

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 378

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Department of Legislative
Services)

Education, Health, and Environmental Affairs Health and Government Operations and
Economic Matters

Maryland Program Evaluation Act - Revisions

This bill revises the Maryland Program Evaluation Act. The current list of 68 entities subject to evaluation under the Act is repealed and only 14 entities remain subject to evaluation by the Department of Legislative Services (DLS): the State boards of Dental Examiners, Morticians and Funeral Directors, Nursing (including the Electrology Practice Committee), Pharmacy, and Physicians (including the six allied health advisory committees); the Health Services Cost Review Commission; and the Prescription Drug Monitoring Program. Those entities no longer subject to evaluation must instead submit specified reports. The Office of Policy Analysis (OPA) in DLS is required to develop and implement annual research agendas subject to the approval of the Presiding Officers and present findings and recommendations to relevant committees of the General Assembly.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: None. Personnel resources within DLS currently devoted to program evaluation will be redirected to other activities including conducting additional research activities as approved by the Presiding Officers. Governmental units no longer subject to periodic evaluation can submit specified reports using existing budgeted resources and may experience administrative and operational efficiencies.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The requirement to perform a preliminary evaluation of each governmental activity or unit is repealed and instead all 14 entities subject to evaluation will undergo full evaluations. By November 1, two years prior to an entity's termination date, those entities no longer subject to evaluation by DLS must instead submit a self-evaluation report to DLS (on a form to be provided by DLS by July 1). Annually by January 1, DLS must compile the self-evaluation reports and forward them to the committees of jurisdiction. The bill specifies that each entity subject to termination must ensure that legislation is requested to extend the entity's termination date.

The Legislative Policy Committee (LPC) will no longer designate evaluation committees or waive entities from full evaluation. The requirements that an evaluation be completed by an evaluation committee and that an evaluation plan be prepared by June 30 are repealed. The deadline for the completion of a full evaluation is extended from October 31 to December 1. The numerous required elements of a full evaluation are repealed and replaced with a requirement that the full evaluation report address the governmental activity's or unit's efficiency, effectiveness, role in protecting consumers, sufficiency of resources, and accomplishment of legislative objectives. The deadline for the "committees of jurisdiction" to hold a public hearing on the full evaluation report is extended from December 14 until the tenth day of the regular legislative session.

OPA must solicit ideas for research activities beyond the required full evaluation reports and annually, by May 15, propose a research agenda to the Presiding Officers for their approval. This agenda must be based on the feasibility and policy relevance of the ideas solicited and the available resources of OPA. OPA must implement the research agenda approved by the Presiding Officers and present any findings and recommendations to relevant committees.

The unit under evaluation or responsible for the governmental activity under evaluation must promptly provide information to DLS or committees of the General Assembly and otherwise cooperate with DLS. Information may be provided to DLS so as to protect confidentiality, and DLS must follow procedures to maintain such confidentiality.

Uncodified language clarifies that specified entities that received an evaluation in 2011 are exempt from the self-evaluation process in 2012 only. Furthermore, it is the intent of the General Assembly that specified sunset evaluations already scheduled by DLS be completed.

Appendix 1 compares major provisions of the Maryland Program Evaluation Act under current law with the changes proposed by the bill.

Current Law/Background: The Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article) was enacted in 1978 to provide a system for periodic, legislative review of the regulatory, licensing, and other governmental activities of the Executive Branch. The Act establishes a process better known as “sunset review” because nearly all of the agencies subject to review are also subject to termination. Since 1978, DLS has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. In most cases, the review process begins with a preliminary evaluation conducted on behalf of LPC. Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year. In select circumstances, the General Assembly forgoes a preliminary evaluation and instead subjects an entity to a direct full evaluation.

To date, all but the newest of the regulatory bodies currently subject to the Act have been evaluated by DLS at least three to four times, and a few have been evaluated as many as eight times. Since enactment, 10 entities have been terminated, allowed to sunset, or merged into other functions. An additional nine entities were recommended for termination by DLS but were maintained by the General Assembly.

Appendix 2 lists each entity currently subject to the Act, the current termination date for the entity, the statutory citation of the termination provision, the year in which the most recent sunset evaluation of the entity was conducted, the year in which the next sunset evaluation of the entity is scheduled to be conducted, and the total number of evaluations conducted of the entity (including preliminary evaluations, full evaluations, and status/update assessments). As shown in Appendix 2, all but three of the entities subject to the Act have termination provisions. The three exceptions are the Maryland Health Care Commission, the Maryland Insurance Administration, and the Health Services Cost Review Commission. Although not shown in the appendix, the Perfusion Advisory Committee, part of the State Board of Physicians, is scheduled to become subject to the Act on October 1, 2012, with a termination date of July 1, 2022 (per § 14-5E-25 of the Health Occupations Article).

A copy of recent sunset evaluation reports conducted by DLS can be found at <http://dls.state.md.us/Content.aspx?page=104>.

Additional Information

Prior Introductions: None.

Cross File: HB 405 (Chair, Health and Government Operations Committee)(By Request - Department of Legislative Services) - Health and Government Operations and Economic Matters.

Information Source(s): Maryland Department of Agriculture; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2012
ncs/ljm Revised - Senate Third Reader - March 22, 2012

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix 1
Comparison of Major Provisions Under the Maryland Program Evaluation Act
Current Law vs. SB 378

	<u>Current Law</u>	<u>Under SB 378</u>
Entities Subject to Evaluation by DLS	68*	14**
Legislative Oversight	LPC assigns evaluation committees and determines which entities are waived from full evaluation based on DLS recommendations. Evaluation committees hold hearings on full evaluation reports and consider legislation to implement statutory recommendations.	LPC is no longer involved. Committees of jurisdiction continue to hold hearings on full evaluation reports and consider legislation. Presiding Officers approve additional research activities to be conducted by DLS and then presented to the committees of jurisdiction.
Preliminary Evaluation	Automatically conducted by DLS on all entities unless specifically waived in statute.	No longer conducted. All entities subject to evaluation by DLS instead receive a direct full evaluation. All other entities still subject to termination must complete a self-evaluation report.
Full Evaluation	An evaluation plan must be prepared by DLS and submitted to the evaluation committees. Report must be completed by October 31. Evaluation committees must hold public hearings on the report by December 14. By the twentieth day of session, the evaluation committees must make recommendations to the General Assembly, including proposing legislation to implement statutory recommendations.	No evaluation plan. Report must be completed by December 1. Committees of jurisdiction must hold public hearings by the tenth day of session. By the twentieth day of session, the committees of jurisdiction must make recommendations to the General Assembly, including proposing legislation to implement statutory recommendations.

*Does not include the Perfusion Advisory Committee.

**Includes the Perfusion Advisory Committee, which will become the sixth allied health advisory committee under the State Board of Physicians on October 1, 2012.

Note: All entities currently subject to termination in their authorizing statutes remain subject to termination.

Source: Department of Legislative Services

Appendix 2
Entities Subject to the Maryland Program Evaluation Act

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
Acupuncture Board, State	2015 (HO, § 1A-502)	2002	2012	1
Amusement Ride Safety, State Advisory Board	2014 ³ (BR, § 3-601)	2011	TBD	6
Apprenticeship and Training Council	2014 ³ (LE, § 11-402)	2011	TBD	6
Architects, State Board of	2023 (BOP, § 3-702)	2010	2020	4
Athletic Commission, State	2021 (BR, § 4-208)	2008	2018	6
Athletic Training Advisory Committee	2013 ³ (HO, § 14-5D-20)	2011	TBD	1
Audiologists, Hearing Aid Dispensers, and Speech Language Pathologists, State Board of Examiners for	2016 (HO, § 2-502)	2001	2013	4
Barbers, State Board of	2021 (BOP, § 4-702)	2009	2018	7
Boiler Rules, State Board of	2014 (PS, § 12-919)	2011	TBD	6
Cemetery Oversight, Office of	2013 ³ (BR, § 5-1002)	2011	TBD	4
Chiropractic and Massage Therapy Examiners, State Board of	2022 (HO, § 3-602)	2009	2019	5
Collection Agency Licensing Board, State	2022 (BR, § 7-502)	2010	2019	6
Cosmetologists, State Board of	2021 (BOP, § 5-702)	2009	2018	7
Counselors and Therapists, State Board of Professional	2019 (HO, § 17-702)	2007	2016	5
Dental Examiners, State Board of	2021 (HO, § 4-702)	2009	2018	8
Dietetic Practice, State Board of	2015 (HO, § 5-502)	2003	2012	4
Electricians, State Board of Master	2023 (BOP, § 6-702)	2010	2020	7
Electrology Practice Committee	2023 (HO, § 8-6B-29)	2010	2020	6
Elevator Safety Review Board	2014 ³ (PS, § 12-842)	2011	TBD	1
Engineers, State Board for Professional	2023 (BOP, § 14-602)	2010	2020	5
Engineers, State Board for Stationary	2014 (BOP, § 6.5-502)	2011	TBD	6
Environmental Sanitarians, State Board of	2013 ³ (EN, § 11-502)	2011	TBD	7
Financial Regulation, Office of the Commissioner of	2022 (FI, § 2-401)	2010	2019	7
Foresters, State Board of	2015 (BOP, § 7-602)	2001	2012	4
Health Care Commission, Maryland	None	2006	2015	5
Health Services Cost Review Commission, State	None	2006	2015	6

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, State Board of	2023 (BR, § 9A-602)	2010	2020	2
Home Improvement Commission, Maryland	2022 (BR, § 8-802)	2010	2019	7
Horse Industry Board, Maryland	2016 (AG, § 2-719)	2004	2013	6
Individual Tax Preparers, State Board of	2016 (BOP, § 21-502)	N/A	2013	0
Insurance Administration, Maryland	None	2011	2016	6
Interior Designers, State Board of Certified	2014 ³ (BOP, § 8-602)	2011	TBD	3
Labor and Industry, Division of	2014 ³ (LE, § 2-109, 3-706, and 4-405)	2011	TBD	6
Land Surveyors, State Board for Professional	2024 (BOP, § 15-702)	2009	2021	5
Landscape Architects, State Board of Examiners of	2024 (BOP, § 9-702)	2009	2021	5
Law Examiners, State Board of	2020 (BOP, § 10-218)	2007	2017	6
Maryland Bred Race Fund Advisory Committee	2014 (BR, § 11-1102)	2008	2012	6
Mold remediation services, licensing and regulation of	2019 (BR, § 8-718)	N/A	2016	0
Morticians and Funeral Directors, State Board of	2018 (HO, § 7-602)	2007	2015	7
Nursing, State Board of	2013 ³ (HO, § 8-802)	2011	TBD	7
Nursing Home Administrators, State Board of Examiners of	2017 (HO, § 9-502)	2009	2014	6
Occupational Safety and Health Advisory Board	2014 ³ (LE, § 5-607)	2011	TBD	6
Occupational Therapy Practice, State Board of	2015 (HO, § 10-502)	2001	2012	3
Optometry, State Board of Examiners	2023 (HO, § 11-602)	2009	2020	5
Pharmacy, State Board of	2013 ³ (HO, § 12-802)	2011	TBD	7
Physical Therapy Examiners, State Board of	2022 (HO, § 13-502)	2009	2019	5
Physician Assistant Advisory Committee	2013 ³ (HO, § 15-502)	2011	TBD	*
Physicians, State Board of	2013 ³ (HO, § 14-702)	2011	TBD	8
Pilots, State Board of	2022 (BOP, § 11-802)	2009	2019	6
Plumbing, State Board of	2023 (BOP, § 12-702)	2009	2020	5
Podiatric Medical Examiners, State Board of	2022 (HO, § 16-602)	2010	2019	6
Polysomnography Professional Standards Committee	2013 ³ (HO, § 14-5C-25)	2011	TBD	*
Prescription Drug Monitoring Program	2016 (HG, § 21-2A-10)	N/A	2013	0
Prevailing Wage Rates, Advisory Council on	2014 ³ (SF, § 17-203(l))	2011	TBD	6
Psychologists, State Board of Examiners of	2023 (HO, § 18-502)	2010	2020	6

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
Public Accountancy, State Board of	2015 (BOP, § 2-702)	2001	2012	3
Racing Commission, State	2014 (BR, § 11-1102)	2008	2012	6
Rad Oncology/Therapy Tech, Medical Rad Tech, and Nuclear Medicine Tech Advisory Committee	2013 ³ (HO, § 14-5B-21)	2011	TBD	*
Real Estate Appraisers and Home Inspectors, State Commission of	2013 ³ (BOP, § 16-802)	2011	TBD	4
Real Estate Commission, State	2012 ³ (BOP, § 17-702)	2010	TBD	7
Residential Child Care Program Professionals, State Board for Certification of	2014 ³ (HO, § 20-502)	2011	TBD	1
Respiratory Care Professional Standards Committee	2013 ³ (HO, § 14-5A-25)	2011	TBD	*
Security systems technicians, licensing and regulation of	2016 (BOP, § 18-701)	2001	2013	1
Social Work Examiners, State Board of	2014 ³ (HO, § 19-502)	2011	TBD	6
Standardbred Race Fund Advisory Committee, Maryland	2014 (BR, § 11-1102)	2008	2012	6
Veterinary Medical Examiners, State Board of	2021 (AG, § 2-316)	2008	2018	5
Waterworks and Waste Systems Operators, State Board of	2021 (EN, § 12-602)	2009	2018	7
Well Drillers, State Board of	2021 (EN, § 13-602)	2008	2018	5

TBD = The date of the next review is to be determined, pending legislation.

¹ All entities are subject to termination on July 1 of the year listed.

² Total evaluations completed includes preliminary evaluations, full evaluations, and status/update assessments.

³ Legislation is currently pending in the 2012 session to extend the termination date of these entities.

* These advisory committees fall under the jurisdiction of the State Board of Physicians.

Source: Department of Legislative Services
