

SENATE BILL 649

P3

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CF HB 817

By: **Senators Elfreth, M. Washington, and Ferguson**

Introduced and read first time: February 6, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2023

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;
13 requiring a certain notice to be published in the Maryland Register within a certain
14 time period after receipt of the notice by the Joint Committee; requiring the
15 Department of Legislative Services to adopt certain procedures for the submission of
16 proposed and emergency regulations, work plans, and evaluation reports to the Joint
17 Committee by a unit; providing that compliance with certain submission
18 requirements does not satisfy certain other submission requirements; requiring the
19 Administrator to consult with the Department of Legislative Services on certain
20 matters; requiring the Administrator to send a receipt of a certain transmittal to a
21 certain unit under certain circumstances; requiring the ~~Administrator, on or before~~
22 ~~a certain date,~~ Department of Information Technology, in consultation with the
23 Administrator to develop and maintain a certain electronic filing system in
24 accordance with certain requirements on or before a certain date; requiring the
25 ~~Administrator to consult with the Department~~ Department of Information

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.



1 Technology to consult with the Administrator and the Department of Legislative
 2 Services on certain matters; and generally relating to regulatory procedures and the
 3 Maryland Register.

4 BY repealing and reenacting, without amendments,
 5 Article – State Government
 6 Section 7–201(a) and (e) and 10–101
 7 Annotated Code of Maryland
 8 (2021 Replacement Volume and 2022 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – State Government
 11 Section 7–206.2(b), 10–110(c)(1), and 10–111(a)
 12 Annotated Code of Maryland
 13 (2021 Replacement Volume and 2022 Supplement)

14 BY adding to
 15 Article – State Government
 16 Section 10–111.2(c)
 17 Annotated Code of Maryland
 18 (2021 Replacement Volume and 2022 Supplement)

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

21 **Article – State Government**

22 7–201.

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

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

25 7–206.2.

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

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

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

30 and

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

32 10–101.

- 1 (a) In this subtitle the following words have the meanings indicated.
- 2 (b) “Administrator” means the Administrator of the Division of State Documents.
- 3 (c) “Committee” means the Joint Committee on Administrative, Executive, and
4 Legislative Review.
- 5 (d) “Local government unit” means:
- 6 (1) a county;
- 7 (2) a municipal corporation;
- 8 (3) a special district that is established by State law and that operates
9 within a single county;
- 10 (4) a special district that is established by a county pursuant to public
11 general law; or
- 12 (5) an office, board, or department that is established in each county under
13 State law and that is funded, pursuant to State law, at least in part by the county governing
14 body.
- 15 (e) “Mandate” means a directive in a regulation that requires a local government
16 unit to perform a task or assume a responsibility that has a discernible fiscal impact on the
17 local government unit.
- 18 (f) “Register” means the Maryland Register.
- 19 (g) (1) “Regulation” means a statement or an amendment or repeal of a
20 statement that:
- 21 (i) has general application;
- 22 (ii) has future effect;
- 23 (iii) is adopted by a unit to:
- 24 1. detail or carry out a law that the unit administers;
- 25 2. govern organization of the unit;
- 26 3. govern the procedure of the unit; or
- 27 4. govern practice before the unit; and
- 28 (iv) is in any form, including:

- 1 1. a guideline;
- 2 2. a rule;
- 3 3. a standard;
- 4 4. a statement of interpretation; or
- 5 5. a statement of policy.

6 (2) "Regulation" does not include:

7 (i) a statement that:

- 8 1. concerns only internal management of the unit; and
- 9 2. does not affect directly the rights of the public or the
10 procedures available to the public;

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

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

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

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

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

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

21 (2) a member of the public.

22 (j) "Unit" means an officer or unit authorized by law to adopt regulations.

23 10–110.

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

1 **(II) IF A UNIT WANTS TO ALTER THE TEXT OF A PROPOSED**
2 **REGULATION AFTER IT HAS BEEN SUBMITTED TO THE COMMITTEE AND THE**
3 **DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH SUBPARAGRAPH**
4 **(I) OF THIS PARAGRAPH, SO THAT ANY PART OF THE TEXT AS SUBMITTED FOR**
5 **PUBLICATION DIFFERS ~~SUBSTANTIVELY~~ FROM THE TEXT PREVIOUSLY SUBMITTED**
6 **TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES, THE UNIT**
7 **SHALL:**

8 **1. NOTIFY THE COMMITTEE, THE DEPARTMENT OF**
9 **LEGISLATIVE SERVICES, AND THE ADMINISTRATOR OF THE CHANGE;**

10 **2. WITHDRAW THE PROPOSED REGULATION; AND**

11 **3. RESUBMIT THE PROPOSED REGULATION WITH THE**
12 **ALTERED TEXT TO THE COMMITTEE, THE DEPARTMENT OF LEGISLATIVE SERVICES,**
13 **AND THE ADMINISTRATOR AT LEAST 15 DAYS PRIOR TO PUBLICATION IN THE**
14 **REGISTER.**

15 10–111.

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

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

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

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

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

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

32 2. the 105th day following the initial publication of the
33 regulation in the Register.

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

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

7 10-111.2.

8 **(C) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ADOPT**
9 **PROCEDURES FOR THE REQUIRED SUBMISSION OF PROPOSED AND EMERGENCY**
10 **REGULATIONS, WORK PLANS, AND EVALUATION REPORTS TO THE COMMITTEE BY A**
11 **UNIT.**

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

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

18 **(3) (I) THE ADMINISTRATOR SHALL CONSULT WITH THE**
19 **DEPARTMENT OF LEGISLATIVE SERVICES TO ENSURE THAT NOTICE OF THE**
20 **RECEIPT OF PROPOSED AND EMERGENCY REGULATIONS BY THE ADMINISTRATOR**
21 **UNDER THIS TITLE IS TRANSMITTED TO AND RECEIVED BY THE COMMITTEE AND**
22 **THE DEPARTMENT OF LEGISLATIVE SERVICES IN A TIMELY MANNER.**

23 **(II) WHEN THE ADMINISTRATOR TRANSMITS A PROPOSED OR**
24 **EMERGENCY REGULATION TO THE COMMITTEE AND THE DEPARTMENT OF**
25 **LEGISLATIVE SERVICES, THE ADMINISTRATOR SHALL ALSO PROVIDE RECEIPT OF**
26 **THE TRANSMITTAL TO THE UNIT THAT ORIGINALLY SUBMITTED THE REGULATION**
27 **TO THE DIVISION.**

28 **(4) (I) SUBMISSION OF A REGULATION, A WORK PLAN, OR AN**
29 **EVALUATION REPORT TO THE COMMITTEE UNDER THIS SUBSECTION DOES NOT**
30 **SATISFY ANY REQUIREMENT UNDER THIS SUBTITLE FOR A UNIT TO SUBMIT A**
31 **REGULATION, A WORK PLAN, OR AN EVALUATION REPORT TO THE ADMINISTRATOR**
32 **FOR PUBLICATION IN THE REGISTER.**

33 **(II) ANY REQUIREMENT UNDER THIS SUBTITLE FOR A UNIT TO**
34 **SUBMIT A REGULATION TO THE COMMITTEE MAY NOT BE SATISFIED BY SUBMITTING**
35 **THE REGULATION TO THE DIVISION.**

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

2 (a) On or before October 1, 2023, ~~the Department of Information Technology, in~~
3 consultation with the Administrator of the Division of State Documents shall develop and
4 maintain an electronic filing system for use by units of State government, the Joint
5 Committee on Administrative, Executive, and Legislative Review, the Department of
6 Legislative Services, and the Division of State Documents for the submission and tracking
7 of proposed and emergency regulations from the time of submission to the Joint Committee
8 through publication in the Maryland Register and final approval by the unit or, in the case
9 of an emergency regulation, approval by the Joint Committee.

10 (b) ~~The Administrator shall consult with the Department~~ Department of
11 Information Technology shall consult with the Administrator and the Department of
12 Legislative Services on the functionality and security of the electronic filing system.

13 (c) The electronic filing system shall:

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

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

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

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

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

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

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

31 (8) include the functionalities necessary for the Division to publish the
32 Maryland Register.

33 (d) On or before December 31, 2023, the ~~Administrator~~ Department of
34 Information Technology shall report to the Joint Committee on Administrative, Executive,

1 and Legislative Review, in accordance with § 2–1257 of the State Government Article, on
2 the status of the development and deployment of the electronic filing system required under
3 this section.

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

6 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
7 3 of this Act, this Act shall take effect October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.