

SENATE BILL 352

J3

6lr1065

By: **Senators Hershey and Rosapepe**

Introduced and read first time: January 28, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Care Commission – Certificate of Need Review – Interested**
3 **Party**

4 FOR the purpose of altering the definition of “interested party”, for the purpose of certificate
5 of need review of certain health care facility projects, to include a jurisdiction that
6 does not contain a certain health care facility project; and generally relating to
7 interested parties in certificate of need reviews by the Maryland Health Care
8 Commission.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 19–126(d)
12 Annotated Code of Maryland
13 (2015 Replacement Volume)

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

16 **Article – Health – General**

17 19–126.

18 (d) (1) The Commission alone shall have final nondelegable authority to act
19 upon an application for a certificate of need, except as provided in this subsection.

20 (2) A majority of the full authorized membership of the Commission shall
21 be a quorum to act on an application for a certificate of need.

22 (3) After an application is filed, the staff of the Commission:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) Shall review the application for completeness within 10 working
2 days of the filing of the application; and

3 (ii) May request further information from the applicant.

4 (4) The Commission may delegate to a reviewer the responsibility for
5 review of an application for a certificate of need, including:

6 (i) The holding of an evidentiary hearing if the Commission, in
7 accordance with criteria it has adopted by regulation, considers an evidentiary hearing
8 appropriate due to the magnitude of the impact the proposed project may have on the health
9 care delivery system; and

10 (ii) Preparation of a recommended decision for consideration by the
11 full Commission.

12 (5) The Commission shall designate a single Commissioner to act as a
13 reviewer for the application and any competing applications.

14 (6) The Commission shall delegate to its staff the responsibility for an
15 initial review of an application, including, in the event that no written comments on an
16 application are submitted by any interested party other than the staff of the Commission,
17 the preparation of a recommended decision for consideration by the full Commission.

18 (7) Any “interested party” may submit written comments on the
19 application in accordance with procedural regulations adopted by the Commission.

20 (8) The Commission shall define the term “interested party” to include, at
21 a minimum:

22 (i) The staff of the Commission;

23 (ii) Any applicant who has submitted a competing application;

24 (iii) Any other person who can demonstrate that the person would be
25 adversely affected by the decision of the Commission on the application; [and]

26 (iv) A local health planning agency for a jurisdiction or region in
27 which the proposed facility or service will be located; AND

28 **(V) IN THE REVIEW OF A REPLACEMENT HEALTH CARE**
29 **FACILITY PROJECT PROPOSED BY OR ON BEHALF OF A REGIONAL HEALTH SYSTEM**
30 **THAT SERVES CONTIGUOUS JURISDICTIONS, A JURISDICTION THAT DOES NOT**
31 **CONTAIN THE PROPOSED REPLACEMENT HEALTH CARE FACILITY PROJECT.**

1 (9) The reviewer shall review the application, any written comments on the
2 application, and any other materials permitted by this section or by the Commission's
3 regulations, and present a recommended decision on the application to the full Commission.

4 (10) (i) An applicant and any interested party may request the
5 opportunity to present oral argument to the reviewer, in accordance with regulations
6 adopted by the Commission, before the reviewer prepares a recommended decision on the
7 application for consideration by the full Commission.

8 (ii) The reviewer may grant, deny, or impose limitations on an
9 interested party's request to present oral argument to the reviewer.

10 (11) Any interested party who has submitted written comments under
11 paragraph (7) of this subsection may submit written exceptions to the proposed decision
12 and make oral argument to the Commission, in accordance with regulations adopted by the
13 Commission, before the Commission takes final action on the application.

14 (12) The Commission shall, after determining that the recommended
15 decision is complete, vote to approve, approve with conditions, or deny the application on
16 the basis of the recommended decision, the record before the staff or the reviewer, and
17 exceptions and arguments, if any, before the Commission.

18 (13) The decision of the Commission shall be by a majority of the quorum
19 present and voting.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2016.