112TH CONGRESS
1ST SESSION

H. R. 2898

To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2011

Mr. RIBBLE (for himself, Mr. ROKITA, Mr. BENISHEK, and Mr. LONG) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Regulation Morato-

5 rium and Jobs Preservation Act of 2011".

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term "agency" has the meaning given

2 under section 3502(1) of title 44, United States

3 Code;

4 (2) the term "regulatory action" means any

5 substantive action by an agency that promulgates or

6 is expected to lead to the promulgation of a final

7 regulation, including notices of inquiry, advance no-

8 tices of proposed rulemaking, and notices of pro-

9 posed rulemaking;

10 (3) the term "significant regulatory action"

11 means any regulatory action that is likely to result

12 in a rule or guidance that may—

13 (A) have an annual effect on the economy

14 of $100,000,000 or more or adversely affect in

15 a material way the economy, a sector of the

16 economy, productivity, competition, jobs, the

17 environment, public health or safety, small enti-

18 ties, or State, local, or tribal governments or

19 communities;

20 (B) create a serious inconsistency or other-

21 wise interfere with an action taken or planned

22 by another agency;

23 (C) materially alter the budgetary impact

24 of entitlements, grants, user fees, or loan pro-

1 grams or the rights and obligations of recipi-

2 ents thereof; or

3 (D) raise novel legal or policy issues; and

4 (4) the term "small entities" has the meaning

5 given under section 601(6) of title 5, United States

6 Code.

SEC. 3. SIGNIFICANT REGULATORY ACTIONS.

7

8 (a) IN GENERAL.—No agency may take any signifi-

9 cant regulatory action, until the Bureau of Labor Statis-

10 tics average of monthly unemployment rates for any quar-

11 ter beginning after the date of enactment of this Act is

12 equal to or less than 7.7 percent.

13 (b) DETERMINATION.—The Secretary of Labor shall

14 submit a report to the Director of the Office of Manage-

15 ment and Budget whenever the Secretary determines that

16 the Bureau of Labor Statistics average of monthly unem-

17 ployment rates for any quarter beginning after the date

18 of enactment of this Act is equal to or less than 7.7 per-

19 cent.

SEC. 4. WAIVERS.

20

21 (a) NATIONAL SECURITY OR NATIONAL EMER-

22 GENCY.—The President may waive the application of sec-

23 tion 3 to any significant regulatory action, if the Presi-

24 dent—

1 (1) determines that the waiver is necessary on

2 the basis of national security or a national emer-

3 gency; and

4 (2) submits notification to Congress of that

5 waiver and the reasons for that waiver.

6 (b) ADDITIONAL WAIVERS.—

7 (1) SUBMISSION.—The President may submit a

8 request to Congress for a waiver of the application

9 of section 3 to any significant regulatory action.

10 (2) CONTENTS.—A submission under this sub-

11 section shall include—

12 (A) an identification of the significant reg-

13 ulatory action; and

14 (B) the reasons which necessitate a waiver

15 for that significant regulatory action.

16 (3) CONGRESSIONAL ACTION.—Congress shall

17 give expeditious consideration and take appropriate

18 legislative action with respect to any waiver request

19 submitted under this subsection.

20 **SEC. 5. JUDICIAL REVIEW.**

21 (a) DEFINITION.—In this section, the term "small

22 business" means any business, including an unincor-

23 porated business or a sole proprietorship, that employs not

24 more than 500 employees or that has a net worth of less

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1 than $7,000,000 on the date a civil action arising under

2 this Act is filed.

3 (b) REVIEW.—Any person that is adversely affected

4 or aggrieved by any significant regulatory action in viola-

5 tion of this Act is entitled to judicial review in accordance

6 with chapter 7 of title 5, United States Code.

7 (c) JURISDICTION.—Each court having jurisdiction

8 to review any significant regulatory action for compliance

9 with any other provision of law shall have jurisdiction to

10 review all claims under this Act.

11 (d) RELIEF.—In granting any relief in any civil ac-

12 tion under this section, the court shall order the agency

13 to take corrective action consistent with this Act and chap-

14 ter 7 of title 5, United States Code, including remanding

15 the significant regulatory action to the agency and enjoin-

16 ing the application or enforcement of that significant regu-

17 latory action, unless the court finds by a preponderance

18 of the evidence that application or enforcement is required

19 to protect against an imminent and serious threat to the

20 national security from persons or states engaged in hostile

21 or military activities against the United States.

22 (e) REASONABLE ATTORNEY FEES FOR SMALL BUSI-

23 NESSES.—The court shall award reasonable attorney fees

24 and costs to a substantially prevailing small business in

25 any civil action arising under this Act. A party qualifies

1 as substantially prevailing even without obtaining a final
2 judgment in its favor if the agency changes its position
3 as a result of the civil action.

4   (f) LIMITATION ON COMMENCING CIVIL ACTION.—
5 A person may seek and obtain judicial review during the
6 1-year period beginning on the date of the challenged
7 agency action or within 90 days after an enforcement ac-
8 tion or notice thereof, except that where another provision
9 of law requires that a civil action be commenced before
10 the expiration of that 1-year period, such lesser period
11 shall apply.

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