

Veto 2006-9

HB 236

November 3, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 236 without my approval. This bill would amend the Regulatory Review Act to place additional requirements on commonwealth agencies in the promulgation of regulations.

This legislation would increase the cost of operating the government unnecessarily. Our estimates suggest that the cost of processing the more than 200 regulations that are proposed or revised annually could increase by as much as \$1 million as a result of this bill. The bill purports to protect small businesses, but, in fact, it will place new burdens on our agencies and commissions and, thus, will drive up the cost of their regulatory duties as well as further drag out an already long process unnecessarily.

Last spring, Governor's Office staff offered to meet with any small business operator or group of operators who sought the passage of this bill because they needed changes to an existing regulation or proposed regulation. However, not one group supporting the passage of this legislation took us up on that offer. Consequently, I do not believe the burden that this legislation will place on our agencies and commissions warrants the time or increased cost to the taxpayers or the industries affected by such changes.

Since taking office in 2003, I have directed every agency to review what can be done to assist small businesses. As a result, my administration has removed numerous hurdles for small businesses that had been ignored for decades. These changes include:

- One of the few sectors to specifically propose regulatory changes in 2003 was small foundry operators. Iron and steel foundries for years have had very limited options for the disposal of waste sand. We now have a new general permit to relieve the financial burden on foundries and provide alternate beneficial uses for clean, spent foundry sand. The permit encourages the development of new markets that will provide both financial and environmental benefits while removing useable materials from the waste stream.
- Pennsylvania farmers sought relief from local efforts to pass ordinances that illegally restricted farming operations. As a result, we led the efforts to draft and pass the ACRE legislation that ensures our farmers do not have to comply with inappropriate local ordinances that infringe on their legal operations.

- The Department of Environmental Protection cut the time for issuance of air quality permits to 119 days. We are now processing these requests 32% faster than ever before in the State's history.
- We also proposed the Keystone Innovation Zone (KIZ) program with up to \$25 million of tax credits for businesses that are working in partnership with our universities to foster growth in high-technology start-ups, typically small businesses.
- Our insurance department has streamlined the process of approving insurers. As a result, since January 2003, we have enabled 76 new small corporate insurance entities to sell policies in the commonwealth. To decrease reporting burdens, which, of course, weigh most heavily on small businesses, the Insurance Department has enhanced and expanded its Web site making it more cost-effective for insurers, large and small, to communicate with the Department and understand marketplace requirements.
- Marked improvements have been made in the administration of the State Workers' Compensation Fund. As a result, \$200 million has been saved, enabling a 10% reduction in workers' compensation premiums paid by businesses.
- Finally, the \$1 billion in enacted business tax cuts since 2003 make all Pennsylvania businesses more competitive, particularly those who are small businesses.

I would like to remind those members of the legislature who sought enactment of this bill that regulations promulgated by an executive agency are reviewed by the Independent Regulatory Review Commission, which includes representatives from the four caucuses of the General Assembly. The review process requires public comment as well as review by standing committees of the General Assembly. The standing committees may comment on the regulations at any time until the regulation becomes final. By the use of this process, regulations have regularly been modified prior to reaching the final form stage as a result of public or committee comments regarding burdens placed upon businesses or individuals within the commonwealth.

The process also requires review of final form regulations by the Independent Regulatory Review Commission and the standing committees of the General Assembly. In fact, a standing committee of the General Assembly may disapprove a final form regulation. If the General Assembly passes a concurrent resolution agreeing with the disapproval and the Governor approves this resolution, the regulation is permanently barred from publication. If the Governor vetoes this concurrent resolution, the General

Assembly may override it, which would also permanently bar the regulation from publication.

The regulatory review process affords ample opportunity to individuals or members of the General Assembly to raise any objection to a regulation that would place an undue burden on an individual or a business in the commonwealth.

In addition to the opportunities that all businesses have to address their concerns through our existing regulatory processes, a small business may pursue an agency hearing to seek waiver or repeal of a regulation, can voice its concerns to its State Representative and Senator, and may seek independent redress in Commonwealth Court.

Finally, I want to be sure that those members of the legislature who sought enactment of this bill understand that our current laws require much of the review that this legislation aims to require:

In submitting regulations, agencies must submit to IRRC and the legislative committees the following:

- Estimates of the direct *and indirect* costs to the commonwealth, to its political subdivisions, and *to the private sector*.
- An identification of the types of persons, businesses, and organizations which would be affected by the regulation.
- An identification of the financial, economic and social impact of the regulation on individuals, *business* and labor communities, and other public and private organizations and, when practicable, an evaluation of the benefits expected as a result of the regulation.
- A description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

While advocates for House Bill 236 have suggested that the bill will establish a *new* threshold for review of regulatory impact on small businesses, the definition in the bill encompasses almost 98% of all companies doing business in this commonwealth. As a result, the existing requirements in law and regulations already require agencies to evaluate the impact of regulations on small businesses as defined in this bill. This bill, however, would require a separate and onerous review that, in my estimation, accomplishes nothing more than is provided for in the current process.

Given the protections for businesses in our current laws, this bill will only create another layer of red tape for the government and slow our agencies'

responsiveness at a time when we have been, and must continue to be, nimble if we are to ensure the continued competitiveness of our economy.

EDWARD G. RENDELL