

HOUSE BILL 1280

P3

6lr3590
CF SB 599

By: **Delegate Rosenberg**

Introduced and read first time: February 12, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **AELR Committee – Renaming and Regulatory Adoption Procedures**

3 FOR the purpose of renaming the Joint Committee on Administrative, Executive, and
4 Legislative Review to be the Regulatory Oversight Committee; requiring the Division
5 of State Documents to make available to the public direct online searching of certain
6 public comments provided to the Division; requiring a promulgating unit to submit
7 to the Governor a copy of a proposed emergency regulation and a certain description;
8 requiring the Governor to review and concur with and attest to or reject the unit’s
9 justification for emergency adoption of a regulation; requiring a unit to memorialize
10 certain comments in writing and to submit to the Division a copy of certain public
11 comments received within a certain time period; requiring a unit to submit a certain
12 description and a certain attestation to the Committee and the Department of
13 Legislative Services when seeking the approval by the Committee of the emergency
14 adoption of a regulation; requiring the publisher of the Annotated Code of Maryland,
15 in consultation with the Department of Legislative Services, to correct
16 cross–references and terminology in the Code that are rendered incorrect by this Act;
17 making conforming changes; and generally relating to renaming the AELR
18 Committee and certain regulatory adoption procedures.

19 BY repealing and reenacting, with amendments,

20 Article – State Government

21 Section 2–501 and 2–502 to be under the amended subtitle “Subtitle 5. Regulatory
22 Oversight Committee”; 2–1505.2(a)(2), 7–201(d), 7–206.2(b), 9.5–309(c)(2),
23 10–101(d), 10–107, 10–111(a)(3) and (b)(1), 10–130(c), and 10–803

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2015 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article – State Government

28 Section 2–1505.2(a)(1), 7–201(a), 10–101(a), and 10–130(a)

29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2014 Replacement Volume and 2015 Supplement)
- 2 BY repealing and reenacting, without amendments,
3 Article – Economic Development
4 Section 3–501(a)
5 Annotated Code of Maryland
6 (2008 Volume and 2015 Supplement)
- 7 BY repealing and reenacting, with amendments,
8 Article – Economic Development
9 Section 3–501(c), 3–505(d), and 3–506(a)
10 Annotated Code of Maryland
11 (2008 Volume and 2015 Supplement)
- 12 BY repealing and reenacting, with amendments,
13 Article – Environment
14 Section 9–289(b)
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2015 Supplement)
- 17 BY repealing and reenacting, with amendments,
18 Article – General Provisions
19 Section 5–103(f)(3)(ii)2.
20 Annotated Code of Maryland
21 (2014 Volume and 2015 Supplement)
- 22 BY repealing and reenacting, with amendments,
23 Article – Labor and Employment
24 Section 5–314(b) and 5.5–108(d)(2)(i)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2015 Supplement)
- 27 BY repealing and reenacting, with amendments,
28 Article – Natural Resources
29 Section 4–1009(b), 4–1009.1(c)(1)(i), 4–1103(b), 8–1806(a)(1), and 8–1810(b)
30 Annotated Code of Maryland
31 (2012 Replacement Volume and 2015 Supplement)
- 32 BY repealing and reenacting, with amendments,
33 Article – Public Safety
34 Section 12–204(d) and 14–304(d)(1)
35 Annotated Code of Maryland
36 (2011 Replacement Volume and 2015 Supplement)
- 37 BY repealing and reenacting, with amendments,
38 Article – State Finance and Procurement
39 Section 10A–103(b)(2)(i) and 12–203(a)(2)(ii)

1 Annotated Code of Maryland
2 (2015 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 2–103.4(d)(2)
6 Annotated Code of Maryland
7 (2015 Replacement Volume and 2015 Supplement)

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

10 **Article – State Government**

11 Subtitle 5. [Joint Committee on Administrative, Executive, and Legislative Review]
12 **REGULATORY OVERSIGHT COMMITTEE.**

13 2–501.

14 In this subtitle, “Committee” means the [Joint Committee on Administrative,
15 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE.**

16 2–502.

17 There is a [Joint Committee on Administrative, Executive, and Legislative Review]
18 **REGULATORY OVERSIGHT COMMITTEE**, which is a joint committee of the Senate and
19 the House.

20 2–1505.2.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Committee” means the [Joint Committee on Administrative,
23 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE.**

24 7–201.

25 (a) In this subtitle the following words have the meanings indicated.

26 (d) “Committee” means the [Joint Committee on Administrative, Executive, and
27 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE.**

28 7–206.2.

29 (b) Notwithstanding any other provision of law, the Division shall make available
30 to the public, at no cost, direct online searching of:

1 (1) the Code of Maryland Regulations (COMAR);

2 (2) the Maryland Register; [and]

3 **(3) COPIES OF PUBLIC COMMENTS PROVIDED TO THE DIVISION IN**
4 **ACCORDANCE WITH § 10–111 OF THIS ARTICLE; AND**

5 **[(3)] (4)** any other material the Division determines to be in the public
6 interest.

7 9.5–309.

8 (c) (2) The executive order:

9 (i) shall be submitted to the [Joint Committee on Administrative,
10 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**; and

11 (ii) shall take effect 30 days after it is submitted.

12 10–101.

13 (a) In this subtitle the following words have the meanings indicated.

14 (d) “Committee” means the [Joint Committee on Administrative, Executive, and
15 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**.

16 10–107.

17 (a) “Unit counsel” means the unit counsel for the Commission on Civil Rights, the
18 Public Service Commission, and the State Ethics Commission.

19 (b) Unless a proposed regulation is submitted to the Attorney General or to the
20 unit counsel for approval as to legality, the regulation:

21 (1) may not be adopted under any statutory authority; and

22 (2) if adopted, is not effective.

23 **(C) (1) IF THE PROPOSED REGULATION IS A REGULATION FOR WHICH**
24 **THE UNIT DECLARES THAT THE EMERGENCY ADOPTION IS NECESSARY, THE UNIT**
25 **SHALL SUBMIT TO THE GOVERNOR A COPY OF THE PROPOSED REGULATION AND A**
26 **SPECIFIC DESCRIPTION OF THE GROUNDS REQUIRING THE EMERGENCY ADOPTION.**

27 **(2) THE GOVERNOR SHALL:**

1 **(I) REVIEW THE REGULATION AND GROUNDS SUBMITTED BY**
2 **THE UNIT UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND**

3 **(II) 1. CONCUR WITH THE UNIT'S JUSTIFICATION FOR**
4 **EMERGENCY ADOPTION AND ATTEST TO THE NECESSITY FOR EMERGENCY**
5 **ADOPTION; OR**

6 **2. REJECT THE UNIT'S JUSTIFICATION.**

7 10–111.

8 (a) (3) **(I) The promulgating unit shall permit public comment for at least**
9 **30 days of the 45–day period under paragraph (1)(ii) of this subsection.**

10 **(II) WITHIN 1 DAY AFTER THE RECEIPT OF ANY COMMENT**
11 **SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE UNIT SHALL:**

12 **1. IF THE UNIT RECEIVED A VERBAL COMMENT,**
13 **MEMORIALIZE THE COMMENT IN WRITING AND SUBMIT AN ELECTRONIC COPY OF**
14 **THE COMMENT TO THE DIVISION OF STATE DOCUMENTS; OR**

15 **2. IF THE UNIT RECEIVED A WRITTEN COMMENT, SUBMIT**
16 **AN ELECTRONIC COPY OF THE COMMENT TO THE DIVISION OF STATE DOCUMENTS.**

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

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

19 (ii) submits the proposed regulation to the Committee and the
20 Department of Legislative Services, together with:

21 **1. A SPECIFIC DESCRIPTION OF THE GROUNDS**
22 **REQUIRING THE EMERGENCY ADOPTION;**

23 **2. THE ATTESTATION OF THE GOVERNOR REQUIRED BY**
24 **§ 10–107 OF THIS SUBTITLE; AND**

25 **3. the fiscal impact statement required under subsection (c)**
26 **of this section; and**

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

28 10–130.

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

1 (c) “Committee” means the [Joint Committee on Administrative, Executive, and
2 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**.

3 10–803.

4 Each unit shall submit the policies required under § 10–802 of this subtitle to the
5 [Joint Committee on Administrative, Executive, and Legislative Review] **REGULATORY**
6 **OVERSIGHT COMMITTEE**.

7 **Article – Economic Development**

8 3–501.

9 (a) In this subtitle the following words have the meanings indicated.

10 (c) [“AELR Committee”] **“COMMITTEE”** means the [Joint Committee on
11 Administrative, Executive, and Legislative Review] **REGULATORY OVERSIGHT**
12 **COMMITTEE**.

13 3–505.

14 (d) (1) If the Advisory Council finds that a proposed regulation poses a
15 significant small business impact under this section, the Advisory Council shall submit a
16 written statement of its findings to the [AELR] Committee and the Department of
17 Legislative Services within 15 days after the date that the Advisory Council receives the
18 proposed regulation under § 10–110(c) of the State Government Article.

19 (2) On notice to the [AELR] Committee and the Department of Legislative
20 Services, the Advisory Council shall be granted up to an additional 15 days to submit the
21 written statement of its findings.

22 3–506.

23 (a) The staff of the Advisory Council shall:

24 (1) review the small business impact statement accompanying each
25 regulation prepared in accordance with § 10–110(d)(3) of the State Government Article;

26 (2) consult with the [AELR] Committee and the Department of Legislative
27 Services regarding any significant small business impacts identified under § 10–110(d)(3)
28 of the State Government Article;

29 (3) review proposed regulations for comparisons with federal law under §
30 3–505 of this subtitle and identify any significant small business impacts;

1 (4) consult with and train, as necessary, staff of the promulgating units to
2 assist the units in the preparation of the unit's small business impact statements; and

3 (5) as necessary, testify at hearings or meetings called by the Advisory
4 Council or by the [AELR] Committee under § 10-110(e)(4)(ii) of the State Government
5 Article.

6 Article – Environment

7 9–289.

8 (b) On or before December 31, 2009, the Department shall submit to the [Joint
9 Committee on Administrative, Executive, and Legislative Review] **REGULATORY**
10 **OVERSIGHT COMMITTEE** regulations regarding:

11 (1) Fugitive air emissions from the transportation of coal combustion
12 by-products in the State; and

13 (2) The permissible beneficial uses of coal combustion by-products in the
14 State.

15 Article – General Provisions

16 5–103.

17 (f) The following are not public officials:

18 (3) a part-time or full-time faculty member at a State institution of higher
19 education:

20 (ii) as to any other provision of this section, unless the individual
21 also:

22 2. directly procures, directly influences, or otherwise directly
23 affects the formation or execution of any State contract, purchase, or sale, as established
24 by regulations adopted by the Ethics Commission and approved by the [Joint Committee
25 on Administrative, Executive, and Legislative Review] **REGULATORY OVERSIGHT**
26 **COMMITTEE**.

27 Article – Labor and Employment

28 5–314.

29 (b) An emergency occupational safety and health standard adopted under this
30 section remains in effect until the earlier of:

1 (1) expiration of a period that the [Joint Committee on Administrative,
2 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE** sets;

3 (2) expiration of a period, not exceeding 6 months, that the Commissioner
4 sets; or

5 (3) replacement of the emergency occupational safety and health standard
6 by another regulation.

7 5.5–108.

8 (d) (2) An emergency health and safety standard adopted under this
9 subsection remains in effect until the earlier of:

10 (i) expiration of a period that the [Joint Committee on
11 Administrative, Executive, and Legislative Review] **REGULATORY OVERSIGHT**
12 **COMMITTEE** sets;

13 Article – Natural Resources

14 4–1009.

15 (b) The Secretary may establish by rule or regulation daily catch limits on the
16 quantities of oysters which may be caught from the waters of the State except leased areas
17 and aquaculture enterprise zones, and may amend the daily catch limits to conserve the
18 public oyster resource. Notice of the establishment or amendment of these catch limits,
19 including all applicable reasons for the Department’s action, shall be given before
20 publication, to the [Joint Committee on Administrative, Executive, and Legislative Review]
21 **REGULATORY OVERSIGHT COMMITTEE** and by publication of the notice in at least one
22 newspaper of general circulation in the State, in at least one newspaper of general
23 circulation in each county in which the affected waters are located, and on the Web site of
24 the Department not less than one week prior to the effective date.

25 4–1009.1.

26 (c) (1) An action of the Department under subsection (b) of this section may
27 not become effective until:

28 (i) A copy of the notice to be published under item (ii) of this
29 paragraph has been delivered to the [Joint Committee on Administrative, Executive, and
30 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**; and

31 4–1103.

32 (b) The Department may select and reserve for its own use areas, to be known as
33 seed areas, within the waters of the State for the propagation of seed oysters. The number,

1 size, and location of these areas shall be determined from time to time by the Department.
2 The Department shall, before publication, deliver a notice of reservation, including all
3 applicable reasons for the Department's act, to the [Joint Committee on Administrative,
4 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE** and publish
5 the notice not less than 30 days before the closing date of any seed area in one newspaper
6 of general circulation in the State and at least one newspaper of general circulation in each
7 county in which the affected waters are located, and on the Web site of the Department.
8 The Department shall schedule a public hearing on the proposal not less than 15 days
9 before the proposed closing date. The hearing shall be held at the county seat of the county
10 in which the affected waters are located. If the affected waters are located in more than one
11 county, the hearing shall be held in that county seat closest to the affected waters, but if
12 the area affected is totally within State waters, the hearing shall be held in Annapolis.

13 8–1806.

14 (a) The Commission has all powers necessary for carrying out the purposes of this
15 subtitle, including the following:

16 (1) In accordance with Title 2, Subtitle 5 ([Joint Committee on
17 Administrative, Executive, and Legislative Review] **REGULATORY OVERSIGHT**
18 **COMMITTEE**) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State
19 Government Article, to adopt and amend regulations as authorized under this subtitle for
20 the administration and enforcement of the State and local programs;

21 8–1810.

22 (b) Where a local jurisdiction failed to adopt or obtain Commission approval of a
23 program, the Commission shall adopt a program for that jurisdiction by adopting
24 regulations in accordance with Title 2, Subtitle 5 [(Joint Committee on Administrative,
25 Executive, and Legislative Review)] (**REGULATORY OVERSIGHT COMMITTEE**) and Title
26 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article. Before the
27 full Commission adopts a program under this subsection, the Commission shall appoint a
28 panel of 3 of the Commission's members to conduct in the affected jurisdiction at least 2
29 public hearings at least 10 days apart on the proposed program, for which 2 weeks' notice
30 shall be published in a newspaper of general circulation in the local jurisdiction. A program
31 adopted by the Commission under this subsection shall supersede any inconsistent local
32 laws, ordinances, or plans.

33 **Article – Public Safety**

34 12–204.

35 (d) After approval by the [Joint Committee on Administrative, Executive, and
36 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**, the guidelines shall be
37 published in the Maryland Register and other appropriate media to:

1 (1) encourage use of the guidelines; and

2 (2) provide standards in accordance with which owners, operators, or both
3 of existing public buildings, including local governments, the Department of General
4 Services, and other governmental units that manage State buildings, may target their
5 energy conservation effort with regard to illumination.

6 14–304.

7 (d) (1) In this subsection, “Committee” means:

8 (i) the [Joint Committee on Administrative, Executive, and
9 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE**; or

10 (ii) any other joint committee substituted by the General Assembly
11 by law to carry out the responsibilities of the [Joint Committee on Administrative,
12 Executive, and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE** with
13 respect to an energy emergency.

14 **Article – State Finance and Procurement**

15 10A–103.

16 (b) (2) A reporting agency may not adopt regulations under paragraph (1) of
17 this subsection until:

18 (i) the [Joint Committee on Administrative, Executive, and
19 Legislative Review] **REGULATORY OVERSIGHT COMMITTEE** reviews the regulations in
20 accordance with § 10–110 of the State Government Article;

21 12–203.

22 (a) (2) These regulations shall:

23 (ii) be subject to the approval of the [Joint Committee on
24 Administrative, Executive, and Legislative Review] **REGULATORY OVERSIGHT**
25 **COMMITTEE**.

26 **Article – Transportation**

27 2–103.4.

28 (d) (2) The regulations shall address procedures for leave, appointment,
29 hiring, promotion, layoff, removal, termination, redress of grievances, and reinstatement of
30 employees and shall be presented to the [Joint Committee on Administrative, Executive,

1 and Legislative Review] **REGULATORY OVERSIGHT COMMITTEE** under Title 10,
2 Subtitle 1 of the State Government Article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the
4 Annotated Code of Maryland, in consultation with and subject to the approval of the
5 Department of Legislative Services, shall correct, with no further action required by the
6 General Assembly, cross-references and terminology rendered incorrect by this Act or by
7 any other Act of the General Assembly of 2016 that affects provisions enacted by this Act.
8 The publisher shall adequately describe any such correction in an editor's note following
9 the section affected.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2016.