

# HOUSE BILL 26

P3

(PRE-FILED)

4lr0807  
CF 4lr1104

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By: **Delegates McDermott, Smigiel, Haddaway-Riccio, and Otto**

Requested: November 5, 2013

Introduced and read first time: January 8, 2014

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Administrative Procedure Act – Fiscal Impact Statements for Proposed**  
3 **Regulations**

4 FOR the purpose of altering a certain provision of law to clarify that a promulgating  
5 unit is required to submit a certain fiscal impact statement with a proposed  
6 regulation to the Joint Committee on Administrative, Executive, and  
7 Legislative Review and the Department of Legislative Services; altering a  
8 certain provision of law to prohibit a unit from adopting a proposed regulation  
9 until after a certain fiscal impact statement is submitted with the proposed  
10 regulation to the Committee for preliminary review; making conforming  
11 changes; and generally relating to fiscal impact statements for proposed  
12 regulations.

13 BY repealing and reenacting, with amendments,  
14 Article – State Government  
15 Section 10–110(c)(1), 10–111, and 10–112  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2013 Supplement)

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

20 **Article – State Government**

21 10–110.

22 (c) (1) At least 15 days before the date a proposed regulation is submitted  
23 to the Maryland Register for publication under § 10–112 of this subtitle, the  
24 promulgating unit shall submit the proposed regulation, **TOGETHER WITH THE**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **FISCAL IMPACT STATEMENT REQUIRED UNDER § 10–111(C) OF THIS SUBTITLE,**  
2 to the Committee and the Department of Legislative Services.

3 10–111.

4 (a) (1) Except as provided in subsection (b) of this section, a unit may not  
5 adopt a proposed regulation until:

6 (i) after submission of the proposed regulation, **TOGETHER**  
7 **WITH THE FISCAL IMPACT STATEMENT REQUIRED UNDER SUBSECTION (C) OF**  
8 **THIS SECTION**, to the Committee for preliminary review under § 10–110 of this  
9 subtitle; and

10 (ii) at least 45 days after its first publication in the Register.

11 (2) (i) If the Committee determines that an appropriate review  
12 cannot reasonably be conducted within 45 days and that an additional period of review  
13 is required, it may delay the adoption of the regulation by so notifying the  
14 promulgating unit and the Division of State Documents, in writing, prior to the  
15 expiration of the 45–day period.

16 (ii) If notice is provided to the promulgating unit pursuant to  
17 subparagraph (i) of this paragraph, the promulgating unit may not adopt the  
18 regulation until it notifies the Committee, in writing, of its intention to adopt the  
19 regulation and provides the Committee with a further period of review of the  
20 regulation that terminates not earlier than the later of the following:

21 1. the 30th day following the notice provided by the  
22 promulgating unit under this subparagraph; or

23 2. the 105th day following the initial publication of the  
24 regulation in the Register.

25 (3) The promulgating unit shall permit public comment for at least 30  
26 days of the 45–day period under paragraph (1)(ii) of this subsection.

27 (b) (1) The unit may adopt a proposed regulation immediately if the unit:

28 (i) declares that the emergency adoption is necessary;

29 (ii) submits the proposed regulation to the Committee and the  
30 Department of Legislative Services, together with the fiscal impact statement required  
31 under subsection (c) of this section; and

32 (iii) has the approval of the Committee for the emergency  
33 adoption.

1           (2)   (i)   Subject to subparagraphs (ii), (iii), and (iv) of this  
2 paragraph, the approval of the Committee may be given:

3                           1.   by a majority of its members who are present and  
4 voting at a public hearing or meeting of the Committee; or

5                           2.   if staff of the Committee tries but is unable to contact  
6 a majority of the members of the Committee in a timely manner and immediate  
7 adoption is necessary to protect the public health or safety, by its presiding Chairman  
8 or, if its presiding Chairman is unavailable, by its cochair.

9                           (ii)   If a member of the Committee requests a public hearing on  
10 the emergency adoption of a regulation, the Committee shall hold a public hearing.

11                           (iii)   1.   If a public hearing is held on the emergency adoption  
12 of a regulation, the Committee may not approve the emergency adoption except by a  
13 majority vote of the members present and voting at the hearing or at a meeting of the  
14 Committee subsequent to the hearing.

15                           2.   If a vote on the emergency regulation is not taken at  
16 the public hearing or immediately thereafter, the Committee members shall be  
17 provided at least 1 week's notice of the scheduling of any subsequent meeting to vote  
18 on the regulation.

19                           (iv)   Unless the Governor declares that immediate adoption is  
20 necessary to protect the public health or safety, the Committee may not approve the  
21 emergency adoption of a regulation earlier than 10 business days after receipt of the  
22 regulation by the Committee and the Department of Legislative Services.

23           (3)   If there is no request for a public hearing, the staff of the  
24 Committee may poll, in person, by telephone, or in writing:

25                           (i)   the members of the Committee; or

26                           (ii)   if staff of the Committee tries but is unable to contact a  
27 majority of the members of the Committee in a timely manner and immediate  
28 adoption is necessary to protect the public health or safety, the presiding Chairman or  
29 the cochair.

30           (4)   (i)   The Committee may impose, as part of its approval, any  
31 condition.

32                           (ii)   The Committee shall impose, as part of its approval, a time  
33 limit not to exceed 180 days on each request for emergency status.

1 (iii) If the unit does not adopt the regulation finally before the  
2 time limit expires, the status of the regulation reverts to its status before the  
3 emergency adoption.

4 (5) The Committee may rescind its approval by a majority of its  
5 members present and voting at a public hearing or meeting of the Committee.

6 (c) (1) The fiscal impact statement, prepared by the unit and submitted  
7 under **SUBSECTION (A) OR** subsection (b) of this section, shall state:

8 (i) an estimate of the impact of the [emergency] regulation on  
9 the revenues and expenditures of the State;

10 (ii) whether the State budget for the fiscal year in which the  
11 regulation will become effective contains an appropriation of the funds necessary for  
12 the implementation of the [emergency] regulation;

13 (iii) if an appropriation is not contained in the State budget, the  
14 source of the funds necessary for the implementation of the [emergency] regulation;  
15 and

16 (iv) whether the [emergency] regulation imposes a mandate on a  
17 local government unit.

18 (2) If the [emergency] regulation imposes a mandate on a local  
19 government unit, the fiscal impact statement shall:

20 (i) indicate whether the regulation is required to comply with a  
21 federal statutory or regulatory mandate;

22 (ii) [if the information may be practicably obtained given the  
23 emergency circumstances of the regulations,] include an estimate of the impact of the  
24 [emergency] regulation on the revenues and expenditures of local government units  
25 **UNLESS:**

26 **1. THE REGULATION IS AN EMERGENCY**  
27 **REGULATION; AND**

28 **2. THE INFORMATION MAY NOT BE PRACTICABLY**  
29 **OBTAINED GIVEN THE EMERGENCY CIRCUMSTANCES OF THE REGULATIONS; and**

30 (iii) if applicable, and if the required data is available, include  
31 the estimated effect on local property tax rates.

1           (a)   (1)   This subsection does not apply to the emergency adoption of a  
2 regulation.

3                   (2)   To have a proposed regulation published in the Register, a unit  
4 shall submit to the Administrator:

5                           (i)   the proposed regulation; and

6                           (ii)   a notice of the proposed adoption.

7                   (3)   The notice under this subsection shall:

8                           (i)   state the estimated economic impact of the proposed  
9 regulation on:

10                                   1.   the revenues and expenditures of units of the State  
11 government and of local government units **IN ACCORDANCE WITH § 10-111(C) OF**  
12 **THIS SUBTITLE**; and

13                                   2.   groups such as consumer, industry, taxpayer, or trade  
14 groups;

15                           (ii)   include a statement of purpose;

16                           (iii)   satisfy the requirements of § 2-1505.2 of this article;

17                           (iv)   comply with § 7-113(c) of the Human Services Article; and

18                           (v)   give persons an opportunity to comment before adoption of  
19 the proposed regulation, by:

20                                   1.   setting a date, time, and place for a public hearing at  
21 which oral or written views and information may be submitted; or

22                                   2.   giving a telephone number that a person may call to  
23 comment and an address to which a person may send comments.

24                   (4)   (i)   The estimated economic impact statement required under  
25 paragraph (3)(i) of this subsection shall state whether the proposed regulation imposes  
26 a mandate on a local government unit.

27                           (ii)   If the proposed regulation imposes a mandate, the fiscal  
28 impact statement shall:

29                                   1.   indicate whether the regulation is required to comply  
30 with a federal statutory or regulatory mandate; and

1                                   2.     include, in addition to the estimate under paragraph  
2 (3)(i)1 of this subsection, the estimated effect on local property tax rates, if applicable,  
3 and if the required data is available.

4           (b)    As soon as the Committee approves emergency adoption of a regulation,  
5 the Committee shall submit the regulation to the Administrator.

6           (c)    If a regulation under this section amends or repeals an adopted  
7 regulation, the text of the regulation under this section shall show the changes with  
8 the symbols that the Administrator requires.

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2014.