
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 250 Session of
2019

INTRODUCED BY PHILLIPS-HILL, FOLMER, MARTIN, HUTCHINSON,
DISANTO, J. WARD, MENSCH, K. WARD, REGAN, STEFANO AND BROWNE,
APRIL 8, 2019

REFERRED TO INTERGOVERNMENTAL OPERATIONS, APRIL 8, 2019

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8 review; providing for regulations deemed withdrawn; further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 providing for concurrent resolution required for economically
12 significant regulations; further providing for existing
13 regulations; and providing for State agency regulatory
14 compliance officers and for Independent Office of the
15 Repealer.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

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

21 Section 3. Definitions.

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

1 * * *

2 "Director." The director of the office.

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

11 "Office." The Independent Office of the Repealer.

12 * * *

13 "Selection committee." The Selection and Organization
14 Committee in the office.

15 * * *

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

18 Section 5. Proposed regulations; procedures for review.

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

26 * * *

27 (1.1) A specific citation to the Federal or State
28 statutory or regulatory authority or the decision of a
29 Federal or State court under which the agency is proposing
30 the regulation, which the regulation is designed to implement

1 or which may mandate or affect compliance with the
2 regulation. In the case of a citation of State statutory
3 authority, the citation must be to a provision of the statute
4 that explicitly states that the agency may promulgate
5 regulations for the specific purpose cited in the statement
6 of need for the regulation under paragraph (3).

7 * * *

8 (4) Estimates of the direct and indirect costs to the
9 Commonwealth, to its political subdivisions and to the
10 private sector. [Insofar as the proposed regulation relates
11 to costs to the Commonwealth, the agency may submit in lieu
12 of its own statement the fiscal note prepared by the Office
13 of the Budget pursuant to section 612 of the act of April 9,
14 1929 (P.L.177, No.175), known as "The Administrative Code of
15 1929."] The estimates shall be prepared by the Independent
16 Fiscal Office and submitted to the agency for inclusion in
17 the regulatory analysis form and shall include an estimate of
18 the annual costs to be used to determine whether the
19 regulation is an economically significant regulation.

20 * * *

21 (d.1) The committees shall, during the public comment
22 period, conduct a public hearing to receive comments regarding a
23 proposed economically significant regulation. The agency shall
24 appear at the hearing if requested to do so by the chair of the
25 committee.

26 * * *

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

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

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

6 Section 5.1. Final-form regulations and final-omitted
7 regulations; procedures for review.

8 * * *

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

30 * * *

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

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

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

24 (j.3) If the committees are prevented from completing their
25 [14-day] review during the period established under subsection
26 (j.2) (2) because of adjournment sine die or expiration of the
27 legislative session in an even-numbered year, their review of
28 the final-form or final-omitted regulation shall automatically
29 be suspended until the fourth Monday in January of the next
30 year. On that date, the agency shall resubmit the final-form or

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

27 * * *

28 (1) Except for emergency-certified regulations adopted under
29 section 6(d), an agency may not promulgate a regulation until
30 completion of the review provided for in this act[.] and, if the

1 regulation is an economically significant regulation, the
2 General Assembly adopts a concurrent resolution under section
3 7.2.

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

6 A regulation shall be deemed withdrawn if there is no
7 provision of a State statute which explicitly states that the
8 agency may promulgate regulations for the specific purpose cited
9 in the statement of need for the regulation under section 5(a)
10 (3) and the regulatory analysis form submitted for the
11 regulation does not comply with the requirements of section 5(a)
12 (1.1).

13 Section 5. Section 7(d) of the act is amended and the
14 section is amended by adding a subsection to read:
15 Section 7. Procedures for subsequent review of disapproved
16 final-form or final-omitted regulations.

17 * * *

18 (d) Upon receipt of the commission's order pursuant to
19 subsection (c.1) or at the expiration of the commission's review
20 period if the commission does not act on the regulation or does
21 not deliver its order pursuant to subsection (c.1), [one] the
22 following apply:

23 (1) One or both of the committees may, within 14
24 calendar days or six legislative days, whichever is longer,
25 report to the House of Representatives or Senate a concurrent
26 resolution and notify the agency. During the [14-calendar-
27 day] period specified in this paragraph, the agency may not
28 promulgate the final-form or final-omitted regulation. If, by
29 the expiration of the [14-calendar-day] period specified in
30 this paragraph, neither committee reports a concurrent

1 resolution, the committees shall be deemed to have approved
2 the final-form or final-omitted regulation, and the agency
3 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,
9 whichever is longer, from the date on which the concurrent
10 resolution has been reported, to adopt the concurrent
11 resolution[.] and transmit it to the other chamber. The other
12 chamber shall have 30 calendar days or ten legislative days,
13 whichever is longer, from the date on which the concurrent
14 resolution has been transmitted, to adopt the concurrent
15 resolution.

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

24 (4) If the Governor does not return the concurrent
25 resolution to the General Assembly within ten calendar days
26 after it is presented, the Governor shall be deemed to have
27 approved the concurrent resolution.

28 (5) If the Governor vetoes the concurrent resolution,
29 the General Assembly may override that veto by a two-thirds
30 vote in each house. The Senate and the House of

1 Representatives shall each have 30 calendar days or ten
2 legislative days, whichever is longer, to override the veto.
3 If the General Assembly does not adopt the concurrent
4 resolution or override the veto in the time prescribed in
5 this [subsection] paragraph, it shall be deemed to have
6 approved the final-form or final-omitted regulation.

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

10 (7) The bar on promulgation of the final-form or final-
11 omitted regulation shall continue until that regulation has
12 been approved or deemed approved in accordance with this
13 subsection.

14 (8) If the General Assembly adopts the concurrent
15 resolution and the Governor approves or is deemed to have
16 approved the concurrent resolution or if the General Assembly
17 overrides the Governor's veto of the concurrent resolution,
18 the agency shall be barred from promulgating the final-form
19 or final-omitted regulation.

20 (9) An agency shall be prohibited from reissuing the
21 same regulation in the future, or promulgating a regulation
22 that is substantially similar, unless the new or revised
23 regulation is specifically authorized by a law enacted after
24 the date the concurrent resolution is approved or deemed to
25 be approved by the Governor or after the date when the
26 General Assembly overrides the Governor's veto of the
27 concurrent resolution.

28 (10) If the General Assembly does not adopt the
29 concurrent resolution or if the Governor vetoes the
30 concurrent resolution and the General Assembly does not

1 override the Governor's veto, the agency may promulgate the
2 final-form or final-omitted regulation.

3 (11) The General Assembly may, at its discretion, adopt
4 a concurrent resolution disapproving the final-form or final-
5 omitted regulation to indicate the intent of the General
6 Assembly but permit the agency to promulgate that regulation.

7 (e) A committee may report a concurrent resolution to
8 initiate the repeal of any regulation currently in effect,
9 provided that the committee conducts a public hearing on the
10 matter prior to reporting the concurrent resolution. If the
11 General Assembly adopts the concurrent resolution by majority
12 vote in both the Senate and the House of Representatives, the
13 concurrent resolution shall be presented to the Governor in
14 accordance with section 9 of Article III of the Constitution of
15 Pennsylvania. 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. If the Governor vetoes the
19 concurrent resolution, the General Assembly may override that
20 veto by a two-thirds vote in each house. The Senate and the
21 House of Representatives shall each have 30 calendar days or ten
22 legislative days, whichever is longer, to override the veto. If
23 the General Assembly does not adopt the concurrent resolution or
24 override the veto in the time prescribed in this subsection, the
25 regulation shall remain in effect. An agency shall be prohibited
26 from reissuing the same regulation in the future, or
27 promulgating a regulation that is substantially similar, unless
28 the new or revised regulation is specifically authorized by a
29 law enacted after the date the concurrent resolution is approved
30 or deemed to be approved by the Governor or after the date when

1 the General Assembly overrides the Governor's veto of the
2 concurrent resolution.

3 Section 6. The act is amended by adding a section to read:
4 Section 7.2. Concurrent resolution required for economically
5 significant regulations.

6 (a) If the commission issues an order to approve a final-
7 form regulation or final-omitted regulation that is an
8 economically significant regulation or if the agency decides to
9 proceed with a final-form regulation or final-omitted regulation
10 that is an economically significant regulation for which the
11 commission issued a disapproval order, the agency shall submit a
12 copy of the order and, if applicable, the agency response to the
13 Senate and the House of Representatives and shall request a
14 concurrent resolution approving the regulation. The concurrent
15 resolution shall be referred to the applicable standing
16 committee of the Senate and the applicable standing committee of
17 the House of Representatives. A concurrent resolution that is
18 reported from the standing committee of the Senate shall be
19 placed on the Senate calendar. A concurrent resolution that is
20 reported from the standing committee of the House of
21 Representatives shall be placed on the House calendar. The
22 Senate and the House of Representatives shall each have 30
23 calendar days or ten legislative days, whichever is longer, from
24 the date on which the agency requested the concurrent resolution
25 to consider the concurrent resolution. If the General Assembly
26 does not adopt the concurrent resolution in the time prescribed
27 in this subsection, the final-form regulation or final-omitted
28 regulation shall be deemed not approved and the regulation shall
29 not take effect.

30 (b) This section shall not apply to emergency-certified

1 regulations adopted under section 6(d).

2 Section 7. Section 8.1 of the act is amended to read:

3 Section 8.1. Existing regulations.

4 The commission, on its motion or at the request of any person
5 or member of the General Assembly, may review any existing
6 regulation which has been in effect for at least three years. If
7 a committee of the Senate or the House of Representatives
8 requests a review of an existing regulation, the commission
9 shall perform the review and shall assign it high priority. The
10 commission may submit recommendations to an agency recommending
11 changes in existing regulations if it finds the existing
12 regulations to be contrary to the public interest under the
13 criteria established in section 5.2. The commission may also
14 make recommendations to the General Assembly and the Governor
15 for statutory changes if the commission finds that any existing
16 regulation may be contrary to the public interest. Unless
17 prohibited by the laws of this Commonwealth, at the time an
18 agency promulgates a new regulation, the agency shall identify
19 at least two existing regulations for repeal.

20 Section 8. The act is amended by adding sections to read:

21 Section 12.2. State agency regulatory compliance officers.

22 (a) Each agency shall have the following powers and duties:

23 (1) To designate an employee as the agency's regulatory
24 compliance officer.

25 (2) To empower the regulatory compliance officer under
26 paragraph (1) to develop agency policies and initiatives to
27 further the purpose of this section, including, but not
28 limited to, the following:

29 (i) educating the regulated community regarding the
30 implementation of new or amended statutes and regulations

1 prior to the effective date of implementation, to the
2 extent practicable and during implementation;

3 (ii) establishing clear channels of communication
4 through which members of regulated communities can
5 contact the agency with questions or concerns regarding
6 regulations;

7 (iii) working with regulated communities to resolve
8 noncompliance issues before imposing penalties; and

9 (iv) providing a detailed explanation of each
10 regulatory requirement under the agency's jurisdiction,
11 including expectations for compliance, guidelines for
12 measuring compliance and the primary benefit of each
13 requirement.

14 (3) To empower the regulatory compliance officer to
15 issue to any person, upon the person's request, an opinion
16 with respect to the person's duties under a regulation of the
17 agency. The opinion shall be provided within 20 business days
18 of the request, provided that the time may be extended for
19 good cause. The opinion, or the agency's failure to provide
20 an opinion upon request, shall be a complete defense in any
21 enforcement proceeding initiated by the agency and evidence
22 of good faith conduct in any other civil or criminal
23 proceeding if the requester, at least 20 business days prior
24 to the alleged violation, requested written advice from the
25 agency's regulatory compliance officer in good faith,
26 disclosed truthfully all the material facts and committed the
27 acts complained of either in reliance on the advice or
28 because of the failure of the agency to provide advice within
29 20 business days, or any later extended time, of the request.

30 (4) To empower the regulatory compliance officer to

1 establish guidelines for waiving any fines or penalties that
2 the officer's agency would be authorized to impose on a
3 regulated entity for a violation of a statute or regulation
4 that the agency enforces if the entity reports a violation to
5 the regulatory compliance officer before a fine or penalty is
6 imposed on the entity. In order to be eligible for a waiver
7 of fines or penalties, the regulated entity must report to
8 the regulatory compliance officer the steps it has taken or
9 will take to remedy the violation.

10 (5) To empower the regulatory compliance officer to
11 request and obtain any information or advice from other staff
12 of the agency that the officer may need to fulfill the duties
13 of the compliance officer position.

14 (6) To establish clear channels of communication through
15 which businesses seeking to become members of regulated
16 communities can contact the agency with questions or concerns
17 relating to starting a business and future compliance with
18 regulations.

19 (b) No later than January 31 of each year, each agency shall
20 submit to the General Assembly an annual report detailing all of
21 the following:

22 (1) The progress made by the agency and the regulatory
23 compliance officer in the preceding calendar year towards
24 compliance with this section.

25 (2) The number of regulated communities served.

26 (3) The type of regulated communities served.

27 Section 12.3. Independent Office of the Repealer.

28 (a) There is established a nonpartisan Independent Office of
29 the Repealer within the Independent Regulatory Review
30 Commission.

1 (b) The office shall have the following powers and duty to:

2 (1) Adopt logical, quantitative and qualitative rules to
3 determine whether an existing statute or regulation of the
4 Commonwealth is:

5 (i) Unreasonable, unduly burdensome, detrimental to
6 economic well-being, duplicative, onerous, defective or
7 in conflict with another statute or regulation.

8 (ii) Defying a common sense approach to government.

9 (2) Perform a systematic review of existing statutes and
10 regulations of this Commonwealth in accordance with the rules
11 adopted for review under this act.

12 (3) Identify existing statutes and regulations which may
13 be appropriate for legislative and executive agency
14 modification, revision or repeal.

15 (4) Establish as soon as practical a system with a
16 publicly accessible Internet website that allows the office
17 to receive:

18 (i) Suggestions and comments, along with supporting
19 documentation, for modification, revision or repeal from
20 citizens, businesses, government agencies or others.

21 (ii) Reports on allegations of wasteful governmental
22 practices.

23 (5) Determine and implement internal policies, standards
24 and procedures as may be necessary for the orderly and
25 efficient execution of the mission of the office.

26 (6) Implement a tracking system to follow all
27 submissions and actions taken on a recommendation made by the
28 director which includes progress of modification, revision or
29 repeal.

30 (7) By June 30 of each year, report to the General

1 Assembly and the Governor on:

2 (i) Recommended changes to statutes and regulations.

3 (ii) Recommended changes to increase efficiency and
4 eliminate wasteful practices.

5 (iii) Progress of the revision, repeal or abrogation
6 of statutes and regulations.

7 (c) The committee established in the office shall:

8 (1) Consist of the following members:

9 (i) One member appointed by the Governor.

10 (ii) One member appointed by the President pro
11 tempore of the Senate in consultation with the Majority
12 Leader and the Minority Leader of the Senate.

13 (iii) One member appointed by the Speaker of the
14 House of Representatives in consultation with the
15 Majority Leader and the Minority Leader of the House of
16 Representatives.

17 (2) Select the director of the office in accordance with
18 the following:

19 (i) The committee shall publish qualifications of
20 the director in the Pennsylvania Code and Bulletin within
21 90 days of the first meeting of the committee.

22 (ii) The appointment may not be made on the basis of
23 political affiliation.

24 (iii) The appointment shall be made on the basis of
25 the fitness to perform the duties of the office based on
26 the published qualifications.

27 (d) The director shall serve in accordance with the
28 following:

29 (1) The selection of the director shall occur no later
30 than September 1, 2019.

1 (2) The director shall serve for a term of six years.

2 (3) An individual appointed as director to fill a
3 vacancy prior to the expiration of a term shall only serve
4 for the unexpired portion of the term.

5 (e) The director shall appoint a deputy director who shall
6 have the following duties:

7 (1) Perform assigned duties from the director.

8 (2) Assume the role of the director:

9 (i) during an absence or incapacity of the director;

10 or

11 (ii) if a vacancy occurs in the position of director
12 until a successor director is appointed.

13 (f) The director may be removed by a concurrent resolution
14 passed by the Senate and the House of Representatives.

15 (g) The director shall have the following powers and duties:

16 (1) The authority to:

17 (i) Determine and implement internal policies,
18 standards and protocols to orderly and efficiently carry
19 out the mission of the office under this section.

20 (ii) Procure the temporary or intermittent service
21 of attorneys, experts, consultants or organizations by
22 contract.

23 (2) Hire and fix compensation in accordance with the
24 following:

25 (i) The hiring and appointments shall be made on the
26 basis of the duties of the office and the performance of
27 the functions of the office.

28 (ii) All personnel shall be hired or appointed
29 without regard to political affiliation.

30 (iii) Hiring and appointments shall be based on

1 fitness to perform the necessary duties.

2 (h) (1) When the office determines that a statute or
3 regulation meets the standards set under this section and as
4 set by the director for modification, revision or repeal, the
5 director shall recommend the action to:

6 (i) The General Assembly if a statute needs to be
7 modified, revised or repealed.

8 (ii) The State department or agency that promulgated
9 the regulation that needs to be modified, revised or
10 repealed.

11 (2) A recommendation from the office shall provide
12 specific details why the office is recommending that the
13 statute or regulation needs to be modified, revised or
14 repealed.

15 (i) The office shall be a Commonwealth agency for the
16 purposes of the act of February 14, 2008 (P.L.6, No.3), known as
17 the "Right-to-Know Law."

18 (j) This act shall expire June 30, 2025.

19 Section 9. The amendment or addition of the following
20 provisions of the act shall apply to any regulation prepared in
21 final form on or after the effective date of this section:

22 (1) The definitions of "economically significant
23 regulation" and "legislative day" in section 3.

24 (2) Section 5(a)(1.1) and (4), (d.1), (i) and (j).

25 (3) Section 5.1(e), (j.2), (j.3) and (l).

26 (4) Section 5.3.

27 (5) Section 7(d).

28 (6) Section 7.2.

29 Section 10. This act shall take effect in 60 days.