

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 147

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Ethics
Commission, State)

Education, Health, and Environmental Affairs

Health and Government Operations

**State Government - Administrative Procedure Act - Changes to Previously
Published Proposed Regulations**

This departmental bill alters the provisions of the Administrative Procedure Act (APA) by authorizing unit counsel for the Commission on Civil Rights, the Public Service Commission, and the State Ethics Commission to certify nonsubstantive changes to proposed regulations between publication in the *Maryland Register* and final adoption.

Fiscal Summary

State Effect: The bill is technical in nature and is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: The State Ethics Commission has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The APA requires the Administrator of State Documents to refuse to publish the notice of adoption of a regulation that differs from the text previously published unless the notice is accompanied by a certification from the Attorney General that (1) the changes are not substantive; and (2) the regulation is not being proposed

anew, which would require changes to be marked according to the Administrator's requirements.

The certification must (1) be prepared in the form and according to guidelines specified by the Administrator; (2) contain a description of the nature of each change and the basis for the conclusion; and (3) be published in the *Maryland Register* as part of the notice of adoption.

Without the certification, the Division of State Documents is prohibited from publishing the notice of final adoption of regulations in the *Maryland Register* if the final regulations differ from the proposed regulations initially published.

Background: Most State agencies are represented by the Office of the Attorney General. However, the State Ethics Commission, the Commission on Civil Rights, and the Public Service Commission are not represented by the Attorney General. Instead, these agencies employ their own general counsel. In 2011, the State Ethics Commission proposed to make nonsubstantive editorial changes to a proposed regulation. Because of the current statute, the commission's staff had to request that the assistant Attorney General representing the Division of State Documents make the required certification.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Ethics Commission; Maryland Commission on Civil Rights; Public Service Commission; Secretary of State; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2012
ncs/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Government – Administrative Procedure Act – Changes to
Previously Published Proposed Regulations

BILL NUMBER: SB 147

PREPARED BY: State Ethics Commission

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.