THE
12 PENNSYLVANIA BULLETIN, THE AGENCY SHALL BE DEEMED TO HAVE
13 WITHDRAWN THE FINAL-FORM OR FINAL-OMITTED REGULATION. IN
14 DETERMINING THE REMAINING TIME FOR COMMITTEE REVIEW, THE NUMBER
15 OF DAYS IN WHICH THE COMMITTEES HAVE HAD THE FINAL-FORM OR THE
16 FINAL-OMITTED REGULATION UNDER REVIEW AS OF THE ADJOURNMENT SINE
17 DIE OR EXPIRATION OF THE PRIOR SESSION SHALL BE SUBTRACTED FROM
18 THE [14-DAY] COMMITTEE REVIEW PERIOD ESTABLISHED UNDER
19 SUBSECTION (J.2) (2), BUT THE COMMITTEE REVIEW PERIOD IN THE NEXT
20 SUCCEEDING LEGISLATIVE SESSION SHALL NOT BE LESS THAN TEN DAYS.
21 AN AGENCY MAY NOT SUBMIT A FINAL-FORM OR FINAL-OMITTED
22 REGULATION TO THE COMMISSION OR THE COMMITTEES FOR REVIEW DURING
23 THE PERIOD FROM THE ADJOURNMENT SINE DIE OR EXPIRATION OF THE
24 LEGISLATIVE SESSION OF AN EVEN-NUMBERED YEAR TO THE DATE BY
25 WHICH BOTH COMMITTEES HAVE BEEN DESIGNATED IN THE NEXT
26 SUCCEEDING LEGISLATIVE SESSION. THIS SUBSECTION SHALL NOT APPLY
27 TO EMERGENCY-CERTIFIED REGULATIONS ADOPTED PURSUANT TO THE
28 PROVISIONS OF SECTION 6(D).

29 * * *

30 (1) Except for emergency-certified regulations adopted under

1 section 6(d), an agency may not promulgate a regulation until
2 completion of the review provided for in this act[.] and, if the
3 regulation is an economically significant regulation, the
4 General Assembly adopts a concurrent resolution under section
5 7.2.

6 Section 3 4. The act is amended by adding a section to read: <--
7 SECTION 5.3. REGULATIONS DEEMED WITHDRAWN. <--

8 A REGULATION SHALL BE DEEMED WITHDRAWN IF THERE IS NO
9 PROVISION OF A STATE STATUTE WHICH EXPLICITLY STATES THAT THE
10 AGENCY MAY PROMULGATE REGULATIONS FOR THE SPECIFIC PURPOSE CITED
11 IN THE STATEMENT OF NEED FOR THE REGULATION UNDER SECTION 5(A)
12 (3) AND THE REGULATORY ANALYSIS FORM SUBMITTED FOR THE
13 REGULATION DOES NOT COMPLY WITH THE REQUIREMENTS OF SECTION 5(A)
14 (1.1).

15 SECTION 5. SECTION 7(D) OF THE ACT IS AMENDED TO READ:
16 SECTION 7. PROCEDURES FOR SUBSEQUENT REVIEW OF DISAPPROVED
17 FINAL-FORM OR FINAL-OMITTED REGULATIONS.

18 * * *

19 (D) UPON RECEIPT OF THE COMMISSION'S ORDER PURSUANT TO
20 SUBSECTION (C.1) OR AT THE EXPIRATION OF THE COMMISSION'S REVIEW
21 PERIOD IF THE COMMISSION DOES NOT ACT ON THE REGULATION OR DOES
22 NOT DELIVER ITS ORDER PURSUANT TO SUBSECTION (C.1), [ONE] THE
23 FOLLOWING APPLY:

24 (1) ONE OR BOTH OF THE COMMITTEES MAY, WITHIN 14 CALENDAR
25 DAYS OR SIX LEGISLATIVE DAYS, WHICHEVER IS LONGER, REPORT TO THE
26 HOUSE OF REPRESENTATIVES OR SENATE A CONCURRENT RESOLUTION AND
27 NOTIFY THE AGENCY. DURING THE [14-CALENDAR-DAY] PERIOD SPECIFIED
28 IN THIS PARAGRAPH, THE AGENCY MAY NOT PROMULGATE THE FINAL-FORM
29 OR FINAL-OMITTED REGULATION. IF, BY THE EXPIRATION OF THE [14-
30 CALENDAR-DAY] PERIOD SPECIFIED IN THIS PARAGRAPH, NEITHER

1 COMMITTEE REPORTS A CONCURRENT RESOLUTION, THE COMMITTEES SHALL
2 BE DEEMED TO HAVE APPROVED THE FINAL-FORM OR FINAL-OMITTED
3 REGULATION, AND THE AGENCY MAY PROMULGATE THAT REGULATION.

4 (2) IF EITHER COMMITTEE REPORTS A CONCURRENT RESOLUTION
5 BEFORE THE EXPIRATION OF THE [14-DAY] PERIOD SPECIFIED IN
6 PARAGRAPH (1), THE [SENATE AND THE HOUSE OF REPRESENTATIVES]
7 CHAMBER TO WHICH THE CONCURRENT RESOLUTION IS REPORTED SHALL
8 [EACH] HAVE 30 CALENDAR DAYS OR TEN LEGISLATIVE DAYS, WHICHEVER
9 IS LONGER, FROM THE DATE ON WHICH THE CONCURRENT RESOLUTION HAS
10 BEEN REPORTED, TO ADOPT THE CONCURRENT RESOLUTION[.] AND
11 TRANSMIT IT TO THE OTHER CHAMBER. THE OTHER CHAMBER SHALL HAVE
12 30 CALENDAR DAYS OR TEN LEGISLATIVE DAYS, WHICHEVER IS LONGER,
13 FROM THE DATE ON WHICH THE CONCURRENT RESOLUTION HAS BEEN
14 TRANSMITTED, TO ADOPT THE CONCURRENT RESOLUTION.

15 (3) IF THE GENERAL ASSEMBLY ADOPTS THE CONCURRENT RESOLUTION
16 BY MAJORITY VOTE IN BOTH THE SENATE AND THE HOUSE OF
17 REPRESENTATIVES WITHIN 60 CALENDAR DAYS OR 20 LEGISLATIVE DAYS,
18 WHICHEVER IS LONGER, FROM THE DATE ON WHICH A CONCURRENT
19 RESOLUTION HAS BEEN REPORTED OUT BY A COMMITTEE, THE CONCURRENT
20 RESOLUTION SHALL BE PRESENTED TO THE GOVERNOR IN ACCORDANCE WITH
21 SECTION 9 OF ARTICLE III OF THE CONSTITUTION OF PENNSYLVANIA.

22 (4) IF THE GOVERNOR DOES NOT RETURN THE CONCURRENT
23 RESOLUTION TO THE GENERAL ASSEMBLY WITHIN TEN CALENDAR DAYS
24 AFTER IT IS PRESENTED, THE GOVERNOR SHALL BE DEEMED TO HAVE
25 APPROVED THE CONCURRENT RESOLUTION.

26 (5) IF THE GOVERNOR VETOES THE CONCURRENT RESOLUTION, THE
27 GENERAL ASSEMBLY MAY OVERRIDE THAT VETO BY A TWO-THIRDS VOTE IN
28 EACH HOUSE. THE SENATE AND THE HOUSE OF REPRESENTATIVES SHALL
29 EACH HAVE 30 CALENDAR DAYS OR TEN LEGISLATIVE DAYS, WHICHEVER IS
30 LONGER, TO OVERRIDE THE VETO. IF THE GENERAL ASSEMBLY DOES NOT

1 ADOPT THE CONCURRENT RESOLUTION OR OVERRIDE THE VETO IN THE TIME
2 PRESCRIBED IN THIS [SUBSECTION] PARAGRAPH, IT SHALL BE DEEMED TO
3 HAVE APPROVED THE FINAL-FORM OR FINAL-OMITTED REGULATION.

4 (6) NOTICE AS TO ANY FINAL DISPOSITION OF A CONCURRENT
5 RESOLUTION CONSIDERED IN ACCORDANCE WITH THIS [SECTION]
6 SUBSECTION SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.

7 (7) THE BAR ON PROMULGATION OF THE FINAL-FORM OR FINAL-
8 OMITTED REGULATION SHALL CONTINUE UNTIL THAT REGULATION HAS BEEN
9 APPROVED OR DEEMED APPROVED IN ACCORDANCE WITH THIS SUBSECTION.

10 (8) IF THE GENERAL ASSEMBLY ADOPTS THE CONCURRENT RESOLUTION
11 AND THE GOVERNOR APPROVES OR IS DEEMED TO HAVE APPROVED THE
12 CONCURRENT RESOLUTION OR IF THE GENERAL ASSEMBLY OVERRIDES THE
13 GOVERNOR'S VETO OF THE CONCURRENT RESOLUTION, THE AGENCY SHALL
14 BE BARRED FROM PROMULGATING THE FINAL-FORM OR FINAL-OMITTED
15 REGULATION.

16 (9) IF THE GENERAL ASSEMBLY DOES NOT ADOPT THE CONCURRENT
17 RESOLUTION OR IF THE GOVERNOR VETOES THE CONCURRENT RESOLUTION
18 AND THE GENERAL ASSEMBLY DOES NOT OVERRIDE THE GOVERNOR'S VETO,
19 THE AGENCY MAY PROMULGATE THE FINAL-FORM OR FINAL-OMITTED
20 REGULATION.

21 (10) THE GENERAL ASSEMBLY MAY, AT ITS DISCRETION, ADOPT A
22 CONCURRENT RESOLUTION DISAPPROVING THE FINAL-FORM OR FINAL-
23 OMITTED REGULATION TO INDICATE THE INTENT OF THE GENERAL
24 ASSEMBLY BUT PERMIT THE AGENCY TO PROMULGATE THAT REGULATION.

25 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
26 Section 7.2. Concurrent resolution required for economically
27 significant regulations.

28 (a) If the commission issues an order to approve a final-
29 form regulation or final-omitted regulation that is an
30 economically significant regulation or if the agency decides to

1 proceed with a ~~regulation the commission disapproved~~ FINAL-FORM <--
2 REGULATION OR FINAL-OMITTED REGULATION THAT IS AN ECONOMICALLY
3 SIGNIFICANT REGULATION FOR WHICH THE COMMISSION ISSUED A
4 DISAPPROVAL ORDER, the agency shall submit a copy of the order
5 and, if applicable, the agency response to the Senate and the
6 House of Representatives and shall request a concurrent
7 resolution approving the ~~order~~. REGULATION. THE CONCURRENT <--
8 RESOLUTION SHALL BE REFERRED TO THE APPLICABLE STANDING
9 COMMITTEE OF THE SENATE AND THE APPLICABLE STANDING COMMITTEE OF
10 THE HOUSE OF REPRESENTATIVES. A CONCURRENT RESOLUTION THAT IS
11 REPORTED FROM THE STANDING COMMITTEE OF THE SENATE SHALL BE
12 PLACED ON THE SENATE CALENDAR. A CONCURRENT RESOLUTION THAT IS
13 REPORTED FROM THE STANDING COMMITTEE OF THE HOUSE OF
14 REPRESENTATIVES SHALL BE PLACED ON THE HOUSE CALENDAR. The
15 Senate and the House of Representatives shall each have 30
16 calendar days or TEN legislative days, whichever is longer, from <--
17 the date on which the agency requested the concurrent resolution
18 TO CONSIDER THE CONCURRENT RESOLUTION. If the General Assembly <--
19 does not adopt the concurrent resolution in the time prescribed
20 in this subsection, the final-form regulation or final-omitted
21 regulation shall be deemed not approved and the regulation shall
22 not take effect.

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

25 Section 4 7. This act shall apply to any regulation prepared <--
26 in final form on or after the effective date of this section.

27 Section 5 8. This act shall take effect in 60 days. <--