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**CONGRESSWOMAN SHEILA JACKSON LEE, OF TEXAS**

**RULES COMMITTEE TALKING POINTS**

**H.R. 527**

**“REGULATORY FLEXIBILITY IMPROVEMENTS ACT OF  
2011”**

**AMENDMENT #1**



**NOVEMBER 29, 2011**

Mr. Chairman, I would like to offer my amendment to H.R. 527, the “Regulatory Flexibility Improvements Act of 2011.” My amendment # 1 would require a GAO study to determine the cost of carrying out this bill and the effect it will have on federal agency rulemaking. In addition, the report must contain information on the impact of repealing the ability of an agency to waive provisions in the Regulatory Flexibility Act when responding to an emergency.

- This bill would amend the Regulatory Flexibility Act of 1980 in such a manner that it would result in significant delays in the agency rule-making processes by mandating multi-agency analyses of both direct and indirect costs for rules proposed or finalized by a single agency.

- My amendment simply requires that the Comptroller General, within 2 years after the enactment of the legislation, issue a report to Congress on the cost effectiveness of the changes implemented by this Act.
  - The report would list all additional costs and resources that each agency will have to expend to carry out this Act and the amendments made by the Act.
  - It would also show the effect of this Act and its amendments on the efficiency of the rule making process, including the amount of time required to make and implements a new rule.
  - This study would report on any impact that this Act or its amendments would have on the ability to implement new agencies in the event of an emergency.
  - Lastly, this study would examine the overall compliance of agencies with the Regulatory Flexibility Improvement Act (RFIA).

- By requiring that multiple agencies conduct detailed economic analyses of a rule proposed by a single agency, each agency will have to expend time and resources to uncover the indirect economic effects of the proposed rule. This is unduly burdensome on a process that is already sufficient in length, as rules currently require a 30 day period after publication prior to effectiveness.
- There is one overarching problem with H.R. 527. Although it claims to make improvements, one thing it does not do is provide the needed clarification that the GAO has repeatedly pointed out, and that the agencies have asked for.
  - In the past, there have been GAO reports showing incidents of agency noncompliance with the current regulatory flexibility rules for rule making. The reports cited that this noncompliance is due largely to confusion surrounding the meaning of “*significant*

*economic impact on a substantial number of small entities.”* Agencies have expressed the need to better clarification of this clause to aide them in determining when rule making analysis and review is necessary.

- Another part of this expanded review and analysis called for in H.R. 527 that concerns me is the potential it has to impede upon emergency rulemaking. Every so often, there are instances when an agency has to implement a new rule or regulation in response to an emergency. Under the current law, there is an exception allowing agencies to bypass the review process in the event of an emergency. The provisions of this bill cloud that exception.
- Furthermore, the rule-making process is made more cumbersome and expensive by requiring multi-agency review. If the purported reason for amending the Regulatory Flexibility Act with this bill is to save the American taxpayers

money by including provisions requiring analyses of direct and indirect effects of proposed rules, then it should follow that the costs of implementing such provisions should not outweigh the benefits they provide.

- My amendment will ensure just that by requiring the Comptroller General to issue a report to Congress that includes (1) the additional costs and resources that each agency must expend to maintain compliance with this Act, (2) an analysis of the effect that this Act has on the efficiency of the rule-making process, and (3) an analysis of the potential difficulties that may arise in an emergency situation in which an agency must implement new rules.

- If the process by which government agencies create rules is changed to require the disclosure of all costs associated with a proposed rule, then shouldn't the Act that makes such changes have its own costs to the American taxpayers disclosed? My amendment will ensure that this disclosure is made to the public upon this legislation's enactment.

Thank you Mr. Chairman, and I yield back the balance of my time.