

SENATE BILL 383

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P3

2001 Regular Session
(11r1364)

ENROLLED BILL

-- Economic and Environmental Affairs/Commerce and Government Matters --

Introduced by **Senator Neall (Task Force on Regulatory Reform)**

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.

President.

CHAPTER 380

1 AN ACT concerning

2 **Regulatory Review and Evaluation Act - Revision**

3 FOR the purpose of amending the Regulatory Review and Evaluation Act to ~~require~~
4 authorize participation and input by the public, other units of State government,
5 and stakeholders in the review of existing regulations; modifying the
6 requirements for work plans and evaluation reports to reflect ~~that~~ certain
7 participation and input; providing that certain other information may be
8 included in work plans and must be included in evaluation reports; altering the
9 time frame and schedule for completing and submitting work plans; requiring
10 that related regulations be submitted concurrently, with a limitation and
11 exception; authorizing each adopting authority within a unit of State
12 government to issue a certificate of exemption for certain regulations or groups
13 of related regulations under certain circumstances and with written
14 justification; authorizing the Governor and the Joint Committee on
15 Administrative, Executive, and Legislative Review to request that a regulation
16 or group of related regulations be reviewed notwithstanding the issuance of a
17 certificate of exemption; providing for the continuation of a certain schedule and

1 a certain manner of review *of regulations* under certain circumstances; *defining*
 2 *certain terms*; and generally relating to the Regulatory Review and Evaluation
 3 Act.

4 BY repealing and reenacting, with amendments,
 5 Article - State Government
 6 Section 10-130 and 10-133 through 10-135
 7 Annotated Code of Maryland
 8 (1999 Replacement Volume and 2000 Supplement)

9 BY adding to
 10 Article - State Government
 11 Section 10-132.1
 12 Annotated Code of Maryland
 13 (1999 Replacement Volume and 2000 Supplement)

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

16 **Article - State Government**

17 10-130.

18 (a) In this Part VI the following words have the meanings indicated.

19 (B) "ADOPTING AUTHORITY" MEANS THE INDIVIDUAL OR ENTITY CHARGED
 20 UNDER LAW WITH ADOPTING REGULATIONS FOR A UNIT.

21 [(b)] (C) "Committee" means the Joint Committee on Administrative,
 22 Executive, and Legislative Review.

23 [(c)] (D) "Evaluation report" means the document prepared by a unit of State
 24 government in accordance with this part that results from the unit's review of its
 25 regulations.

26 [(d)] (E) "Regulation" has the meaning stated in § 10-101(g) of this subtitle
 27 and is limited to those regulations in effect at the time any action is required or taken
 28 under this part.

29 (F) "STAKEHOLDER" MEANS A PERSON THAT HAS AN INTEREST IN OR IS
 30 IMPACTED BY AN EXISTING REGULATION.

31 [(e)] ~~(F)~~ (G) "Unit" means each unit in the Executive Branch of State
 32 government that is authorized by law to adopt regulations.

33 [(f)] ~~(G)~~ (H) "Work plan" means a unit's proposal for the evaluation of its
 34 regulations.

1 10-132.1.

2 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ADOPTING
3 AUTHORITY FOR EACH UNIT SHALL EVERY 8 YEARS, BEGINNING ON OR AFTER
4 OCTOBER 1, 2001, SUBMIT TO THE GOVERNOR AND TO THE COMMITTEE A SCHEDULE
5 OF REGULATIONS TO BE REVIEWED UNDER THIS PART DURING THE FOLLOWING 8
6 YEARS.

7 (2) (I) TO THE EXTENT POSSIBLE AND REASONABLE, AN ADOPTING
8 AUTHORITY SHALL SCHEDULE RELATED REGULATIONS TO BE REVIEWED
9 CONCURRENTLY.

10 (II) UNLESS GOOD CAUSE EXISTS FOR PUBLISHING A LARGER
11 GROUP OF REGULATIONS CONCURRENTLY, THE LARGEST GROUP OF REGULATIONS
12 THAT AN ADOPTING AUTHORITY MAY SCHEDULE FOR REVIEW CONCURRENTLY
13 SHALL BE A SUBTITLE.

14 (B) (1) AT THE TIME THAT A UNIT'S REGULATIONS ARE SCHEDULED FOR
15 REVIEW UNDER THIS PART, AN ADOPTING AUTHORITY MAY CERTIFY TO THE
16 COMMITTEE AND THE GOVERNOR THAT THE REVIEW OF A REGULATION OR GROUP
17 OF RELATED REGULATIONS WOULD NOT BE EFFECTIVE OR COST-EFFECTIVE AND IS
18 EXEMPT FROM THE REVIEW PROCESS UNDER THIS SUBTITLE BECAUSE THE
19 REGULATION OR GROUP OF RELATED REGULATIONS WAS:

20 (I) ADOPTED TO IMPLEMENT A FEDERALLY MANDATED OR
21 FEDERALLY APPROVED PROGRAM; OR

22 (II) INITIALLY ADOPTED OR COMPREHENSIVELY AMENDED
23 DURING THE PRECEDING 8 YEARS.

24 (2) AN ADOPTING AUTHORITY ISSUING A CERTIFICATE OF EXEMPTION
25 SHALL PROVIDE THE GOVERNOR AND COMMITTEE WITH WRITTEN JUSTIFICATION
26 FOR THE CERTIFICATE OF EXEMPTION.

27 (3) IF THERE IS MORE THAN ONE ADOPTING AUTHORITY FOR A
28 REGULATION OR GROUP OF RELATED REGULATIONS FOR WHICH AN EXEMPTION IS
29 TO BE CERTIFIED, EACH ADOPTING AUTHORITY SHALL SIGN THE CERTIFICATE OF
30 EXEMPTION AND WRITTEN JUSTIFICATION REQUIRED UNDER THIS SUBSECTION.

31 (C) AT ANY TIME DURING A REVIEW CYCLE, THE GOVERNOR OR COMMITTEE
32 MAY ASK THAT AN ADOPTING AUTHORITY REVIEW A REGULATION OR GROUP OF
33 REGULATIONS FOR WHICH A CERTIFICATE OF EXEMPTION HAS BEEN ISSUED,
34 NOTWITHSTANDING THE CLAIM OF EXEMPTION.

35 10-133.

36 (a) [The] BASED ON THE SCHEDULES SUBMITTED BY THE ADOPTING
37 AUTHORITIES UNDER § 10-132.1 OF THIS SUBTITLE, THE Governor shall, by an
38 executive order consistent with this part, provide for the review and evaluation of the
39 regulations of each unit in accordance with this part.

1 (b) The executive order shall provide that a review and evaluation of the
2 regulations of all units be undertaken every 8 years, beginning on July 1, 1995 and is
3 repeated during each 8-year period thereafter.

4 (c) The executive order under subsection (b) of this section shall schedule the
5 evaluations in such a manner that:

6 (1) a deadline is established for each unit to complete its evaluation; and

7 (2) the deadlines of the various units are staggered across the entire
8 8-year period.

9 (d) (1) The executive order shall provide that, on written request from a
10 unit, the Governor may alter the deadline for that unit.

11 (2) If the Governor approves a request to alter a deadline, the unit shall
12 notify the Committee.

13 10-134.

14 (a) [Prior to] AT LEAST 1 YEAR BEFORE the commencement of the review and
15 evaluation of its regulations, each unit shall prepare a work plan and submit the work
16 plan to the Governor and, subject to § 2-1246 of this article, the Committee.

17 (b) The work plan shall:

18 (1) include a description of the procedures and methods to be used by the
19 unit, WHICH MAY INCLUDE:

20 (I) PROCEDURES FOR INVITING PUBLIC COMMENT, INCLUDING:

21 1. THE PUBLICATION OF NOTICES IN THE MARYLAND
22 REGISTER;

23 2. THE PUBLICATION OF NOTICES IN NEWSPAPERS OF
24 GENERAL CIRCULATION IN THE STATE;

25 3. THE POSTING OF A NOTICE ON THE UNIT'S WEBSITE OR
26 ON A STATEWIDE WEBSITE CREATED FOR UNITS TO POST NOTICES OF REGULATIONS
27 REVIEW;

28 4. THE MAILING OF NOTICES; AND

29 5. THE HOLDING OF PUBLIC HEARINGS AT VARIOUS
30 LOCATIONS AROUND THE STATE;

31 (II) PROCEDURES FOR ENSURING THE PARTICIPATION OF
32 STAKEHOLDERS IN THE REVIEW PROCESS;

33 (III) PROCEDURES FOR ENSURING THE PARTICIPATION IN THE
34 REVIEW PROCESS OF OTHER UNITS AFFECTED BY THE REGULATIONS; AND

1 (IV) PROCEDURES FOR GATHERING AND REVIEWING:

2 1. RECENT SCIENTIFIC INFORMATION RELATED TO THE
3 REGULATIONS BEING REVIEWED;

4 2. SIMILAR REGULATIONS ADOPTED OR REPEALED BY
5 OTHER STATES OR THE FEDERAL GOVERNMENT; AND

6 3. OTHER APPROPRIATE INFORMATION;

7 (2) identify the individual or individuals in the unit who will coordinate
8 the evaluation and communicate with the Committee; and

9 (3) establish the schedule the unit will follow to complete its evaluation
10 report in a timely manner.

11 (c) (1) Within 30 days after receipt of the work plan by the Committee, it
12 shall:

13 (i) advise the unit in writing of any part of the work plan with
14 which it disagrees;

15 (ii) submit to the unit in writing any changes it recommends to the
16 work plan; and

17 (iii) in the event of a disagreement, attempt to meet with the head of
18 the unit.

19 (2) The head of the unit and the Committee shall attempt to resolve any
20 disagreements within 30 days after the Committee acts under this subsection.

21 10-135.

22 (a) (1) Pursuant to the work plan adopted under § 10-134 of this subtitle,
23 each unit shall complete an evaluation report on or before the deadline established by
24 the executive order.

25 (2) Consistent with the requirements of § 10-132(1)(i) of this subtitle,
26 the evaluation report shall contain:

27 (I) A LIST OF ANY STAKEHOLDERS INVITED TO REVIEW THE
28 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
29 REVIEW PROCESS;

30 (II) A LIST OF ANY AFFECTED UNITS INVITED TO REVIEW THE
31 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
32 REVIEW PROCESS;

33 (III) A DESCRIPTION OF THE PROCESS USED TO SOLICIT PUBLIC
34 COMMENT, INCLUDING:

- 1 1. ANY NOTICE PUBLISHED IN THE MARYLAND REGISTER;
- 2 2. ANY NOTICE PUBLISHED IN NEWSPAPERS OF GENERAL
- 3 CIRCULATION;
- 4 3. ANY NOTICE POSTED ON THE UNIT'S WEBSITE OR ON A
- 5 STATEWIDE WEBSITE CREATED FOR UNITS TO POST NOTICES OF REGULATIONS
- 6 REVIEW;
- 7 4. ANY MAILING BY THE ADOPTING AUTHORITY; AND
- 8 5. ANY PUBLIC HEARING HELD;
- 9 (IV) SUMMARIES OF:
- 10 1. ALL COMMENTS RECEIVED FROM STAKEHOLDERS,
- 11 AFFECTED UNITS, OR THE PUBLIC; AND
- 12 2. THE ADOPTING AUTHORITY'S RESPONSES TO THOSE
- 13 COMMENTS;
- 14 (V) A DESCRIPTION OF ANY INTERUNIT CONFLICT REVIEWED AND
- 15 THE RESOLUTION OR PROPOSED RESOLUTION OF THAT CONFLICT;
- 16 (VI) A SUMMARY OF ANY RELEVANT SCIENTIFIC DATA GATHERED;
- 17 (VII) A SUMMARY OF ANY RELEVANT INFORMATION GATHERED
- 18 RELATED TO THE REGULATIONS OF OTHER STATES OR THE FEDERAL GOVERNMENT;
- 19 (VIII) A SUMMARY OF ANY OTHER RELEVANT INFORMATION
- 20 GATHERED;
- 21 [(i)] (IX) a summary of any proposed amendments to the unit's
- 22 regulations AND THE REASON THAT THE AMENDMENTS ARE BEING PROPOSED;
- 23 [(ii)] (X) a summary of any proposed repeal of those regulations
- 24 AND THE REASON THAT THE REPEAL IS BEING PROPOSED; and
- 25 [(iii)] (XI) any proposed reorganization of those regulations AND THE
- 26 REASON THAT THE REORGANIZATION IS BEING PROPOSED.
- 27 (b) (1) On completion of its evaluation report, a unit shall:
- 28 (i) provide a copy to the Committee which shall immediately
- 29 provide copies thereof to the standing committees designated by the presiding officers
- 30 for their review and comment;
- 31 (ii) provide sufficient copies to the State Library Resource Center
- 32 for distribution to designated depository libraries in accordance with § 23-303 of the
- 33 Education Article; and

1 (iii) publish a notice in the Maryland Register that the evaluation
2 report is available for public inspection and comment for 60 days;

3 (2) The unit may hold a public hearing on the evaluation report at the
4 discretion of the head of the unit.

5 (c) (1) The Committee shall review the evaluation report.

6 (2) During the review, the Committee may solicit public comment
7 through written comments or public hearings.

8 (d) (1) During the 60-day review period established under subsection (b)(1)
9 of this section, the Committee may submit to the unit comments on and
10 recommendations for change in the unit's evaluation report.

11 (2) Within 30 days after the termination of the 60-day review period, the
12 unit shall:

13 (i) notify the Committee of the unit's agreement or disagreement
14 with the Committee's recommendations; and

15 (ii) attempt to resolve any disagreements.

16 (3) If the Committee submits no comments or recommendations under
17 this subsection, or if any disagreements have been resolved by the termination of the
18 period provided in subsection (d)(2) of this section, the evaluation report is deemed
19 approved.

20 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
21 provisions of this Act, any regulation or group of regulations scheduled by the
22 Governor prior to January 10, 2001, for review prior to July 1, 2003 under § 10-133 of
23 the State Government Article shall be reviewed on the schedule established by the
24 Governor and in the manner and using the methodology mandated by law prior to the
25 implementation of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2001.