

No. 2011-60

AN ACT

SB 263

Amending the act of June 25, 1982 (P.L.633, No.181), entitled, as reenacted and amended, "An act providing for independent oversight and review of regulations, creating an Independent Regulatory Review Commission, providing for its powers and duties and making repeals," further providing for definitions, for proposed regulations and procedures for review; and for criteria for review of regulations.

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

Section 1. Section 3 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, reenacted and amended June 30, 1989 (P.L.73, No.19), is amended by adding a definition to read:

Section 3. Definitions.

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

"Acceptable data." Empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.

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Section 2. Section 5(a) of the act is amended by adding a paragraph to read:

Section 5. Proposed regulations; procedures for review.

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

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(14) A description of any data upon which a regulation is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data shall have the burden of proving that the data is acceptable.

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Section 3. Section 5.2 of the act, added December 6, 2002 (P.L.1227, No.148), is amended to read:

Section 5.2. Criteria for review of regulations.

(a) In determining whether a proposed, final-form, final-omitted or existing regulation is in the public interest, the commission shall, first and foremost, determine whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based. In making its determination, the commission shall consider written comments submitted by the committees and current

members of the General Assembly, pertinent opinions of Pennsylvania's courts and formal opinions of the Attorney General.

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

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

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

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

(iii) The nature of required reports, forms or other paperwork and the estimated cost of their preparation by individuals, businesses and organizations in the public and private sectors.

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

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

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

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

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

(ii) Clarity and lack of ambiguity.

(iii) Need for the regulation.

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

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

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

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

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

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

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

APPROVED—The 7th day of July, A.D. 2011

TOM CORBETT