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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 211 Session of  
2013

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INTRODUCED BY GROVE, METCALFE, KNOWLES, MALONEY, GINGRICH,  
CLYMER, AUMENT, MACKENZIE, BLOOM, KAUFFMAN, STEVENSON,  
CUTLER, BENNINGHOFF, R. BROWN, M. K. KELLER, PICKETT,  
LAWRENCE, MOUL, MILLER, BROOKS AND GABLER, JANUARY 22, 2013

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 22, 2013

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AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled,  
2 as reenacted, "An act providing for independent oversight and  
3 review of regulations, creating an Independent Regulatory  
4 Review Commission, providing for its powers and duties and  
5 making repeals," amending the title of the act; and further  
6 providing for criteria for review of regulations and for  
7 existing regulations.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The title of the act of June 25, 1982 (P.L.633,  
11 No.181), known as the Regulatory Review Act, reenacted and  
12 amended June 30, 1989 (P.L.73, No.19), is amended to read:

13 AN ACT

14 Providing for independent oversight and review of regulations,  
15 creating an Independent Regulatory Review Commission,  
16 providing for its powers and duties, providing for periodic  
17 review of existing regulations by agencies and making  
18 repeals.

19 Section 2. Section 5.2 of the act, amended July 7, 2011

1 (P.L.277, No.60) and June 29, 2012 (P.L.657, No.76), is amended  
2 to read:

3 Section 5.2. Criteria for review of regulations.

4 (a) [In] The commission, in determining whether a proposed,  
5 final-form, final-omitted or existing regulation is in the  
6 public interest, [the commission] or an agency, in determining  
7 whether an existing regulation is in the public interest, shall,  
8 first and foremost, determine whether the agency has the  
9 statutory authority to promulgate the regulation and whether the  
10 regulation conforms to the intention of the General Assembly in  
11 the enactment of the statute upon which the regulation is based.  
12 In making its determination, the commission or agency shall  
13 consider written comments submitted by the committees and  
14 current members of the General Assembly to the commission,  
15 pertinent opinions of Pennsylvania's courts and formal opinions  
16 of the Attorney General.

17 (b) Upon a finding that the regulation is consistent with  
18 the statutory authority of the agency and with the intention of  
19 the General Assembly in the enactment of the statute upon which  
20 the regulation is based, the commission or agency shall consider  
21 the following in determining whether the regulation is in the  
22 public interest:

23 (1) Economic or fiscal impacts of the regulation, which  
24 include the following:

25 (i) Direct and indirect costs to the Commonwealth,  
26 to its political subdivisions and to the private sector.

27 (ii) Adverse effects on prices of goods and  
28 services, productivity or competition.

29 (iii) The nature of required reports, forms or other  
30 paperwork and the estimated cost of their preparation by

1 individuals, businesses and organizations in the public  
2 and private sectors.

3 (iv) The nature and estimated cost of legal,  
4 consulting or accounting services which the public or  
5 private sector may incur.

6 (v) The impact on the public interest of exempting  
7 or setting lesser standards of compliance for individuals  
8 or small businesses when it is lawful, desirable and  
9 feasible to do so.

10 (2) The protection of the public health, safety and  
11 welfare and the effect on this Commonwealth's natural  
12 resources.

13 (3) The clarity, feasibility and reasonableness of the  
14 regulation to be determined by considering the following:

15 (i) Possible conflict with or duplication of  
16 statutes or existing regulations.

17 (ii) Clarity and lack of ambiguity.

18 (iii) Need for the regulation.

19 (iv) Reasonableness of requirements, implementation  
20 procedures and timetables for compliance by the public  
21 and private sectors.

22 (v) Whether acceptable data is the basis of the  
23 regulation.

24 (4) Whether the regulation represents a policy decision  
25 of such a substantial nature that it requires legislative  
26 review.

27 (5) Comments, objections or recommendations of a  
28 committee.

29 (6) Compliance with the provisions of this act or the  
30 regulations of the commission in promulgating the regulation.

1 (7) Whether the regulation is supported by acceptable  
2 data.

3 (8) Whether a less costly or less intrusive alternative  
4 method of achieving the goal of the regulation has been  
5 considered for regulations impacting small business.

6 Section 3. Section 8.1 of the act, amended December 6, 2002  
7 (P.L.1227, No.148), is amended to read:

8 Section 8.1. Existing regulations.

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

22 (a) Every five years, each agency shall perform a regulatory  
23 analysis of its existing regulations to determine whether a  
24 regulation is in the public interest using criteria established  
25 in section 5.2. An agency may choose not to perform a regulatory  
26 analysis on an existing regulation if the regulation has been in  
27 effect for less than three years.

28 (b) If an agency finds that an existing regulation is not in  
29 the public interest, the agency shall include with its analysis  
30 the recommended changes it proposes to the existing regulation.

1 In making its proposal, the agency shall consider each of the  
2 following:

3 (1) Less costly or less intrusive alternative methods of  
4 achieving the goal of the regulation.

5 (2) Special provisions that minimize the adverse impact  
6 of the regulation on affected groups and persons, when  
7 consistent with health, safety, environmental and economic  
8 welfare, and accomplish the objectives of the applicable  
9 statutes. These special provisions may:

10 (i) Establish less stringent compliance or reporting  
11 requirements.

12 (ii) Establish less stringent schedules or deadlines  
13 for compliance or reporting requirements.

14 (iii) Consolidate or simplify compliance or  
15 reporting requirements.

16 (iv) Establish performance standards for affected  
17 groups or persons to replace design or operational  
18 standards required in the regulation.

19 (v) Exempt affected groups or persons from all or  
20 any part of the requirements contained in the regulation.

21 (3) Recommendations to the Governor and the General  
22 Assembly for statutory changes.

23 (4) Repeal of the regulation.

24 (c) An agency shall have the discretion whether to compile  
25 regulations into one analysis or multiple analyses, provided  
26 that an analysis is performed on each of its existing  
27 regulations and all analyses are completed within two years of  
28 each five-year period.

29 (d) Regulatory analyses of existing regulations shall be:

30 (1) Submitted to the applicable committee or committees.

1           (2) Posted on the agency's publicly accessible Internet  
2 website.

3           (3) Published in the Pennsylvania Bulletin.

4           (4) Submitted to each member of Congress from  
5 Pennsylvania in a case where a regulation was promulgated  
6 pursuant to a Federal statute or Federal regulation.

7           (e) Upon publication of an agency's analysis of an existing  
8 regulation in the Pennsylvania Bulletin, the commission, on its  
9 motion may, within 120 days, review the agency's analysis of an  
10 existing regulation to determine if a regulation is in the  
11 public interest using criteria established in section 5.2. If a  
12 committee of the Senate or the House of Representatives requests  
13 a review of an existing regulation, the commission shall perform  
14 the review and shall assign it high priority. Before conducting  
15 a review of an agency's analysis of an existing regulation, the  
16 commission shall publish a notice of review in the Pennsylvania  
17 Bulletin and allow for a 30-day public comment period. The  
18 commission shall submit recommendations to an agency  
19 recommending changes in existing regulations if it finds the  
20 existing regulations to be contrary to the public interest under  
21 the criteria established in section 5.2. The commission shall  
22 also make recommendations to the Governor and the General  
23 Assembly for statutory changes if the commission finds that any  
24 existing regulation may be contrary to the public interest.

25           Section 4. This act shall take effect in 60 days.