

INDEPENDENT REGULATORY REVIEW COMMISSION



**Senate Committee on Intergovernmental Operations
Public Hearing
December 12, 2019
Commissioner Faber Statement**

**George D. Bedwick, Chairman
W. Russell Faber, Commissioner
David Sumner, Executive Director**

Good morning Chairman Mastriano, Chairman Fontana, and honorable members of the Senate Intergovernmental Operations Committee. I also want to thank you for invitation to appear before your Committee today. As Chairman Bedwick said, I am the Speaker's appointment to IRRC and I, like Chairman Bedwick have extensive experience in the Legislature having worked as both Chief Clerk of the Senate for 25 years and as Executive Director of the House Bipartisan Management Committee. As a result, we are very sensitive to the oversight authority of the General Assembly.

The packet of information provided to you prior to the meeting includes a more detailed analysis and description of IRRC and the regulatory review process so I won't go into detail on that. I would like however, to discuss two points of interest.

COMMITTEE & LEGISLATOR INVOLVEMENT

Our mission, stated simply, is to determine whether a proposed regulation is in the public interest. We do this by conducting our own thorough analysis of every rulemaking; reviewing background information, fiscal notes, and other data from the promulgating agency; carefully reviewing public

comments; and analyzing comments from stakeholders and the regulated community.

The Regulatory Review Act requires each agency to submit their proposed regulation to the relevant standing committee of both the Senate and House. *“The committees may, at any time prior to the submittal of the regulation in final-form, convey to the agency and the commission their comments, recommendations and objections to the proposed regulation and a copy of any staff reports deemed pertinent.”* [§5(d), Act 181 of 1982, as amended]

Individual legislators may also submit comments, recommendations and objections at any time prior to submittal of the final-form regulation.

Our analysis looks heavily on comments received from the Standing Committees and individual legislators. Legislative feedback on these matters assists us in determining whether a regulation meets the intent of the General Assembly. It may cause an agency to reevaluate its course of action, take additional steps to reach a consensus, and may lead to a disapproval vote from our Commission.

I should note that this year we have received comments from 15 Senators on 5 different regulations and one public hearing. One formal Committee action also occurred in the Senate.

Last year we were fortunate to hear from 100 members of the House and Senate regarding pending regulations.

Regulation Summary

<u>Year</u>	<u>Proposed</u>	<u>Final</u>	<u>Total</u>	<u>Public</u> <u>Comments</u>	<u>Senator</u> <u>Comments</u>	<u>Committee</u> <u>Comments</u>
2018	29	35	64	2,500	18	-
2017	31	22	53	230	5	1
2016	32	43	75	4,700	27	7

Some of you may recall the recent efforts of the Pennsylvania Department of State to raise registration fees under the Commonwealth's Lobbying Disclosure Act. The Department proposed doubling the registration fee paid by organizations under the law, including non-profit groups, from \$200 to \$400. This led many in the General Assembly to reject the increase as beyond the intent of the authorizing legislation. IRRC

subsequently disapproved the Department's proposal, largely due to these concerns, which resulted in revisions to the fee proposal by the Department. A lesser increase was eventually submitted by the Department and approved by IRRC.

This example demonstrates the effect that involvement of the Standing Committees and legislators can have.

CONSIDERATIONS WHEN DRAFTING LEGISLATION

Legislators occasionally ask us how to better approach drafting legislation to minimize potential conflicts between legislative intent and proposed regulations. My response to this starts with legislative authority. The Legislature establishes policy for the Commonwealth via laws. Within those laws, you delegate certain authorities to an Agency to implement that policy.

In order to minimize those potential conflicts between law and regulation, it is important to pay close attention to the authorities you are delegating. Chairman Bedwick cited a perfect example of this in his earlier remarks addressing whether the Legislature wants to allow an agency to implement automatic fee

increases. Another example is addressing the basis for which an Agency calculates fees and the time period for which those fees should be effective.

Again, I would like to thank you for the opportunity here this morning and we would be happy to answer any questions you may have.