

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1348 (Chair, Health and Government Operations
Committee)(By Request - Department of Legislative
Services)

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

Maryland Program Evaluation Act - Revisions and Clarifications

This bill clarifies and revises the Maryland Program Evaluation Act, including the duties required of the Department of Legislative Services (DLS) in conducting preliminary and full evaluations of governmental activities and units subject to the Act.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: None. The bill largely modernizes and codifies current practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Preliminary Evaluation Process: The definition of “preliminary evaluation” is revised to reflect current practice. The process for conducting preliminary evaluations is outlined and the dates by which each preliminary evaluation must be completed are specified. The required elements of a preliminary evaluation report are simplified. The bill specifies the circumstances under which DLS must consider recommending a full evaluation of a governmental activity or unit and requires DLS to submit each preliminary evaluation report to the Legislative Policy Committee (LPC).

The deadline by which LPC must approve or disapprove the recommendations submitted by DLS is extended from December 15 to the tenth day of the legislative session. If LPC approves a waiver from full evaluation, DLS must prepare legislation to extend the termination and evaluation years of the governmental activity or unit. All entities currently subject to evaluation remain subject to a preliminary evaluation, with the exception of five health occupations boards and any related allied health advisory committees (Dental Examiners, Morticians and Funeral Directors, Nursing, Pharmacy, and Physicians), which are waived from the preliminary evaluation process and permanently subject to a direct full evaluation. The specific evaluation dates for each entity are repealed and replaced with an evaluation year – the year in which DLS must conduct a preliminary evaluation.

Full Evaluation Process: The bill defines “full evaluation” to reflect current practice. DLS must conduct a full evaluation if LPC approves a recommendation for a full evaluation or otherwise requests a full evaluation. The requirements that an evaluation be completed by an evaluation committee, that an evaluation committee be appointed by May 31, and that an evaluation plan be prepared by June 30 are repealed. Five health occupations boards (and their related allied health advisory committees) are permanently subject to a direct full evaluation. Their specific evaluation dates are, likewise, repealed and replaced with the evaluation year in which DLS must conduct the direct full evaluation.

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. Instead, the bill specifies that if a preliminary evaluation has been conducted, a full evaluation must focus on the issues identified in the preliminary evaluation. If a preliminary evaluation has not been conducted, the full evaluation must address the governmental activity’s or unit’s efficiency, effectiveness, role in protecting consumers, sufficiency of resources, and accomplishment of legislative objectives. DLS must submit each full evaluation report, including draft legislation to implement any recommended statutory changes, to the “committees of jurisdiction.” 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.

The bill also clarifies that the unit under evaluation or responsible for the governmental activity under evaluation must promptly provide information to DLS or a committee 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.

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

Exhibit 1
Comparison of Major Provisions Under the Maryland Program Evaluation Act
Current Law vs. HB 1348

	<u>Current Law</u>	<u>Under HB 1348</u>
Legislative Oversight	LPC 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 continues to determine which entities are waived. Committees of jurisdiction continue to hold hearings on full evaluation reports and consider legislation.
Preliminary Evaluation	Automatically conducted by DLS on all entities unless specifically waived in statute.	Five health occupations boards (Dental, Morticians and Funeral Directors, Nursing, Pharmacy, and Physicians) are subject to direct full evaluation.
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 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.

Source: Department of Legislative Services

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 1 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 1, all but three of the entities subject to the Act have termination provisions (the Maryland Health Care Commission, the Maryland Insurance Administration, and the Health Services Cost Review Commission).

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: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 25, 2013
mlm/ljm

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Appendix 1 – Entities Subject to the Maryland Program Evaluation Act

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
Acupuncture Board, State	2015 ³ (HO, § 1A-502)	2012	TBD	1
Amusement Ride Safety, State Advisory Board	2014 ³ (BR, § 3-601)	2012	TBD	6
Apprenticeship and Training Council	2014 ³ (LE, § 11-402)	2012	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 (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 ³ (PS, § 12-919)	2012	TBD	6
Cemetery Oversight, Office of	2023 (BR, § 5-1002)	2011	2021	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 ³ (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 (PS, § 12-842)	2012	TBD	1
Engineers, State Board for Professional	2023 (BOP, § 14-602)	2010	2020	5
Engineers, State Board for Stationary	2014 (BOP, § 6.5-502)	2012	TBD	6
Environmental Health Specialists, State Board of	2017 (HO, § 21-201)	2011	2014	7
Financial Regulation, Office of the Commissioner of	2022 (FI, § 2-401)	2010	2019	7
Foresters, State Board of	2015 ³ (BOP, § 7-602)	2012	TBD	5

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
Health Care Commission, Maryland	None	2006	2015	5
Health Services Cost Review Commission, State	None	2006	2015	6
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	2024 (BOP, § 8-602)	2011	2021	3
Labor and Industry, Division of	2014 ³ (LE, § 2-109, 3-706, and 4-405)	2012	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	2013	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, § 7-702)	2007	2015	7
Nursing, State Board of	2023 (HO, § 8-802)	2011	2020	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)	2012	TBD	6
Occupational Therapy Practice, State Board of	2015 ³ (HO, § 10-502)	2012	TBD	4
Optometry, State Board of Examiners	2023 (HO, § 11-602)	2009	2020	5
Perfusion Advisory Committee	2022 ³ (HO, § 14-5E-25)	N/A	TBD	*
Pharmacy, State Board of	2023 (HO, § 12-802)	2011	2020	7
Physical Therapy Examiners, State Board of	2022 (HO, § 13-502)	2009	2019	5
Physician Assistant Advisory Committee	2013 (HO, § 15-502)	2011	TBD	*
Physicians, State Board of	2013 (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

Entity	Termination Date¹	Most Recent Evaluation	Next Evaluation	Total Evaluations Conducted²
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(1))	2012	TBD	6
Psychologists, State Board of Examiners of	2023 (HO, § 18-502)	2010	2020	6
Public Accountancy, State Board of	2015 ³ (BOP, § 2-702)	2012	TBD	4
Racing Commission, State	2014 (BR, § 11-1102)	2008	2013	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, Appraisal Management Companies, and Home Inspectors, State Commission of	2022 (BOP, § 16-802)	2011	2019	4
Real Estate Commission, State	2022 (BOP, § 17-702)	2010	2019	7
Residential Child Care Program Professionals, State Board for Certification of	2024 (HO, § 20-502)	2011	2021	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	2024 (HO, § 19-502)	2011	2021	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 2013 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