

SENATE BILL 383

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P3

2001 Regular Session  
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By: **Senator Neall (Task Force on Regulatory Reform)**

Introduced and read first time: February 2, 2001

Assigned to: Economic and Environmental Affairs

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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:

**Article - State Government**

10-130.

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

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

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

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

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

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

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

10-132.1.

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

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

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

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