
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 32 Session of
2021

INTRODUCED BY PHILLIPS-HILL, MARTIN, STEFANO, J. WARD, DiSANTO,
ARNOLD, MENSCH, AUMENT AND PITTMAN, JANUARY 20, 2021

REFERRED TO INTERGOVERNMENTAL OPERATIONS, JANUARY 20, 2021

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8 review; providing for regulations deemed withdrawn; further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

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

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

20 Section 3. Definitions.

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

24 * * *

1 "Director." The director of the office.

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 "Office." The Independent Office of the Repealer.

11 * * *

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

14 * * *

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

17 Section 5. Proposed regulations; procedures for review.

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

25 * * *

26 (1.1) A specific citation to the Federal or State
27 statutory or regulatory authority or the decision of a
28 Federal or State court under which the agency is proposing
29 the regulation, which the regulation is designed to implement
30 or which may mandate or affect compliance with the

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

6 * * *

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

19 * * *

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

25 * * *

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

30 (j) The commission shall transmit comments regarding the

1 cost estimates required under subsection (a)(4) to the
2 Independent Fiscal Office for review.

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

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

7 * * *

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

29 * * *

30 (j.2) (1) At any time during the commission's review period

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

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

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

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

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

26 * * *

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

1 General Assembly adopts a concurrent resolution under section
2 7.2.

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

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

12 Section 5. Section 7(d) of the act is amended and the
13 section is amended by adding a subsection to read:

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

16 * * *

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

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

1 the final-form or final-omitted regulation, and the agency
2 may promulgate that regulation.

3 (2) If either committee reports a concurrent resolution
4 before the expiration of the [14-day] period specified in
5 paragraph (1), the [Senate and the House of Representatives]
6 chamber to which the concurrent resolution is reported shall
7 [each] have 30 calendar days or ten legislative days,
8 whichever is longer, from the date on which the concurrent
9 resolution has been reported, to adopt the concurrent
10 resolution[.] and transmit it to the other chamber. The other
11 chamber shall have 30 calendar days or ten legislative days,
12 whichever is longer, from the date on which the concurrent
13 resolution has been transmitted, to adopt the concurrent
14 resolution.

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

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

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

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

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

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

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

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

27 (10) If the General Assembly does not adopt the
28 concurrent resolution or if the Governor vetoes the
29 concurrent resolution and the General Assembly does not
30 override the Governor's veto, the agency may promulgate the

1 final-form or final-omitted regulation.

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

6 (e) A committee may report a concurrent resolution to
7 initiate the repeal of any regulation currently in effect,
8 provided that the committee conducts a public hearing on the
9 matter prior to reporting the concurrent resolution.

10 (1) If the General Assembly adopts the concurrent
11 resolution by majority vote in both the Senate and the House
12 of Representatives, the concurrent resolution shall be
13 presented to the Governor in accordance with section 9 of
14 Article III of the Constitution of Pennsylvania.

15 (2) 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 (3) If the Governor vetoes the concurrent resolution,
20 the General Assembly may override that veto by a two-thirds
21 vote in each house. The Senate and the House of
22 Representatives shall each have 30 calendar days or ten
23 legislative days, whichever is longer, to override the veto.

24 (4) If the General Assembly does not adopt the
25 concurrent resolution or override the veto in the time
26 prescribed in this subsection, the regulation shall remain in
27 effect. An agency shall be prohibited from reissuing the same
28 regulation in the future, or promulgating a regulation that
29 is substantially similar, unless the new or revised
30 regulation is specifically authorized by a law enacted after

1 the date the concurrent resolution is approved or deemed to
2 be approved by the Governor or after the date when the
3 General Assembly overrides the Governor's veto of the
4 concurrent resolution.

5 Section 6. The act is amended by adding a section to read:

6 Section 7.2. Concurrent resolution required for economically
7 significant regulations.

8 (a) If the commission issues an order to approve a final-
9 form regulation or final-omitted regulation that is an
10 economically significant regulation or if the agency decides to
11 proceed with a final-form regulation or final-omitted regulation
12 that is an economically significant regulation for which the
13 commission issued a disapproval order:

14 (1) the agency shall submit a copy of the order;

15 (2) if applicable, the agency's response to the Senate
16 and the House of Representatives; and

17 (3) shall request a concurrent resolution approving the
18 regulation.

19 (b) The concurrent resolution under subsection (a)(3) shall
20 be referred to the applicable standing committee of the Senate
21 and the applicable standing committee of the House of
22 Representatives. A concurrent resolution that is reported from
23 the standing committee of the Senate shall be placed on the
24 Senate calendar. A concurrent resolution that is reported from
25 the standing committee of the House of Representatives shall be
26 placed on the House calendar.

27 (c) The Senate and the House of Representatives shall each
28 have 30 calendar days or ten legislative days, whichever is
29 longer, from the date on which the agency requested the
30 concurrent resolution under subsection (a)(3) to consider the

1 concurrent resolution. If the General Assembly does not adopt
2 the concurrent resolution in the time prescribed in this
3 subsection, the final-form regulation or final-omitted
4 regulation shall be deemed not approved and the regulation shall
5 not take effect.

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

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

9 Section 8.1. Existing regulations.

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

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

27 Section 12.2. State agency regulatory compliance officers.

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

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

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

5 (i) Educating the regulated community regarding the
6 implementation of new or amended statutes and regulations
7 prior to the effective date of implementation, to the
8 extent practicable and during implementation.

9 (ii) Establishing clear channels of communication
10 through which members of regulated communities can
11 contact the agency with questions or concerns regarding
12 regulations.

13 (iii) Working with regulated communities to resolve
14 noncompliance issues before imposing penalties.

15 (iv) Providing a detailed explanation of each
16 regulatory requirement under the agency's jurisdiction,
17 including expectations for compliance, guidelines for
18 measuring compliance and the primary benefit of each
19 requirement.

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

1 agency's regulatory compliance officer in good faith,
2 disclosed truthfully all the material facts and committed the
3 acts complained of either in reliance on the advice or
4 because of the failure of the agency to provide advice within
5 20 business days, or any later extended time, of the request.

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

16 (5) To empower the regulatory compliance officer to
17 request and obtain any information or advice from other staff
18 of the agency that the officer may need to fulfill the duties
19 of the compliance officer position.

20 (6) To establish clear channels of communication through
21 which businesses seeking to become members of regulated
22 communities can contact the agency with questions or concerns
23 relating to starting a business and future compliance with
24 regulations.

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

28 (1) The progress made by the agency and the regulatory
29 compliance officer in the preceding calendar year toward
30 compliance with this section.

1 (2) The number of regulated communities served.

2 (3) The type of regulated communities served.

3 Section 12.3. Independent Office of the Repealer.

4 (a) There is established a nonpartisan Independent Office of
5 the Repealer within the Independent Regulatory Review
6 Commission.

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

8 (1) Adopt logical, quantitative and qualitative rules to
9 determine whether an existing statute or regulation of the
10 Commonwealth is:

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

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

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

18 (3) Identify existing statutes and regulations which may
19 be appropriate for legislative and executive agency
20 modification, revision or repeal.

21 (4) Establish as soon as practical a system with a
22 publicly accessible Internet website that allows the office
23 to receive:

24 (i) Suggestions and comments, along with supporting
25 documentation, for modification, revision or repeal from
26 citizens, businesses, government agencies or others.

27 (ii) Reports on allegations of wasteful governmental
28 practices.

29 (5) Determine and implement internal policies, standards
30 and procedures as may be necessary for the orderly and

1 efficient execution of the mission of the office.

2 (6) Implement a tracking system to follow all
3 submissions and actions taken on a recommendation made by the
4 director which includes progress of modification, revision or
5 repeal.

6 (7) By June 30 of each year, report to the General
7 Assembly and the Governor on:

8 (i) Recommended changes to statutes and regulations.

9 (ii) Recommended changes to increase efficiency and
10 eliminate wasteful practices.

11 (iii) Progress of the revision, repeal or abrogation
12 of statutes and regulations.

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

14 (1) Consist of the following members:

15 (i) One member appointed by the Governor.

16 (ii) One member appointed by the President pro
17 tempore of the Senate in consultation with the Majority
18 Leader and the Minority Leader of the Senate.

19 (iii) One member appointed by the Speaker of the
20 House of Representatives in consultation with the
21 Majority Leader and the Minority Leader of the House of
22 Representatives.

23 (2) Select the director of the office in accordance with
24 the following:

25 (i) The committee shall publish qualifications of
26 the director in the Pennsylvania Code and Bulletin within
27 90 days of the first meeting of the committee.

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

30 (iii) The appointment shall be made on the basis of

1 the fitness to perform the duties of the office based on
2 the published qualifications.

3 (d) The director shall serve in accordance with the
4 following:

5 (1) The selection of the director shall occur no later
6 than September 1, 2021.

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

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

11 (e) The director shall appoint a deputy director who shall
12 have the following duties:

13 (1) Perform assigned duties from the director.

14 (2) Assume the role of the director:

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

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

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

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

22 (1) The authority to:

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

26 (ii) Procure the temporary or intermittent service
27 of attorneys, experts, consultants or organizations by
28 contract.

29 (2) Hire and fix compensation in accordance with the
30 following:

1 (i) The hiring and appointments shall be made on the
2 basis of the duties of the office and the performance of
3 the functions of the office.

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

6 (iii) Hiring and appointments shall be based on
7 fitness to perform the necessary duties.

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

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

14 (ii) The State department or agency that promulgated
15 the regulation that needs to be modified, revised or
16 repealed.

17 (2) A recommendation from the office shall provide
18 specific details why the office is recommending that the
19 statute or regulation needs to be modified, revised or
20 repealed.

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

24 (j) This section shall expire June 30, 2027.

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

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

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

- 1 (3) Section 5.1(e), (j.2), (j.3) and (l).
- 2 (4) Section 5.3.
- 3 (5) Section 7(d).
- 4 (6) Section 7.2.
- 5 Section 10. This act shall take effect in 60 days.