

HOUSE BILL 817

P3

(3lr2241)

ENROLLED BILL

— Health and Government Operations/Education, Energy, and the Environment —

Introduced by ~~Delegate Rosenberg~~ Delegates Rosenberg, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Szeliga, Taveras, White, and Woods

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Government – Regulation Procedures and the Maryland Register**

3 FOR the purpose of requiring the Division of State Documents to make a certain number
4 of issues of the Maryland Register available to the public for online searching;
5 altering the requirements for a unit of State government to submit certain proposed
6 or emergency regulations, work plans, and evaluation reports to the Joint Committee
7 on Administrative, Executive, and Legislative Review, the Department of Legislative
8 Services, and the Administrator of the Division of State Documents; requiring a unit
9 that wants to alter the text of a proposed regulation after it has been submitted to
10 the Joint Committee and the Department ~~of Legislative Services~~ to take certain
11 actions; requiring a unit to provide a certain notice to the Joint Committee in a
12 certain manner; extending a certain period of review for a certain regulation;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 requiring a certain notice to be published in the Maryland Register within a certain
 2 time period after receipt of the notice by the Joint Committee; requiring the
 3 Department ~~of Legislative Services~~ to adopt certain procedures for the submission of
 4 proposed and emergency regulations, work plans, and evaluation reports to the Joint
 5 Committee by a unit; providing that compliance with certain submission
 6 requirements does not satisfy certain other submission requirements; requiring the
 7 Administrator to consult with the Department ~~of Legislative Services~~ on certain
 8 matters; requiring the Administrator to send a receipt of a certain transmittal to a
 9 certain unit under certain circumstances; requiring the ~~Administrator, on or before~~
 10 ~~a certain date Department of Information Technology, in consultation with the~~
 11 ~~Administrator,~~ to develop and maintain a certain electronic filing system in
 12 accordance with certain requirements on or before a certain date; requiring the
 13 ~~Administrator to consult with the Department~~ Department of Information
 14 ~~Technology to consult with the Administrator and the Department of Legislative~~
 15 ~~Services~~ Administrator to consult with the Department on certain matters; and
 16 generally relating to regulatory procedures and the Maryland Register.

17 BY repealing and reenacting, without amendments,
 18 Article – State Government
 19 Section 7–201(a) and (e) and 10–101
 20 Annotated Code of Maryland
 21 (2021 Replacement Volume and 2022 Supplement)

22 BY repealing and reenacting, with amendments,
 23 Article – State Government
 24 Section 7–206.2(b), 10–110(c)(1), and 10–111(a)
 25 Annotated Code of Maryland
 26 (2021 Replacement Volume and 2022 Supplement)

27 BY adding to
 28 Article – State Government
 29 Section 10–111.2(c)
 30 Annotated Code of Maryland
 31 (2021 Replacement Volume and 2022 Supplement)

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

34 Article – State Government

35 7–201.

36 (a) In this subtitle the following words have the meanings indicated.

37 (e) “Division” means the Division of State Documents.

38 7–206.2.

1 (b) Notwithstanding any other provision of law, the Division shall make available
2 to the public, at no cost, direct online searching of:

3 (1) the Code of Maryland Regulations (COMAR);

4 (2) **AT LEAST THE 15 MOST RECENT ISSUES OF** the Maryland Register;
5 and

6 (3) any other material the Division determines to be in the public interest.

7 10–101.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) “Administrator” means the Administrator of the Division of State Documents.

10 (c) “Committee” means the Joint Committee on Administrative, Executive, and
11 Legislative Review.

12 (d) “Local government unit” means:

13 (1) a county;

14 (2) a municipal corporation;

15 (3) a special district that is established by State law and that operates
16 within a single county;

17 (4) a special district that is established by a county pursuant to public
18 general law; or

19 (5) an office, board, or department that is established in each county under
20 State law and that is funded, pursuant to State law, at least in part by the county governing
21 body.

22 (e) “Mandate” means a directive in a regulation that requires a local government
23 unit to perform a task or assume a responsibility that has a discernible fiscal impact on the
24 local government unit.

25 (f) “Register” means the Maryland Register.

26 (g) (1) “Regulation” means a statement or an amendment or repeal of a
27 statement that:

28 (i) has general application;

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1 (ii) has future effect;

2 (iii) is adopted by a unit to:

3 1. detail or carry out a law that the unit administers;

4 2. govern organization of the unit;

5 3. govern the procedure of the unit; or

6 4. govern practice before the unit; and

7 (iv) is in any form, including:

8 1. a guideline;

9 2. a rule;

10 3. a standard;

11 4. a statement of interpretation; or

12 5. a statement of policy.

13 (2) "Regulation" does not include:

14 (i) a statement that:

15 1. concerns only internal management of the unit; and

16 2. does not affect directly the rights of the public or the
17 procedures available to the public;

18 (ii) a response of the unit to a petition for adoption of a regulation,
19 under § 10–123 of this subtitle; or

20 (iii) a declaratory ruling of the unit as to a regulation, order, or
21 statute, under Subtitle 3 of this title.

22 (3) "Regulation", as used in §§ 10–110 and 10–111.1 of this subtitle, means
23 all or any portion of a regulation.

24 (h) "Small business" has the meaning stated in § 2–1505.2 of this article.

25 (i) "Substantively" means in a manner substantially affecting the rights, duties,
26 or obligations of:

1 (1) a member of a regulated group or profession; or

2 (2) a member of the public.

3 (j) “Unit” means an officer or unit authorized by law to adopt regulations.

4 10–110.

5 (c) (1) **(I)** At least 15 days before the date a proposed regulation is
6 submitted to the Maryland Register for publication under § 10–112 of this subtitle, **AND IN**
7 **ACCORDANCE WITH § 10–111.2(C) OF THIS SUBTITLE**, the promulgating unit shall
8 submit the proposed regulation to the Committee [and], the Department of Legislative
9 Services, **AND THE ADMINISTRATOR**.

10 **(II) IF A UNIT WANTS TO ALTER THE TEXT OF A PROPOSED**
11 **REGULATION AFTER IT HAS BEEN SUBMITTED TO THE COMMITTEE AND THE**
12 **DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH SUBPARAGRAPH**
13 **(I) OF THIS PARAGRAPH AND BEFORE THE PROPOSED REGULATION IS PUBLISHED IN**
14 **THE MARYLAND REGISTER, SO THAT ANY PART OF THE TEXT AS SUBMITTED FOR**
15 **PUBLICATION DIFFERS SUBSTANTIVELY ~~SUBSTANTIVELY~~ FROM THE TEXT**
16 **PREVIOUSLY SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF**
17 **LEGISLATIVE SERVICES, THE UNIT SHALL:**

18 1. NOTIFY THE COMMITTEE, THE DEPARTMENT OF
19 LEGISLATIVE SERVICES, AND THE ADMINISTRATOR OF THE CHANGE;

20 2. WITHDRAW THE PROPOSED REGULATION; AND

21 3. RESUBMIT THE PROPOSED REGULATION WITH THE
22 ALTERED TEXT TO THE COMMITTEE, THE DEPARTMENT OF LEGISLATIVE SERVICES,
23 AND THE ADMINISTRATOR AT LEAST 15 DAYS PRIOR TO PUBLICATION IN THE
24 REGISTER.

25 **(III) 1. IF A UNIT WANTS TO MAKE A NONSUBSTANTIVE**
26 **CHANGE TO THE TEXT OF A PROPOSED REGULATION AFTER IT HAS BEEN SUBMITTED**
27 **TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES IN**
28 **ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH AND BEFORE THE**
29 **PROPOSED REGULATION IS PUBLISHED IN THE MARYLAND REGISTER, THE UNIT**
30 **SHALL:**

31 **A. NOTIFY THE COMMITTEE, THE DEPARTMENT OF**
32 **LEGISLATIVE SERVICES, THE OFFICE OF THE GENERAL ASSEMBLY COUNSEL, AND**
33 **THE ADMINISTRATOR OF THE CHANGE; AND**

1 **B. INCLUDE WITH THE NOTICE A CERTIFICATE FROM THE**
 2 **UNIT THAT THE CHANGE IS NONSUBSTANTIVE, INCLUDING A DESCRIPTION OF THE**
 3 **NATURE OF EACH CHANGE AND THE BASIS FOR THE CONCLUSION.**

4 **2. NOTWITHSTANDING SUBSUBPARAGRAPH 1 OF THIS**
 5 **SUBPARAGRAPH, IF THE OFFICE OF THE GENERAL ASSEMBLY COUNSEL**
 6 **DETERMINES THAT A CHANGE TO A PROPOSED REGULATION UNDER**
 7 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS NOT A NONSUBSTANTIVE CHANGE,**
 8 **THE UNIT SHALL WITHDRAW AND RESUBMIT THE PROPOSED REGULATION IN**
 9 **ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

10 10–111.

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

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

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

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

20 (ii) If notice is provided to the promulgating unit pursuant to
 21 subparagraph (i) of this paragraph, the promulgating unit may not adopt the regulation
 22 until it notifies the Committee, in writing **BY U.S. MAIL AND E-MAIL**, of its intention to
 23 adopt the regulation and provides the Committee with a further period of review of the
 24 regulation that terminates not earlier than the later of the following:

25 1. the **[30th] 60TH** day following the notice provided by the
 26 promulgating unit under this subparagraph; or

27 2. the 105th day following the initial publication of the
 28 regulation in the Register.

29 **(III) NOTICE GIVEN UNDER SUBPARAGRAPH (II) OF THIS**
 30 **PARAGRAPH TO THE COMMITTEE OF A UNIT'S INTENTION TO ADOPT A REGULATION**
 31 **SHALL BE PUBLISHED IN THE REGISTER WITHIN 30 DAYS AFTER RECEIPT OF THE**
 32 **NOTICE BY THE COMMITTEE.**

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

1 10-111.2.

2 (c) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ADOPT
3 PROCEDURES FOR THE REQUIRED SUBMISSION OF PROPOSED AND EMERGENCY
4 REGULATIONS, WORK PLANS, AND EVALUATION REPORTS TO THE COMMITTEE BY A
5 UNIT.

6 (2) (I) EACH UNIT SHALL FOLLOW THE PROCEDURES ADOPTED BY
7 THE DEPARTMENT OF LEGISLATIVE SERVICES UNDER THIS SUBSECTION.

8 (II) A UNIT SUBMITTING A PROPOSED REGULATION TO THE
9 COMMITTEE SHALL INCLUDE THE TEXT OF THE PROPOSED REGULATION AND THE
10 NOTICE OF PROPOSED ADOPTION THAT IS REQUIRED TO BE SUBMITTED TO THE
11 ADMINISTRATOR UNDER § 10-112(A)(2) OF THIS SUBTITLE.

12 (3) (I) THE ADMINISTRATOR SHALL CONSULT WITH THE
13 DEPARTMENT OF LEGISLATIVE SERVICES TO ENSURE THAT NOTICE OF THE
14 RECEIPT OF PROPOSED AND EMERGENCY REGULATIONS BY THE ADMINISTRATOR
15 UNDER THIS TITLE IS TRANSMITTED TO AND RECEIVED BY THE COMMITTEE AND
16 THE DEPARTMENT OF LEGISLATIVE SERVICES IN A TIMELY MANNER.

17 (II) WHEN THE ADMINISTRATOR TRANSMITS A PROPOSED OR
18 EMERGENCY REGULATION TO THE COMMITTEE AND THE DEPARTMENT OF
19 LEGISLATIVE SERVICES, THE ADMINISTRATOR SHALL ALSO PROVIDE RECEIPT OF
20 THE TRANSMITTAL TO THE UNIT THAT ORIGINALLY SUBMITTED THE REGULATION
21 TO THE DIVISION.

22 (4) (I) SUBMISSION OF A REGULATION, A WORK PLAN, OR AN
23 EVALUATION REPORT TO THE COMMITTEE UNDER THIS SUBSECTION DOES NOT
24 SATISFY ANY REQUIREMENT UNDER THIS SUBTITLE FOR A UNIT TO SUBMIT A
25 REGULATION, A WORK PLAN, OR AN EVALUATION REPORT TO THE ADMINISTRATOR
26 FOR PUBLICATION IN THE REGISTER.

27 (II) ANY REQUIREMENT UNDER THIS SUBTITLE FOR A UNIT TO
28 SUBMIT A REGULATION TO THE COMMITTEE MAY NOT BE SATISFIED BY SUBMITTING
29 THE REGULATION TO THE DIVISION.

30 SECTION 2. AND BE IT FURTHER ENACTED, That:

31 (a) On or before October 1, 2023, ~~the Department of Information Technology, in~~
32 ~~consultation with~~ the Administrator of the Division of State Documents, shall develop and
33 maintain an electronic filing system for use by units of State government, the Joint
34 Committee on Administrative, Executive, and Legislative Review, the Department of

1 Legislative Services, and the Division of State Documents for the submission and tracking
2 of proposed and emergency regulations from the time of submission to the Joint Committee
3 through publication in the Maryland Register and final approval by the unit or, in the case
4 of an emergency regulation, approval by the Joint Committee.

5 (b) The ~~Administrator shall consult with the Department~~ ~~Department of~~
6 ~~Information Technology shall consult with the Administrator and the Department of~~
7 ~~Legislative Services~~ *Administrator shall consult with the Department* on the functionality
8 and security of the electronic filing system.

9 (c) The electronic filing system shall:

10 (1) allow a unit to upload, in a format approved by the Administrator and
11 the Department ~~of Legislative Services~~, the text of a proposed or emergency regulation
12 along with all statutorily required information;

13 (2) contain a tracking function and automated notification system by which
14 the Joint Committee and the Department ~~of Legislative Services~~ shall be sent notice of new
15 or updated proposed or emergency regulations;

16 (3) prohibit anyone other than Division employees from modifying the text
17 of a submitted proposed or emergency regulation or any other required submittals;

18 (4) allow the Joint Committee and the Department ~~of Legislative Services~~
19 to access and download, in a format required by the Department ~~of Legislative Services~~, all
20 information submitted by a unit relating to a proposed or emergency regulation;

21 (5) allow the Joint Committee and the Department ~~of Legislative Services~~
22 to approve emergency regulations, including providing for the time period during which the
23 emergency regulation is approved;

24 (6) allow a unit to view all information pertaining to a proposed or
25 emergency regulation submitted by the unit, including all tracking information;

26 (7) allow the tracking of regulatory holds; and

27 (8) include the functionalities necessary for the Division to publish the
28 Maryland Register.

29 (d) On or before December 31, 2023, the ~~Administrator~~ ~~Department of~~
30 ~~Information Technology~~ *Administrator* shall report to the Joint Committee on
31 Administrative, Executive, and Legislative Review, in accordance with § 2-1257 of the
32 State Government Article, on the status of the development and deployment of the
33 electronic filing system required under this section.

34 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
35 effect June 1, 2023.

1 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
2 3 of this Act, this Act shall take effect October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.