

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1377 (Delegate Waldstreicher)  
Rules and Executive Nominations

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State Government - Maryland Program Evaluation Act - Periodic Full  
Evaluations

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This bill establishes processes to ensure that a full evaluation of every entity subject to the Maryland Program Evaluation Act be conducted by the Department of Legislative Services (DLS) at least once every 30 years. If a full evaluation has not been conducted of an entity currently subject to preliminary evaluation under the Act prior to a year specified in the bill (beginning in 2043), then a full evaluation of that entity must be conducted in the year specified *and* every 30 years thereafter. A full evaluation required by the bill must address the same issues as a full evaluation that is conducted without a preliminary evaluation under current law.

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Fiscal Summary

**State Effect:** No effect until at least FY 2043, when the first mandated full evaluation could occur. The existing processes and procedures under the Maryland Program Evaluation Act are not substantively altered until that time. Beginning in fiscal 2043, DLS may require additional staff to complete the mandated evaluations, as discussed below.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### **Current Law/Background:**

#### *Sunset Review – Generally*

Approximately 70 regulatory entities and activities are currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination. Except for several health-related units, there is no requirement that an entity be subject to a full evaluation without first undergoing a preliminary evaluation.

The sunset review process traditionally begins with a preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC). A report on a preliminary evaluation must include a summary of (1) significant legislative and regulatory changes since the last evaluation; (2) licensing and enforcement activities since the last evaluation; (3) registered complaints, complaint outcomes, and disciplinary activities since the last evaluation; and (4) revenues and expenditures for the most recent six-year period, including indirect costs. If DLS concludes as a result of the preliminary evaluation that the entity is not effectively or efficiently carrying out its statutory responsibilities, DLS may recommend to LPC that a more thorough (full) evaluation be conducted. Otherwise, DLS typically recommends that a full evaluation be waived and the entity be reauthorized for up to 10 years. This process is designed to avoid subjecting entities that are generally carrying out their responsibilities in an effective manner from the administrative burden of participating in a full evaluation. LPC must approve or disapprove of the DLS recommendations by the tenth day of the regular session of the General Assembly immediately following the evaluation year.

If LPC decides to waive an entity from full evaluation, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year. LPC also may require DLS to conduct a full evaluation even if DLS has recommended that an entity be waived from full evaluation.

Over the 10-year period from 2007 through 2016, 17 entities have received a full evaluation as a result of a preliminary evaluation. In addition, over that period, 5 entities (plus related advisory councils) have undergone full evaluation due to recommendations for a direct full evaluation from a previous evaluation or at the direction of the General Assembly. Finally, Chapter 690 of 2013 requires five health occupations boards (and their related allied health advisory committees) to always undergo full evaluation (rather than first undergoing preliminary evaluation); two have already done so. Additional [information](#) related to the sunset review process can be found on the DLS website.

## *Contents of Evaluations*

Following the completion of a preliminary evaluation, DLS must consider recommending a full evaluation if problems are identified regarding:

- implementation of the governmental activity or unit's mandate or statutory requirements;
- management or disposition of licensing, enforcement, complaint, or disciplinary activities;
- finances or resources; or
- other issues as identified by the General Assembly or DLS.

The contents of a full evaluation report depend on whether or not the unit subject to evaluation has been through a preliminary evaluation or if it is a direct full evaluation. If a preliminary evaluation has been conducted, a full evaluation report must focus on the issues identified in the preliminary evaluation of the governmental activity or unit. If a preliminary evaluation has not been conducted, a full evaluation report must address any issues raised in the previous sunset evaluation conducted by DLS and the governmental activity's or unit's efficiency, effectiveness, role in protecting consumers, sufficiency of resources, and accomplishment of legislative objectives.

**Additional Comments:** DLS has conducted 24 full evaluations between 2007 and 2016 (only 17 of which were triggered by preliminary evaluations), an average of less than 2 per year for the entities which are affected by the bill. Under the bill, DLS must conduct an average of about 5 such full evaluations per year, likely including *at least* 7 each year from 2048 through 2051 (and as many as 15 in 2051). These full evaluations are in addition to those already required for specified health occupations boards. It is unlikely that DLS will be able to complete all such evaluations with existing staff and will likely need to hire contractual or regular staff to carry out the bill's requirements.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Legislative Services

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