

Portman's regulatory reform bill will increase costs, bureaucracy

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(Photo: Provided)

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Senators Rob Portman (R-Ohio) and Heidi Heitkamp (D-N.D.) recently introduced a bill called the Regulatory Accountability Act of 2017, the supposed purpose of which is to improve the federal regulatory process. The reality, however, is quite different.

Instead of improving regulatory accountability, the proposed legislation would make regulation more expensive and prevent protective agencies from effectively enforcing our nation's laws. Instead of actual regulatory reform, it is closely aligned with the Trump/Bannon strategy to "deconstruct the administrative state."

The United States has had an administrative arm since the first act of Congress was signed in 1789 because government cannot function without agencies to implement legislation. The Regulatory Accountability Act, though, is dedicated to frustrating that implementation and impeding effective government.

Agencies apply scientific assessment, empirical data, and technical expertise in solving complex social and economic problems. They cannot act on their own. Instead, agencies must follow the directions given to them by Congress, and they follow those directions through a rigorous and thorough process, which, at a minimum, includes: proposing a regulation; sending it out for public comment; receiving and analyzing those comments; stating reasons for the rule; and publishing the rule. Additionally, significant rules undergo a further cost-benefit analysis. If challenged, the rule must then pass judicial scrutiny. Individual agencies may add additional requirements, and it can take more than five years to complete a single standard. Do we really need more bureaucratic procedures?

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Do you have something to say to your congressmen? Tell The Enquirer. Shown, Sen. Rob Portman, R-Terrace Park, speaks on the west lawn of the Capitol Hill in Washington, D.C., last spring. (Photo: The Enquirer/Meg Vogel)

Portman's Regulatory Accountability Act is the latest version of legislation he has unsuccessfully offered several times since 2011. As with the earlier versions, the legislation is ostensibly intended to reduce costs. In fact, however, it will have the opposite effect.

One provision, for example, requires agencies to assess a "reasonable number of alternatives" in addition to the alternative already proposed. The legislation also encourages an expansion of cost-benefit analysis; increases the number of unwieldy formal hearings; and invites more, not less, litigation. Instead of streamlining the process, these "reforms" consciously and inefficiently prolong it.

This legislation appears to affect all regulations. Reality, though, is quite different and pernicious in two ways. First, parties with access will work government to obtain licenses, contracts, patents, development rights, subsidies, tax breaks, and the like. These parties will reap the financial benefits of government largess with little concern about opposition from ordinary citizens and consumers who find it costly to organize and whose access to government is limited.

Second, the legislation will have the direct and intended effect of weakening regulations designed to protect public health, safety, and the environment. Simply, well-off parties opposed to regulation can kill it by using the bill's redundant procedures.

The Regulatory Accountability Act will not accomplish what it sets out to do. It will increase the cost of the regulatory process, increase the likelihood of litigation, ease the path for political influence by unaccountable corporate special interests, and hamper economic growth as business planning becomes more costly and uncertain.

Because of heightened politicization, the bill will also reduce the efficiency and efficacy of government. If regulations are up for grabs every election cycle, then Washington's regulatory lawyers and lobbyists will be handsomely remunerated as costs are imposed upon consumers, citizens, and the economy.

Real reform happens when government is allowed to govern and implement the will of Congress as expressed in legislation. Reform fails when it is intentionally bogged down with more roadblocks and hurdles as this regressive legislation intends.

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