

June 6, 2017

Dear Senator:

On behalf of more than one hundred thousand Pennsylvanians, the undersigned public health, environmental, and conservation organizations respectfully urge you to VOTE NO on Senate Bill 561. We oppose this bill, which would amend the Regulatory Review Act (Act), because it would authorize unconstitutional legislative vetoes of state agency rulemakings at the expense of the health, safety, and welfare of Pennsylvanians while minimizing the General Assembly's accountability for such vetoes.

The Act currently gives the General Assembly the power to disapprove a proposed regulation after the Independent Regulatory Review Commission (IRRC) has voted for approval. Following an IRRC vote, a standing committee of the House or Senate that has timely invoked its disapproval power has 14 days to report a concurrent resolution of disapproval. Both chambers then have 30 days or 10 legislative days, whichever is longer, to adopt the resolution. If the resolution is adopted, it can be presented to the Governor, who may veto it. If the Governor exercises his veto, the General Assembly has 30 calendar days or 10 legislative days – again, whichever is longer – to override the veto.

SB 561, which is modeled after the H.R. 26 (known as the “Regulations from the Executive in Need of Scrutiny” or “REINS” Act of 2017) in the U.S. Congress, would change the current system by blocking any new “economically significant regulation” from becoming law unless both the House and the Senate vote to *approve* it. A proposed regulation would be considered “economically significant” if it was estimated to have a “direct or indirect cost” to state and local government and the private sector of more than \$1,000,000. It does not appear that a regulation's estimated monetary, health, and environmental benefits must be taken into account in the determination of cost.

In conditioning the approval of a new “economically significant” regulation on approval actions by *both* houses of the General Assembly, SB 561 gives *either* chamber the power to kill such regulations. At least for rulemakings by executive agencies, such inaction would constitute a one-chamber legislative veto in violation of both the Separation of Powers clause and the Presentment clause of the Pennsylvania Constitution. As the General Assembly knows, the former clause confers in the executive branch the power to administer laws duly enacted by the General Assembly, while the latter directs that every resolution to which the concurrence of both Houses may be necessary shall be presented to the Governor and before it shall take effect be approved by the Governor.

In short, whereas the Regulatory Review Act now provides an arguably constitutional mechanism for the disapproval of a proposed regulation, SB 561 would allow either chamber to kill a proposed regulation through inaction, passively and unconstitutionally. Moreover, even if this change were constitutional, it would be an abuse of the principles of republican democracy. SB 561 has been characterized as a bill “to strengthen political accountability for regulatory policy.” But by enabling the General Assembly to block regulations without any member's ever casting a vote, it would establish a new low for accountability in state government – and prevent

Pennsylvania's state agencies from protecting Pennsylvanians against abusive financial practices, environmental impacts, and other harms.

We respectfully urge you to VOTE NO on SB 561.

Sincerely,

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