



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

May 29, 2020

THE GOVERNOR

TO THE HONORABLE HOUSE OF REPRESENTATIVES
AND THE HONORABLE SENATE OF THE
COMMONWEALTH OF PENNSYLVANIA

Pursuant to Article III, Section 9 of the Pennsylvania Constitution and Section 7(d) of the Regulatory Review Act, I veto and disapprove, and return herewith, House Concurrent Regulatory Review Resolution Number 1, which disapproves the Department of Labor and Industry's Final-Form Regulation 12-106.

I am vetoing, disapproving, and returning this concurrent resolution for two reasons. First, the Concurrent Resolution is procedurally defective. In adopting the Concurrent Resolution, the General Assembly failed to comply with the Regulatory Review Act (RRA), which creates the concurrent resolution process as applied to regulations. The RRA provides:

Upon receipt of the commission's order pursuant to subsection (c.1) . . . one or both of the committees may, within 14 calendar days, report to the House of Representatives or Senate a concurrent resolution and notify the agency. . . . If either committee reports a concurrent resolution before the expiration of the 14-day period, the Senate and the House of Representatives shall each have 30 calendar days or ten legislative days, whichever is longer, from the date on which the concurrent resolution has been reported, to adopt the concurrent resolution. . . . If the General Assembly does not adopt the concurrent resolution . . . in the time prescribed in this subsection, it shall be deemed to have approved the final-form or final-omitted regulation.

71 P.S. § 745.7(d). Neither the House of Representatives nor the Senate adopted this Concurrent Resolution within 30 calendar or ten legislative days from the date that the House committee reported its Concurrent Resolution. As such, the RRA directs that the General Assembly is deemed to have approved Final-Form Regulation 12-106.

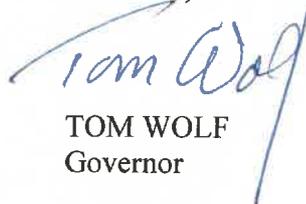
First, the House of Representatives failed to adopt the Concurrent Resolution by the statutorily prescribed deadline. The House Labor and Industry Committee reported the Concurrent Resolution on February 5, 2020. The full House of Representatives did not adopt this Concurrent Resolution until April 21, 2020, more than 30 calendar days from February 5, 2020. Furthermore, April 21, 2020, was more than ten legislative days from February 5, 2020, as the House of Representatives was in session on March 16, March 23, March 24, March 25, April 6, April 7, April 13, April 14, April 16 and April 20, 2020. The RRA required the House of Representatives to adopt the Concurrent Resolution on one of those days. Because the House of Representatives failed to adopt the Concurrent Regulation by the statutory deadline, Final- Form Regulation 12-106 was deemed approved by operation of law.

Similarly, the Senate also failed to adopt the Concurrent Resolution by the statutorily prescribed deadline. Section 7(d) of the RRA directs that the time period for action on a concurrent resolution for both the Senate and House of Representatives is to commence “from the date on which the concurrent resolution has been reported.” 71 P.S. § 745.7(d). The House Labor and Industry Committee reported this Concurrent Resolution on February 5, 2020. The Senate did not adopt this Concurrent Resolution until May 27, 2020, more than 30 calendar days from February 5, 2020. Furthermore, May 27, 2020 is more than ten legislative days from February 5, 2020, as the Senate was in session on March 18, March 25, April 6, April 7, April 15, April 20, April 21, April 28, April 29, May 6, May 11, May 12, May 13, May 18 and May 26, 2020. Because the Senate also failed to adopt the Concurrent Resolution by the statutory deadline, Final-Form Regulation 12-106 was deemed approved by operation of law.

Second, I am vetoing, disapproving, and returning the Concurrent Resolution because Final-Form Regulation 12-106 is necessary to protect Pennsylvania’s workers from unreasonably low wages not fairly commensurate with the value of the services rendered. Final-Form Regulation 12-106 provides a long overdue update of the definitions of executive, administrative and professional employees who are exempt from the overtime and minimum wage provisions of the Pennsylvania Minimum Wage Act of 1968 and modernizes the obsolete salary threshold for those workers. The update to the salary thresholds will protect Pennsylvania’s employees from being arbitrarily designated as exempt and being required to work excessive overtime hours without additional compensation. Ensuring that workers are fairly compensated and paid a living wage will have an overall positive economic impact for the Commonwealth. In addition, increased competitiveness of Pennsylvania’s employers to attract skilled labor, positive economic impact due to increased spending by affected workers, and discretionary time returned to employees are all benefits to the Commonwealth. Now, more than ever, Pennsylvania needs the benefits that Final-Form Regulation 12-106 provides to its citizens.

For the reasons set forth above, I must veto, disapprove, and withhold my signature from House Concurrent Regulatory Review Resolution No. 1.

Sincerely,



TOM WOLF
Governor