

SENATE BILL 241

P3

3lr1231

By: **Senators Jacobs, Astle, Colburn, Getty, Kelley, Kittleman, Reilly, and Stone**

Introduced and read first time: January 18, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Administrative Procedure Act – Proposed Regulations – Public Hearings and**
3 **Voting**

4 FOR the purpose of requiring the Joint Committee on Administrative, Executive, and
5 Legislative Review to hold a public hearing regarding a proposed regulation
6 under certain circumstances; requiring the Committee, under certain
7 circumstances, to vote on whether to oppose the adoption of a certain regulation
8 under a certain provision of law; requiring that members of the Committee be
9 provided certain notice regarding the scheduling of a certain meeting; and
10 generally relating to public hearings and voting regarding proposed regulations.

11 BY repealing and reenacting, with amendments,
12 Article – State Government
13 Section 10–111
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2012 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – State Government**

19 10–111.

20 (a) (1) Except as provided in subsection (b) of this section, a unit may not
21 adopt a proposed regulation until:

22 (i) after submission of the proposed regulation to the
23 Committee for preliminary review under § 10–110 of this subtitle; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) at least 45 days after its first publication in the Register.

2 (2) (i) If the Committee determines that an appropriate review
3 cannot reasonably be conducted within 45 days and that an additional period of review
4 is required, it may delay the adoption of the regulation by so notifying the
5 promulgating unit and the Division of State Documents, in writing, prior to the
6 expiration of the 45-day period.

7 (ii) If notice is provided to the promulgating unit pursuant to
8 subparagraph (i) of this paragraph, the promulgating unit may not adopt the
9 regulation until it notifies the Committee, in writing, of its intention to adopt the
10 regulation and provides the Committee with a further period of review of the
11 regulation that terminates not earlier than the later of the following:

12 1. the 30th day following the notice provided by the
13 promulgating unit under this subparagraph; or

14 2. the 105th day following the initial publication of the
15 regulation in the Register.

16 (3) The promulgating unit shall permit public comment for at least 30
17 days of the 45-day period under paragraph (1)(ii) of this subsection.

18 (4) (I) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
19 **(B)(2)(II) OF THIS SECTION, IF AT LEAST 5 MEMBERS OF THE COMMITTEE**
20 **REQUEST A PUBLIC HEARING ON A REGULATION, THE COMMITTEE SHALL HOLD**
21 **A PUBLIC HEARING.**

22 (II) 1. **IF A PUBLIC HEARING IS HELD UNDER**
23 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMITTEE SHALL VOTE ON**
24 **WHETHER TO OPPOSE THE ADOPTION OF THE REGULATION UNDER § 10-111.1**
25 **OF THIS SUBTITLE AT THE HEARING OR AT A MEETING OF THE COMMITTEE**
26 **SUBSEQUENT TO THE HEARING.**

27 2. **IF A VOTE ON THE REGULATION IS NOT TAKEN AT**
28 **THE PUBLIC HEARING OR IMMEDIATELY THEREAFTER, THE COMMITTEE**
29 **MEMBERS SHALL BE PROVIDED AT LEAST 1 WEEK'S NOTICE OF THE**
30 **SCHEDULING OF ANY SUBSEQUENT MEETING TO VOTE ON THE REGULATION.**

31 (b) (1) The unit may adopt a proposed regulation immediately if the unit:

32 (i) declares that the emergency adoption is necessary;

33 (ii) submits the proposed regulation to the Committee and the
34 Department of Legislative Services, together with the fiscal impact statement required
35 under subsection (c) of this section; and

1 (iii) has the approval of the Committee for the emergency
2 adoption.

3 (2) (i) Subject to subparagraphs (ii), (iii), and (iv) of this
4 paragraph, the approval of the Committee may be given:

5 1. by a majority of its members who are present and
6 voting at a public hearing or meeting of the Committee; or

7 2. if staff of the Committee tries but is unable to contact
8 a majority of the members of the Committee in a timely manner and immediate
9 adoption is necessary to protect the public health or safety, by its presiding Chairman
10 or, if its presiding Chairman is unavailable, by its cochair.

11 (ii) If a member of the Committee requests a public hearing on
12 the emergency adoption of a regulation, the Committee shall hold a public hearing.

13 (iii) 1. If a public hearing is held on the emergency adoption
14 of a regulation, the Committee may not approve the emergency adoption except by a
15 majority vote of the members present and voting at the hearing or at a meeting of the
16 Committee subsequent to the hearing.

17 2. If a vote on the emergency regulation is not taken at
18 the public hearing or immediately thereafter, the Committee members shall be
19 provided at least 1 week's notice of the scheduling of any subsequent meeting to vote
20 on the regulation.

21 (iv) Unless the Governor declares that immediate adoption is
22 necessary to protect the public health or safety, the Committee may not approve the
23 emergency adoption of a regulation earlier than 10 business days after receipt of the
24 regulation by the Committee and the Department of Legislative Services.

25 (3) If there is no request for a public hearing, the staff of the
26 Committee may poll, in person, by telephone, or in writing:

27 (i) the members of the Committee; or

28 (ii) if staff of the Committee tries but is unable to contact a
29 majority of the members of the Committee in a timely manner and immediate
30 adoption is necessary to protect the public health or safety, the presiding Chairman or
31 the cochair.

32 (4) (i) The Committee may impose, as part of its approval, any
33 condition.

1 (ii) The Committee shall impose, as part of its approval, a time
2 limit not to exceed 180 days on each request for emergency status.

3 (iii) If the unit does not adopt the regulation finally before the
4 time limit expires, the status of the regulation reverts to its status before the
5 emergency adoption.

6 (5) The Committee may rescind its approval by a majority of its
7 members present and voting at a public hearing or meeting of the Committee.

8 (c) (1) The fiscal impact statement, prepared by the unit and submitted
9 under subsection (b) of this section, shall state:

10 (i) an estimate of the impact of the emergency regulation on the
11 revenues and expenditures of the State;

12 (ii) whether the State budget for the fiscal year in which the
13 regulation will become effective contains an appropriation of the funds necessary for
14 the implementation of the emergency regulation;

15 (iii) if an appropriation is not contained in the State budget, the
16 source of the funds necessary for the implementation of the emergency regulation; and

17 (iv) whether the emergency regulation imposes a mandate on a
18 local government unit.

19 (2) If the emergency regulation imposes a mandate on a local
20 government unit, the fiscal impact statement shall:

21 (i) indicate whether the regulation is required to comply with a
22 federal statutory or regulatory mandate;

23 (ii) if the information may be practicably obtained given the
24 emergency circumstances of the regulations, include an estimate of the impact of the
25 emergency regulation on the revenues and expenditures of local government units;
26 and

27 (iii) if applicable, and if the required data is available, include
28 the estimated effect on local property tax rates.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2013.