

SENATE BILL 1083

P1

6lr3415
CF 6lr3419

By: **Senator Conway**

Introduced and read first time: February 19, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Secretaries of Principal Departments – Supervision and Review of Decisions**
3 **and Actions by Units Within Department**

4 FOR the purpose of altering a certain provision of law to authorize the Secretary of Health
5 and Mental Hygiene to disapprove or modify a certain decision or determination of a
6 certain board or commission under certain circumstances; requiring the secretary of
7 each principal department to be responsible for the supervision of certain units
8 within the jurisdiction of the secretary; requiring the secretary to adopt certain
9 regulations for the supervision of certain units within the jurisdiction of the
10 secretary for certain purposes; requiring that the regulations specify certain
11 decisions or actions that require review by the secretary, or the secretary's designee,
12 certain review processes, and that the decisions or actions are not final decisions or
13 actions until after a certain review; prohibiting a secretary from designating a
14 certain individual as the secretary's designee; and generally relating to the powers
15 and regulatory authority of secretaries of principal departments.

16 BY repealing and reenacting, with amendments,
17 Article – Health Occupations
18 Section 1–203(a)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2015 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Government
23 Section 8–205(b) and 8–206
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2015 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health Occupations

1–203.

(a) [The] **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE** power of the Secretary over plans, proposals, and projects of units in the Department [does not include] **INCLUDES** the power to disapprove or modify any decision or determination that a board or commission established under this article makes under authority specifically delegated by law to the board or commission **IF:**

(1) THE BOARD OR COMMISSION IS COMPOSED IN WHOLE OR IN PART OF INDIVIDUALS PARTICIPATING IN THE OCCUPATION OR PROFESSION REGULATED BY THE BOARD OR COMMISSION; AND

(2) THE SECRETARY HAS DESIGNATED THAT THE DECISION OR DETERMINATION IS SUBJECT TO REVIEW UNDER REGULATIONS ADOPTED UNDER § 8–206 OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

8–205.

(b) A secretary shall:

(1) receive the salary and have the assistants, employees, and professional consultants provided in the budget, unless otherwise provided by law;

(2) be responsible for establishing policy to be followed by the units of State government within the secretary's department;

(3) be responsible for the efficient and orderly administration of the department;

(4) be responsible for the comprehensive planning of programs and services within the secretary's jurisdiction and for reviewing and approving the plans of all units of State government within the secretary's jurisdiction;

(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, BE RESPONSIBLE FOR THE SUPERVISION OF THE UNITS OF STATE GOVERNMENT WITHIN THE SECRETARY'S JURISDICTION THAT ARE COMPOSED IN WHOLE OR IN PART OF INDIVIDUALS PARTICIPATING IN THE OCCUPATION OR PROFESSION REGULATED BY THE UNITS;

(6) be responsible for the budget of the secretary's office and for the budgets of other units of State government within the secretary's jurisdiction;

1 ~~[(6)] (7)~~ be responsible for the organization of the secretary's office and
2 for recommending to the Governor changes in the organization and placement of units of
3 State government within the secretary's jurisdiction; and

4 ~~[(7)] (8)~~ recommend to the Governor any modification, abolition, and
5 transfer of advisory bodies within the secretary's jurisdiction.

6 8-206.

7 (A) The secretary of each principal department has authority and responsibility
8 to adopt regulations for all units within the secretary's jurisdiction, except as otherwise
9 provided by law.

10 (B) (1) **THE SECRETARY OF EACH PRINCIPAL DEPARTMENT SHALL**
11 **ADOPT REGULATIONS FOR THE SUPERVISION OF EACH UNIT OF STATE**
12 **GOVERNMENT WITHIN THE SECRETARY'S JURISDICTION THAT IS COMPOSED IN**
13 **WHOLE OR IN PART OF INDIVIDUALS PARTICIPATING IN THE OCCUPATION OR**
14 **PROFESSION REGULATED BY THE UNIT IN ORDER TO:**

15 (I) **PREVENT UNREASONABLE ANTICOMPETITIVE ACTIONS BY**
16 **THE UNIT; AND**

17 (II) **DETERMINE WHETHER THE DECISIONS AND ACTIONS OF**
18 **THE UNIT FURTHER A CLEARLY ARTICULATED STATE POLICY TO DISPLACE**
19 **COMPETITION IN THE REGULATED MARKET.**

20 (2) **A REGULATION ADOPTED UNDER PARAGRAPH (1) OF THIS**
21 **SUBSECTION SHALL SPECIFY:**

22 (I) **THE DECISIONS OR ACTIONS OF THE UNIT THAT REQUIRE**
23 **REVIEW BY THE SECRETARY OR THE SECRETARY'S DESIGNEE;**

24 (II) **THE PROCESS BY WHICH THE SECRETARY, OR THE**
25 **SECRETARY'S DESIGNEE, SHALL REVIEW THE DECISIONS OR ACTIONS SPECIFIED IN**
26 **THE REGULATIONS; AND**

27 (III) **THAT A DECISION OR ACTION OF THE UNIT MAY NOT**
28 **CONSTITUTE A FINAL DECISION OR ACTION OF THE UNIT UNTIL AFTER THE**
29 **SECRETARY, OR THE SECRETARY'S DESIGNEE, HAS CONDUCTED THE REVIEW**
30 **REQUIRED UNDER THIS SUBSECTION.**

31 (3) **THE PROCESS SPECIFIED UNDER PARAGRAPH (2)(II) OF THIS**
32 **SUBSECTION SHALL REQUIRE THE SECRETARY, OR THE SECRETARY'S DESIGNEE, TO:**

1 **(I) REVIEW THE MERITS OF THE PROPOSED DECISION OR**
2 **ACTION;**

3 **(II) ASSESS WHETHER THE PROPOSED DECISION OR ACTION**
4 **FURTHERS A CLEARLY ARTICULATED STATE POLICY TO DISPLACE COMPETITION IN**
5 **THE REGULATED MARKET; AND**

6 **(III) ISSUE A WRITTEN DECISION APPROVING, DISAPPROVING,**
7 **OR MODIFYING THE PROPOSED DECISION OR ACTION.**

8 **(4) A SECRETARY MAY NOT DESIGNATE AN INDIVIDUAL AS THE**
9 **SECRETARY'S DESIGNEE IF THE INDIVIDUAL IS EMPLOYED BY, UNDER THE**
10 **OVERSIGHT OF, OR A MEMBER OF A BOARD OR COMMISSION WHOSE DECISION OR**
11 **ACTION IS THE SUBJECT OF REVIEW UNDER THE REGULATIONS ADOPTED UNDER**
12 **THIS SUBSECTION.**

13 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June**
14 **1, 2016.**