

HOUSE BILL 671

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P3

2001 Regular Session
11r1375
CF 11r1364

By: **Delegates Busch and Kach (Task Force on Regulatory Reform)**

Introduced and read first time: February 7, 2001

Assigned to: Commerce and Government Matters

A BILL ENTITLED

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

20 BY repealing and reenacting, with amendments,
21 Article - State Government
22 Section 10-130 and 10-133 through 10-135
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2000 Supplement)

25 BY adding to
26 Article - State Government
27 Section 10-132.1
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2000 Supplement)

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

1

Article - State Government

2 10-130.

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

4 (B) "ADOPTING AUTHORITY" MEANS THE INDIVIDUAL OR ENTITY CHARGED
5 UNDER LAW WITH ADOPTING REGULATIONS FOR A UNIT.6 [(b)] (C) "Committee" means the Joint Committee on Administrative,
7 Executive, and Legislative Review.8 [(c)] (D) "Evaluation report" means the document prepared by a unit of State
9 government in accordance with this part that results from the unit's review of its
10 regulations.11 [(d)] (E) "Regulation" has the meaning stated in § 10-101(g) of this subtitle
12 and is limited to those regulations in effect at the time any action is required or taken
13 under this part.14 [(e)] (F) "Unit" means each unit in the Executive Branch of State government
15 that is authorized by law to adopt regulations.16 [(f)] (G) "Work plan" means a unit's proposal for the evaluation of its
17 regulations.

18 10-132.1.

19 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ADOPTING
20 AUTHORITY FOR EACH UNIT SHALL EVERY 8 YEARS, BEGINNING ON OR AFTER
21 OCTOBER 1, 2001, SUBMIT TO THE GOVERNOR AND TO THE COMMITTEE A SCHEDULE
22 OF REGULATIONS TO BE REVIEWED UNDER THIS PART DURING THE FOLLOWING 8
23 YEARS.24 (2) (I) TO THE EXTENT POSSIBLE AND REASONABLE, AN ADOPTING
25 AUTHORITY SHALL SCHEDULE RELATED REGULATIONS TO BE REVIEWED
26 CONCURRENTLY.27 (II) UNLESS GOOD CAUSE EXISTS FOR PUBLISHING A LARGER
28 GROUP OF REGULATIONS CONCURRENTLY, THE LARGEST GROUP OF REGULATIONS
29 THAT AN ADOPTING AUTHORITY MAY SCHEDULE FOR REVIEW CONCURRENTLY
30 SHALL BE A SUBTITLE.31 (B) (1) AT THE TIME THAT A UNIT'S REGULATIONS ARE SCHEDULED FOR
32 REVIEW UNDER THIS PART, AN ADOPTING AUTHORITY MAY CERTIFY TO THE
33 COMMITTEE AND THE GOVERNOR THAT THE REVIEW OF A REGULATION OR GROUP
34 OF RELATED REGULATIONS WOULD NOT BE EFFECTIVE OR COST-EFFECTIVE AND IS
35 EXEMPT FROM THE REVIEW PROCESS UNDER THIS SUBTITLE BECAUSE THE
36 REGULATION OR GROUP OF RELATED REGULATIONS WAS:

1 (I) ADOPTED TO IMPLEMENT A FEDERALLY MANDATED OR
2 FEDERALLY APPROVED PROGRAM; OR

3 (II) INITIALLY ADOPTED OR COMPREHENSIVELY AMENDED
4 DURING THE PRECEDING 8 YEARS.

5 (2) AN ADOPTING AUTHORITY ISSUING A CERTIFICATE OF EXEMPTION
6 SHALL PROVIDE THE GOVERNOR AND COMMITTEE WITH WRITTEN JUSTIFICATION
7 FOR THE CERTIFICATE OF EXEMPTION.

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

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

16 10-133.

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

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

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

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

27 (2) the deadlines of the various units are staggered across the entire
28 8-year period.

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

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

33 10-134.

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

1 (b) The work plan shall:

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

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

5 1. THE PUBLICATION OF NOTICES IN THE MARYLAND
6 REGISTER;

7 2. THE PUBLICATION OF NOTICES IN NEWSPAPERS OF
8 GENERAL CIRCULATION IN THE STATE;

9 3. THE POSTING OF A NOTICE ON THE UNIT'S WEBSITE OR
10 ON A STATEWIDE WEBSITE CREATED FOR UNITS TO POST NOTICES OF REGULATIONS
11 REVIEW;

12 4. THE MAILING OF NOTICES; AND

13 5. THE HOLDING OF PUBLIC HEARINGS AT VARIOUS
14 LOCATIONS AROUND THE STATE;

15 (II) PROCEDURES FOR ENSURING THE PARTICIPATION OF
16 STAKEHOLDERS IN THE REVIEW PROCESS;

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

19 (IV) PROCEDURES FOR GATHERING AND REVIEWING:

20 1. RECENT SCIENTIFIC INFORMATION RELATED TO THE
21 REGULATIONS BEING REVIEWED;

22 2. SIMILAR REGULATIONS ADOPTED OR REPEALED BY
23 OTHER STATES OR THE FEDERAL GOVERNMENT; AND

24 3. OTHER APPROPRIATE INFORMATION;

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

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

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

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

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

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

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

7 10-135.

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

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

13 (I) A LIST OF ANY STAKEHOLDERS INVITED TO REVIEW THE
14 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
15 REVIEW PROCESS;

16 (II) A LIST OF ANY AFFECTED UNITS INVITED TO REVIEW THE
17 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
18 REVIEW PROCESS;

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

21 1. ANY NOTICE PUBLISHED IN THE MARYLAND REGISTER;

22 2. ANY NOTICE PUBLISHED IN NEWSPAPERS OF GENERAL
23 CIRCULATION;

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

27 4. ANY MAILING BY THE ADOPTING AUTHORITY; AND

28 5. ANY PUBLIC HEARING HELD;

29 (IV) SUMMARIES OF:

30 1. ALL COMMENTS RECEIVED FROM STAKEHOLDERS,
31 AFFECTED UNITS, OR THE PUBLIC; AND

32 2. THE ADOPTING AUTHORITY'S RESPONSES TO THOSE
33 COMMENTS;

1 (V) A DESCRIPTION OF ANY INTERUNIT CONFLICT REVIEWED AND
2 THE RESOLUTION OR PROPOSED RESOLUTION OF THAT CONFLICT;

3 (VI) A SUMMARY OF ANY RELEVANT SCIENTIFIC DATA GATHERED;

4 (VII) A SUMMARY OF ANY RELEVANT INFORMATION GATHERED
5 RELATED TO THE REGULATIONS OF OTHER STATES OR THE FEDERAL GOVERNMENT;

6 (VIII) A SUMMARY OF ANY OTHER RELEVANT INFORMATION
7 GATHERED;

8 [(i)] (IX) a summary of any proposed amendments to the unit's
9 regulations AND THE REASON THAT THE AMENDMENTS ARE BEING PROPOSED;

10 [(ii)] (X) a summary of any proposed repeal of those regulations
11 AND THE REASON THAT THE REPEAL IS BEING PROPOSED; and

12 [(iii)] (XI) any proposed reorganization of those regulations AND THE
13 REASON THAT THE REORGANIZATION IS BEING PROPOSED.

14 (b) (1) On completion of its evaluation report, a unit shall:

15 (i) provide a copy to the Committee which shall immediately
16 provide copies thereof to the standing committees designated by the presiding officers
17 for their review and comment;

18 (ii) provide sufficient copies to the State Library Resource Center
19 for distribution to designated depository libraries in accordance with § 23-303 of the
20 Education Article; and

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

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

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

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

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

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

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

1 (ii) attempt to resolve any disagreements.

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

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

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