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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 806 Session of  
2019

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INTRODUCED BY KEEFER, GREINER, GROVE, RYAN, ROTHMAN, MILLARD,  
BERNSTINE, B. MILLER, BARRAR, DIAMOND, TOPPER, MACKENZIE,  
IRVIN, METCALFE, PICKETT, DUSH, STAATS, JONES, SAYLOR,  
HERSHEY, WARNER, ECKER, GLEIM, KLUNK, NELSON, SCHEMEL, MOUL,  
GILLEN AND ZIMMERMAN, MARCH 13, 2019

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MARCH 13, 2019

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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8 review; providing for regulations deemed withdrawn; further  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 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  
21 meanings given to them in this section:

1 \* \* \*

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

7 \* \* \*

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

10 \* \* \*

11 Section 2. Section 5(a)(1.1) and (4) of the act are amended  
12 and the section is amended by adding subsections to read:

13 Section 5. Proposed regulations; procedures for review.

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

21 \* \* \*

22 (1.1) A specific citation to the Federal or State  
23 statutory or regulatory authority or the decision of a  
24 Federal or State court under which the agency is proposing  
25 the regulation, which the regulation is designed to implement  
26 or which may mandate or affect compliance with the  
27 regulation. In the case of a citation of State statutory  
28 authority, the citation must be to a provision of the statute  
29 that explicitly states that the agency may promulgate  
30 regulations for the specific purpose cited in the statement

1 of need for the regulation under paragraph (3).

2 \* \* \*

3 (4) Estimates of the direct and indirect costs to the  
4 Commonwealth, to its political subdivisions and to the  
5 private sector. [Insofar as the proposed regulation relates  
6 to costs to the Commonwealth, the agency may submit in lieu  
7 of its own statement the fiscal note prepared by the Office  
8 of the Budget pursuant to section 612 of the act of April 9,  
9 1929 (P.L.177, No.175), known as "The Administrative Code of  
10 1929."] The estimates shall be prepared by the Independent  
11 Fiscal Office and submitted to the agency for inclusion in  
12 the regulatory analysis form and shall include an estimate of  
13 the annual costs to be used to determine whether the  
14 regulation is an economically significant regulation.

15 \* \* \*

16 (d.1) The committees shall, during the public comment  
17 period, conduct a public hearing to receive comments regarding a  
18 proposed economically significant regulation. The agency shall  
19 appear at the hearing if requested to do so by the chair of the  
20 committee.

21 \* \* \*

22 (i) All forms required for implementation of a regulation  
23 must be included with the regulatory analysis form when  
24 submitted to the Legislative Reference Bureau, the committees  
25 and the commission under subsection (a).

26 (j) The commission shall transmit comments regarding the  
27 cost estimates required under subsection (a)(4) to the  
28 Independent Fiscal Office for review.

29 Section 3. Section 5.1(e), (j.2), (j.3) and (l) of the act  
30 are amended to read:

1 Section 5.1. Final-form regulations and final-omitted  
2 regulations; procedures for review.

3 \* \* \*

4 (e) The commission may have until its next scheduled meeting  
5 which occurs no less than 30 days after receipt of the final-  
6 form or final-omitted regulation to approve or disapprove the  
7 final-form or final-omitted regulation. Notwithstanding  
8 subsections (j.1) and (j.2), at any time prior to 24 hours  
9 before the commission's meeting to consider a regulation, a  
10 committee may notify the commission and the agency that the  
11 committee disapproves or intends to further review the final-  
12 form regulation. If notified by a committee that the committee  
13 disapproves of a regulation, the commission may not approve or  
14 disapprove the regulation for a period of 30 days or nine  
15 legislative days, whichever is longer. If notified by a  
16 committee that the committee intends to further review a final-  
17 form regulation, the commission may not approve or disapprove  
18 the regulation for a period of 14 days or six legislative days,  
19 whichever is longer. The commission shall notify the agency and  
20 the committees of its approval or disapproval. If the commission  
21 does not disapprove the final-form or final-omitted regulation  
22 within the time allotted in this subsection, the commission  
23 shall be deemed to have approved the final-form or final-omitted  
24 regulation.

25 \* \* \*

26 (j.2) (1) At any time during the commission's review period  
27 up to 24 hours prior to the opening of the commission's  
28 public meeting, a committee may notify the commission and the  
29 agency that it has approved or disapproved a final-form or  
30 final-omitted regulation or that it intends to review the

1 regulation.

2 (2) If the commission approves a regulation and a  
3 committee has not notified the commission and the agency that  
4 it has disapproved the regulation or that it intends to  
5 review the regulation, the agency may promulgate the  
6 regulation. If the commission approves a regulation and a  
7 committee has notified the commission and the agency that it  
8 has disapproved the regulation or that it intends to review  
9 the regulation, the agency may not promulgate the regulation  
10 for 14 days or six legislative days, whichever is longer,  
11 after the committee has received the commission's approval  
12 order.

13 (3) During [this 14-day period] the period established  
14 under paragraph (2), the committee may take action on the  
15 regulation pursuant to section 7(d). If at the expiration of  
16 the [14-day] period established under paragraph (2) the  
17 committee has not taken action on the regulation pursuant to  
18 section 7(d), the agency may promulgate the regulation.

19 (j.3) If the committees are prevented from completing their  
20 [14-day] review during the period established under subsection  
21 (j.2)(2) because of adjournment sine die or expiration of the  
22 legislative session in an even-numbered year, their review of  
23 the final-form or final-omitted regulation shall automatically  
24 be suspended until the fourth Monday in January of the next  
25 year. On that date, the agency shall resubmit the final-form or  
26 final-omitted regulation and required material to the committees  
27 and the commission. If either committee has not been designated  
28 by the fourth Monday in January, the agency may not deliver the  
29 final-form or final-omitted regulation and required material to  
30 the committees and the commission until both committees are

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

22 \* \* \*

23 (1) Except for emergency-certified regulations adopted under  
24 section 6(d), an agency may not promulgate a regulation until  
25 completion of the review provided for in this act[.] and, if the  
26 regulation is an economically significant regulation, the  
27 General Assembly adopts a concurrent resolution under section  
28 7.2.

29 Section 4. The act is amended by adding a section to read:  
30 Section 5.3. Regulations deemed withdrawn.

1 A regulation shall be deemed withdrawn if there is no  
2 provision of a State statute which explicitly states that the  
3 agency may promulgate regulations for the specific purpose cited  
4 in the statement of need for the regulation under section 5(a)  
5 (3) and the regulatory analysis form submitted for the  
6 regulation does not comply with the requirements of section 5(a)  
7 (1.1).

8 Section 5. Section 7(d) of the act is amended to read:

9 Section 7. Procedures for subsequent review of disapproved  
10 final-form or final-omitted regulations.

11 \* \* \*

12 (d) Upon receipt of the commission's order pursuant to  
13 subsection (c.1) or at the expiration of the commission's review  
14 period if the commission does not act on the regulation or does  
15 not deliver its order pursuant to subsection (c.1), [one] the  
16 following apply:

17 (1) One or both of the committees may, within 14 calendar  
18 days or six legislative days, whichever is longer, report to the  
19 House of Representatives or Senate a concurrent resolution and  
20 notify the agency. During the [14-calendar-day] period specified  
21 in this paragraph, the agency may not promulgate the final-form  
22 or final-omitted regulation. If, by the expiration of the [14-  
23 calendar-day] period specified in this paragraph, neither  
24 committee reports a concurrent resolution, the committees shall  
25 be deemed to have approved the final-form or final-omitted  
26 regulation, and the agency may promulgate that regulation.

27 (2) If either committee reports a concurrent resolution  
28 before the expiration of the [14-day] period specified in  
29 paragraph (1), the [Senate and the House of Representatives]  
30 chamber to which the concurrent resolution is reported shall

1 [each] have 30 calendar days or ten legislative days, whichever  
2 is longer, from the date on which the concurrent resolution has  
3 been reported, to adopt the concurrent resolution[.] and  
4 transmit it to the other chamber. The other chamber shall have  
5 30 calendar days or ten legislative days, whichever is longer,  
6 from the date on which the concurrent resolution has been  
7 transmitted, to adopt the concurrent resolution.

8 (3) If the General Assembly adopts the concurrent resolution  
9 by majority vote in both the Senate and the House of  
10 Representatives within 60 calendar days or 20 legislative days,  
11 whichever is longer, from the date on which a concurrent  
12 resolution has been reported out by a committee, the concurrent  
13 resolution shall be presented to the Governor in accordance with  
14 section 9 of Article III of the Constitution of Pennsylvania.

15 (4) If the Governor does not return the concurrent  
16 resolution to the General Assembly within ten calendar days  
17 after it is presented, the Governor shall be deemed to have  
18 approved the concurrent resolution.

19 (5) If the Governor vetoes the concurrent resolution, the  
20 General Assembly may override that veto by a two-thirds vote in  
21 each house. The Senate and the House of Representatives shall  
22 each have 30 calendar days or ten legislative days, whichever is  
23 longer, to override the veto. If the General Assembly does not  
24 adopt the concurrent resolution or override the veto in the time  
25 prescribed in this [subsection] paragraph, it shall be deemed to  
26 have approved the final-form or final-omitted regulation.

27 (6) Notice as to any final disposition of a concurrent  
28 resolution considered in accordance with this [section]  
29 subsection shall be published in the Pennsylvania Bulletin.

30 (7) The bar on promulgation of the final-form or final-



1 omitted regulation shall continue until that regulation has been  
2 approved or deemed approved in accordance with this subsection.

3 (8) If the General Assembly adopts the concurrent resolution  
4 and the Governor approves or is deemed to have approved the  
5 concurrent resolution or if the General Assembly overrides the  
6 Governor's veto of the concurrent resolution, the agency shall  
7 be barred from promulgating the final-form or final-omitted  
8 regulation.

9 (9) If the General Assembly does not adopt the concurrent  
10 resolution or if the Governor vetoes the concurrent resolution  
11 and the General Assembly does not override the Governor's veto,  
12 the agency may promulgate the final-form or final-omitted  
13 regulation.

14 (10) The General Assembly may, at its discretion, adopt a  
15 concurrent resolution disapproving the final-form or final-  
16 omitted regulation to indicate the intent of the General  
17 Assembly but permit the agency to promulgate that regulation.

18 Section 6. The act is amended by adding a section to read:  
19 Section 7.2. Concurrent resolution required for economically  
20 significant regulations.

21 (a) If the commission issues an order to approve a final-  
22 form regulation or final-omitted regulation that is an  
23 economically significant regulation or if the agency decides to  
24 proceed with a final-form regulation or final-omitted regulation  
25 that is an economically significant regulation for which the  
26 commission issued a disapproval order, the agency shall submit a  
27 copy of the order and, if applicable, the agency response to the  
28 Senate and the House of Representatives and shall request a  
29 concurrent resolution approving the regulation. The concurrent  
30 resolution shall be referred to the applicable standing

1 committee of the Senate and the applicable standing committee of  
2 the House of Representatives. A concurrent resolution that is  
3 reported from the standing committee of the Senate shall be  
4 placed on the Senate calendar. A concurrent resolution that is  
5 reported from the standing committee of the House of  
6 Representatives shall be placed on the House calendar. The  
7 Senate and the House of Representatives shall each have 30  
8 calendar days or ten legislative days, whichever is longer, from  
9 the date on which the agency requested the concurrent resolution  
10 to consider the concurrent resolution. If the General Assembly  
11 does not adopt the concurrent resolution in the time prescribed  
12 in this subsection, the final-form regulation or final-omitted  
13 regulation shall be deemed not approved and the regulation shall  
14 not take effect.

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

17 Section 7. This act shall apply to any regulation prepared  
18 in final form on or after the effective date of this section.

19 Section 8. This act shall take effect in 60 days.