

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 173 (The President, *et al.*) (By Request - Administration)
 Education, Health, and Environmental Affairs Health and Government Operations
 and Finance

State Government - Regulations Impacting Small Businesses

This Administration bill requires State agencies to establish an electronic registry, notification system, and compliance guides for proposed regulations that are expected to have a significant small business impact. The Department of Budget and Management (DBM) must provide related training at least once every two years. Effective October 1, 2021, specified requirements for proposed regulations with significant small business impacts and the Advisory Council on the Impact of Regulations on Small Businesses are repealed. **The bill generally takes effect July 1, 2019.**

Fiscal Summary

State Effect: General fund expenditures increase by \$30,000 in FY 2020 and every two years thereafter. The bill does not otherwise materially affect State finances or operations.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	30,000	0	30,000	0	30,000
Net Effect	(\$30,000)	\$0	(\$30,000)	\$0	(\$30,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Promulgation Process for Regulations that Affect Small Businesses

In addition to other existing requirements, when a State agency estimates that a proposed regulation will have a significant small business impact, the agency must:

- establish an electronic registry that allows any small business, nonprofit organization, or other interested party to register to receive an electronic notification when the proposed regulation (or scope of the proposed regulation) is posted on the agency's website, and send the appropriate notifications;
- post the proposed regulation (or the scope of the proposed regulation) on the agency's website within specified timeframes and provide an opportunity for comment; and
- prepare a compliance guide written in clear, plain English to assist small businesses, update the guide as needed until the regulation is final, and post the guide on the unit's website.

The bill also conforms similar, but distinct, definitions of small business.

Effective October 1, 2021, existing requirements for identifying and estimating the effects of proposed regulations on small businesses are repealed, leaving only the new requirements listed above.

Department of Budget and Management Training Program

DBM must enter into an agreement with an appropriate entity to provide training to Executive Branch agencies that promulgate regulations on the preparation of the accompanying economic analyses. The training must be provided at least once every two years.

Repeal of the Advisory Council on the Impact of Regulations on Small Businesses

Effective October 1, 2021, the Advisory Council on the Impact of Regulations on Small Businesses and related provisions are repealed.

Current Law/Background: Generally, a State agency must submit proposed regulations to the Joint Committee on Administrative, Executive, and Legislative Review (*i.e.*, the AELR Committee) and DLS 15 days prior to publication in the *Maryland Register*. There

are specific requirements for proposed regulations with different effects, such as those that will have a significant impact on small businesses.

Promulgation Process for Regulations that Affect Small Businesses

If a State agency estimates that a proposed regulation will have a significant small business impact, the agency must:

- identify each provision in the proposed regulation that will have a significant small business impact;
- quantify or describe the range of potential costs of the proposed regulation on small businesses in the State;
- identify how many small businesses may be impacted by the proposed regulation;
- identify any alternative provisions the unit considered that may have a less significant impact on small businesses in the State and the reason the alternative was not proposed;
- identify the beneficial impacts of the regulation, including to public health, safety, and welfare, or to the environment; and
- coordinate with the Advisory Council on the Impact of Regulations on Small Businesses, as specified.

These requirements are repealed by the bill, effective October 1, 2021.

Separately, if the appropriate State agency or DLS determines that a proposed regulation will have a meaningful economic impact on small businesses, the agency or DLS must develop a complete written economic impact analysis, as specified, unless the agency or DLS is unable to do so, in which case the agency or DLS must provide a written explanation of why the regulation will have a meaningful economic impact. These requirements are unaffected by the bill.

Advisory Council on the Impact of Regulations on Small Businesses

Chapter 137 of 2015 established the Advisory Council on the Impact of Regulations on Small Businesses. The bill reflects various recommendations in the advisory council's 2017 annual report. The full report can be found on the DLS [website](#). The 2018 annual report was not available in time for inclusion in this fiscal and policy note.

State Expenditures:

Department of Budget and Management Training Program

DBM estimates that the cost to update training guidelines and provide five days of training is \$30,000. Training must be provided at least every two years. Therefore, general fund expenditures increase by \$30,000 in fiscal 2020 and every two years thereafter.

Regulation Promulgation Process

Agencies can generally handle the additional requirements related to the regulation promulgation process, including preparing compliance guides, with existing budgeted resources. To the extent this is not the case for a particular agency, general and/or special fund expenditures increase for additional staff. Any such impact has not been accounted for in this analysis.

The Department of Information Technology advises that State agencies can use an application known as Page Watch to establish registries and provide electronic notification of proposed regulations at little or no cost, as the application is available under an existing statewide contract. Therefore, initial implementation costs and other ongoing costs associated with deploying the Page Watch application are assumed to be minimal and absorbable within existing budgeted resources.

Repealing the Advisory Council

Repealing the Advisory Council on the Impact of Regulations on Small Businesses effective October 1, 2021, does not materially affect State expenditures. The Department of Commerce advises that nonstaff costs associated with the council are minimal, and council staff will focus on other existing responsibilities.

Additional Information

Prior Introductions: HB 855 of 2018, a similar bill as amended, passed the House with amendments and was referred to the Senate Education, Health, and Environmental Affairs Committee; however, no further action was taken.

Cross File: HB 157 (The Speaker, *et al.*) (By Request - Administration) - Health and Government Operations.

Information Source(s): Department of Commerce; Department of Budget and Management; Department of Information Technology; Maryland State Department of Education; Maryland Higher Education Commission; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health; Department of Labor, Licensing, and Regulation; Department of Natural Resources; State Department of Assessments and Taxation; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2019
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Government - Regulations Impacting Small Businesses

BILL NUMBER: SB 173 / HB 157

PREPARED BY: Malachy Rice and Mikra Krasniqi

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

This legislation would improve the process of how State agencies estimate the economic impact of proposed regulations and find effective methods to reduce negative impact on small businesses. The legislation would enact changes that include timely input from small businesses, requirement that State agencies provide compliance instructions for regulations with an impact on small firms, remove duplicate regulations, fines and penalties, and provide training for State employees who deal with regulatory impact estimation on small business.

In this manner, this legislation could have a significant benefit to small businesses by: increasing the transparency of the State's regulatory process; making it easier for small business to comply with regulations; reducing regulatory burdens on small businesses as a result of training for State agencies to consider less restrictive alternatives for small businesses, and offering the potential of decreasing the duplication of State and local regulations; and offering relief from regulatory fines and penalties for small business.

It is difficult to quantify the economic impact on small business or specific industries; however, there could be significant positive economic impact. Making it easier for small businesses to comply with regulations will reduce opportunity costs as less time will be required for complying with regulations, which will allow small businesses to spend more time focusing on their business activity. State agencies that adopt less restrictive or burdensome alternatives could potentially reduce the cost of regulatory compliance for small businesses. Finally, providing relief from regulatory fines or penalties will reduce costs for small businesses.