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Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Commissions, Elections and
Legislation

(2) I.D. Number (Governor's Office Use)
16-42

IRRC Number: 2716

(3) Short Title

Regulations on the Alteration of Local Election Districts

(4) PA Code Cite

4 Pa. Code § 191.1 *et seq*

(5) Agency Contacts & Telephone Numbers

Primary Contact: Shauna Graves
(717) 787-5280

Secondary Contact: Larry Boyle
(717) 787-5280

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Policy Statement

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

- The regulations provide procedures for election districts when implementing alteration of local election districts and procedures for reporting election results as required under 25 P.S. §§ 2747-2749.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

- 25 P.S. § 2750 provides that the Secretary may promulgate regulations to administer the subdivision of the act, 25 P.S. §§ 2745-2750.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

- 25 P.S. § 2750 provides that the Secretary may promulgate regulations to administer the subdivision of the act, 25 P.S. §§ 2745-2750. There are no deadlines for these regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

- There is a compelling public interest in efficient and accurate elections. The regulations establish an efficient method for the reporting of alterations to local election districts by the various county boards of elections and provides for the efficient reporting of election data for the local election districts contained within each county. Also, by requiring the timely reporting of alterations to election districts, the proposed regulations help avoid possible confusion among voters who are directly affected by an election district alteration.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

- Failure to promulgate regulations for the subdivision of the act, 25 P.S. §§ 2745-2750, could result in failures to accurately and efficiently report alterations in local election districts and failures to accurately and efficiently report election results.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

- The public will benefit from having an efficient and accurate election.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

- Because these regulations expound upon the requirements under the Pennsylvania Election Code, there will be little if any adverse impact associated with these regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

- All county boards of elections will be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

- The Department has discussed this subject and drafts of the proposed regulations at annual meetings of the Pennsylvania County Election Official Conference in 2005 and 2006.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

- The proposed regulations will have a negligible impact upon the county boards of elections because the rulemaking does not require the implementation of new programs or processes.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

- There will be no costs and/or savings to local governments associated with these regulations.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

- The proposed regulations will have a negligible impact upon the Department of State (Department) because the rulemaking does not require the implementation of new programs or processes.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

- There were not any costs derived.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

- As noted in previous responses, there is little extra cost associated with these regulations.
- The benefits of the regulations are that they provide election districts with procedures that will help provide for an efficient and accurate election. Therefore, the benefits of a more efficient and accurate election outweigh the minimal or nonexistent costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

- Nonregulatory alternatives were not considered because the act provides that regulations may be promulgated to administer the subdivision of the act, 25 P.S. §§ 2745-2750, on the alteration of election districts and the reporting election data.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

- No other regulatory schemes were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

- No

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

- Many of the provisions in these regulations are similar to those in other states. The Department compared the proposed regulations with the comparable regulations and statutes of Alaska, Arkansas, Maine, Maryland, Massachusetts, New York, North Dakota, Ohio, Washington, and Wisconsin. In relation to the requirement in the proposed regulations that a report must be filed with the Department at least 45 days before a primary or election, the following states have similar requirements: Ohio by statute provides that no change in the number of precincts or in precinct boundaries shall be made during the 25 days immediately preceding a primary or general election; Alaska has a similar reporting period of 30 days; New York requires that any alteration of election districts must be made on or before February 15, and take effect April 1, which is approximately the same 45 day provision as the proposed regulations; North Dakota requires that the necessary paperwork be filed by April 1 of an even numbered year to be effective for that year's election; Wisconsin allows alteration and combination reports to be presented no later than 60 days before each September primary and general election, and no later than 30 days before each other election.
- In relation to the requirement in the proposed regulations that if the a county alters the election district of an elector, the county board of election shall send that elector a new voter registration card, the following states have similar requirements: New York requires that copies of the report be filed and kept open for public inspection and one copy shall be delivered, upon request, to the state board of elections; Maryland requires that the local board shall notify all voters who are affected by the change; Ohio requires that the election authorities shall notify affected registrants by mail; and Washington requires the county auditor to mail to each registrant in the new precinct a notice that his or her precinct has been changed.
- Nothing in these regulations will put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

- No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

- Because the proposed regulations do not contain any significant new requirements for the regulated community, no additional hearings or meetings have been scheduled.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

- The paperwork requirements will not be substantially altered as a result of the proposed rulemaking.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

- None

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

- The Department wants the proposed regulations to be in effect before the 2010 census and resulting redistricting, therefore, the anticipated effective date of the regulations is in November of 2009.

(31) Provide the schedule for continual review of the regulation.

- No formal review schedule has been established. Instead, the Department will be constantly reviewing its regulations and proposing amendments as the need arises.

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FACE SHEET
FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU
INDEPENDENT REGULATORY
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

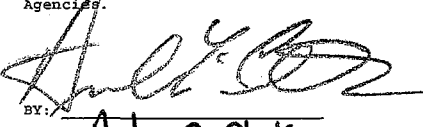
Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agency


BY: _____
(DEPUTY ATTORNEY GENERAL)

Department of State, Bureau of Commissions, Elections & Legislation

(AGENCY)


BY: _____
Andrew C. Clark

JUL 30 2008

DOCUMENT/FISCAL NOTE NO. 16-42

MAR 25 2008

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: Pedro A. Cortés
Pedro A. Cortés

EXECUTIVE Deputy General Counsel
(Chief Counsel,
Independent Agency)
(Strike inapplicable title)

Secretary
TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable
Copy not approved.
Objections attached.

Check if applicable.
No Attorney General approval
or objection within 30 days
after submission.

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION
4 PA. CODE, CHAPTER 191
ALTERATION OF LOCAL ELECTION DISTRICTS

PREAMBLE

NOTICE OF PROPOSED RULEMAKING
TITLE 4-ADMINISTRATION
DEPARTMENT OF STATE

(4 Pa. Code Ch. 191)

Alteration of Local Election Districts

The Department of State (Department) proposes to amend Title 4 by adding Chapter 191 (relating to alteration of local election districts). The act of November 24, 1999, P.L. 543 No. 51 ("act"), 25 P.S. §§ 2745-2750 provides for the manner in which a county board of elections may alter election districts and the manner in which a county board of elections shall report election data. The act, at 25 P.S. § 2750, provides that regulations may be promulgated to administer 25 P.S. §§ 2745-2750.

Purpose: The purpose of the proposed rulemaking is to establish an efficient method for the reporting of alterations to local election districts by the various county boards of elections and to provide for the efficient reporting of election data for the local election districts contained within each county. By requiring the timely reporting of alterations to election districts, the proposed regulations help avoid possible confusion among voters who are directly affected by an election district alteration.

Explanation of Chapter 191:

Chapter 191: Alteration of local election districts.

The Department proposes to adopt Chapter 191 to set forth four sections which include general provisions regarding: Definitions; procedures for implementing alteration of local election districts; procedures for implementing the outcome of alteration of local election districts; procedures for reporting election districts.

Section 191.1. Definitions.

At § 191.1(a), the Department proposes two definitions. The Department proposes to define "boundary" with a cross reference to section 506 of the Pennsylvania Election Code, 25 P.S. § 2706 (relating to district boundaries). The Department reasoned that a cross reference would clarify to the regulated community the meaning of the term and its use within the regulations. The Department also proposes defining "report" to include a signed court order approving the resulting district(s). Section 502 of the Code, 25 P.S. § 2702, requires that a redistricting plan be approved by the Court of Common Pleas prior to being submitted to the Department for review. The Department reasoned that the definition of report should include a signed court order approving the resulting district(s) to show that the county board of elections fulfilled the requirement under

section 502 of the Code before submitting it to the Department. At § 191.1(b), the Department clarified that the definitions in section 102 and 535 of the Code, 25 P.S. § 2602 and 2745, are incorporated into the regulations by reference.

Section 191.2. Procedures for implementing alteration of local election districts.

At § 191.2(a), the Department proposes, as directed at 25 P.S. § 2747(b), that within 30 days of an alteration, the county board of elections shall submit a report to the Bureau. At § 191.2(b), the Department proposes that the county board of elections shall submit its report to the Bureau at least 45 days prior to a primary or an election. The Department reasoned that requiring the reports be submitted to the Bureau 45 days prior to a primary or an election would give the Bureau time to review the reports in order to know the boundaries of each local election district which would lend to accuracy and efficiency on the day of the primary or the election.

Section 191.3. Procedures for implementing the outcome of alteration of local election districts.

At § 191.3(a), the Department proposes that the county board of elections or voter registration commission shall enter the outcome of the alteration in the Statewide Uniform Registry of Electors (SURE), after completing all requirements. The Department reasoned that the proposed requirement efficiently updates the SURE system that is used to produce district registers (commonly called poll books).

At § 191.3(b), the Department proposes that if a county alters the election district of an elector, the county board of elections shall send that elector a new voter identification card, as provided at 25 Pa.C.S. § 1328(c)(2). The Department reasoned that the added language makes certain that electors receive new voter identification cards if they are affected by the alteration of a local election district.

Section 191.4. Procedures for reporting election results.

Section 539 of the Code, 25 P.S. 2749 (regarding election results; registration) requires the county board of elections to provide to the Bureau a report with the election results. At § 191.4, the Department proposes that the county board of elections shall report either electronically in the format prescribed by the Secretary of the Commonwealth or on the paper form provided by the Secretary of the Commonwealth. The Department reasoned that uniformity in the reports provided to the Bureau would increase accuracy and efficiency in configuring the results of an election.

Fiscal Impact: The proposed rulemaking will have a negligible impact upon the Department and the county boards of elections because the rulemaking does not require the implementation of new programs or processes.

Paperwork Requirements: The paperwork requirements will not be substantially altered as a result of the proposed rulemaking.

Regulatory Review:

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 13, 2008, the Department of State (Department) submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Senate and House State Government Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department.

Responses to Comments:

Contact Persons: Interested persons may contact Shauna C. Graves, Assistant Counsel, Department of State, 210 North Office Building, Harrisburg, PA 17120-0039, shgraves@state.pa.us. Comments must be received by _____, 2008 (within 30 days of publication in the *Pennsylvania Bulletin*).

TITLE 4. ADMINISTRATION

PART VIII. BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION

SUBPART F. REDISTRICTING

CHAPTER 191. ALTERATION OF LOCAL ELECTION DISTRICTS

Sec.

191.1. Definitions.

191.2. Procedures for implementing alteration of local election districts.

191.3. Procedures for implementing the outcome of alteration of local election districts.

191.4. Procedures for reporting election results.

(Editor's Note: The following consists of all new regulatory language but for ease of reading the text has not been underlined.)

Statutory requirements: These regulations will address details of the statutory requirements at sections 537 & 539 of the Pennsylvania Election Code, 25 P.S. §§ 2747 & 2749. The statutory authority to promulgate regulations is section 540 of the Pennsylvania Election Code, 25 P.S. § 2750.

§ 191.1 Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

Boundaries—The physical requirements for the resulting election district boundaries as set forth in the Pennsylvania Election Code. The requirements relating to congressional and legislative districts are set forth in section 506 of the Pennsylvania Election Code, 25 P.S. § 2706.

Report—A report filed by a county board of elections with the Bureau of Commissions, Elections and Legislation (bureau) pursuant to the provisions of the Pennsylvania Election Code relating to alterations after period of restriction shall include the following:

(1) Maps of:

(i) the resulting district(s) and

(ii) the previous district(s).

(2) Verbal description of:

(i) the resulting district(s) and

(ii) the previous district(s).

(3) a signed court order approving the resulting district(s); and

(4) a description of the reasons for the alteration, including precinct splits, mergers, renaming of districts or boundary changes.

(b) The definitions of sections 102 and 535 of the Pennsylvania Election Code, 25 P.S. §§ 2602 and 2745, are hereby incorporated by reference.

§ 191.2 Procedures for implementing alteration of local election districts.

(a) Within 30 days of an alteration, the county board of elections shall submit a report, as defined at section 191.1(a), to the bureau.

(b) The report must be submitted to the bureau at least 45 days prior to a primary or an election. If the county board of elections does not submit the report at least 45 days prior to the primary or election, the election district alteration may not be implemented until the next following primary or election.

§ 191.3 Procedures for implementing the outcome of alteration of local election districts.

(a) The county board of elections or voter registration commission shall enter the outcome of the alteration in the Statewide Uniform Registry of Electors (SURE), only after it has completed all of the procedures outlined in section 191.2.

(b) If a county alters the election district of an elector, the county board of elections shall send that elector a new voter identification card, as provided at 25 Pa.C.S. § 1328(c)(2).

§ 191.4 Procedures for reporting election results

The county board of elections shall report election results for each election district within the county either electronically in the format prescribed by the Secretary of the Commonwealth or on the paper form provided by the Secretary of the Commonwealth.



**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

Shauna C. Graves, Assistant Counsel

E-mail: shgraves@state.pa.us

August 14, 2008

The Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
14th Floor, Harestown 2
333 Market Street
Harrisburg, PA 17101

Re: Proposed Rulemaking of the Department of State
Alteration of Local Election Districts (16-42)

Dear Chairman Coccodrilli:

Enclosed is a copy of the proposed regulation of the Department of State, Bureau of Commissions, Elections and Legislation pertaining to the alteration of local election districts. This package was delivered yesterday but due to a clerical error, we are resubmitting a correct version. Please discard the copy you received yesterday. I apologize for any confusion.

The Department of State, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

Shauna C. Graves, Assistant Counsel
Bureau of Commissions,
Elections & Legislation

SCG/kmh
Enclosures

cc: Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Chet Harhut, Commissioner, Bureau of Commissions, Elections & Legislation

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16-42
 SUBJECT: ALTERATION OF LOCAL ELECTION DISTRICTS
 AGENCY: DEPARTMENT OF STATE
 BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

INDEPENDENT REGULATORY
REVIEW COMMISSION

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/14	<i>Marianne Spizuri</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
8/14	<i>Tutoma Hall</i>	MAJORITY CHAIRMAN <u>JOSEPHS</u>
8/14	<i>Mark Piccola</i>	SENATE COMMITTEE ON STATE GOVERNMENT
8/14	<i>Mark Piccola</i>	MAJORITY CHAIRMAN <u>PICCOLA</u>
8/14/08	<i>Kathy Coups</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8/14	<i>ng Phelps</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)