

HOUSE BILL 817

P3

3lr2241
CF SB 649

By: ~~Delegate Rosenberg~~ Delegates Rosenberg, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Szeliga, Taveras, White, and Woods

Introduced and read first time: February 8, 2023
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **State Government – Regulation Procedures and the Maryland Register**

3 FOR the purpose of requiring the Division of State Documents to make a certain number
4 of issues of the Maryland Register available to the public for online searching;
5 altering the requirements for a unit of State government to submit certain proposed
6 or emergency regulations, work plans, and evaluation reports to the Joint Committee
7 on Administrative, Executive, and Legislative Review, the Department of Legislative
8 Services, and the Administrator of the Division of State Documents; requiring a unit
9 that wants to alter the text of a proposed regulation after it has been submitted to
10 the Joint Committee and the Department of Legislative Services to take certain
11 actions; requiring a unit to provide a certain notice to the Joint Committee in a
12 certain manner; extending a certain period of review for a certain regulation;
13 requiring a certain notice to be published in the Maryland Register within a certain
14 time period after receipt of the notice by the Joint Committee; requiring the
15 Department of Legislative Services to adopt certain procedures for the submission of
16 proposed and emergency regulations, work plans, and evaluation reports to the Joint
17 Committee by a unit; providing that compliance with certain submission
18 requirements does not satisfy certain other submission requirements; requiring the
19 Administrator to consult with the Department of Legislative Services on certain
20 matters; requiring the Administrator to send a receipt of a certain transmittal to a
21 certain unit under certain circumstances; requiring the ~~Administrator, on or before~~
22 ~~a certain date~~ Department of Information Technology, in consultation with the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Administrator, to develop and maintain a certain electronic filing system in
 2 accordance with certain requirements on or before a certain date; requiring the
 3 ~~Administrator to consult with the Department~~ Department of Information
 4 Technology to consult with the Administrator and the Department of Legislative
 5 Services on certain matters; and generally relating to regulatory procedures and the
 6 Maryland Register.

7 BY repealing and reenacting, without amendments,
 8 Article – State Government
 9 Section 7–201(a) and (e) and 10–101
 10 Annotated Code of Maryland
 11 (2021 Replacement Volume and 2022 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – State Government
 14 Section 7–206.2(b), 10–110(c)(1), and 10–111(a)
 15 Annotated Code of Maryland
 16 (2021 Replacement Volume and 2022 Supplement)

17 BY adding to
 18 Article – State Government
 19 Section 10–111.2(c)
 20 Annotated Code of Maryland
 21 (2021 Replacement Volume and 2022 Supplement)

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

24 **Article – State Government**

25 7–201.

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

27 (e) “Division” means the Division of State Documents.

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:

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

32 (2) **AT LEAST THE 15 MOST RECENT ISSUES OF** the Maryland Register;
 33 and

34 (3) any other material the Division determines to be in the public interest.

1 10–101.

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

3 (b) “Administrator” means the Administrator of the Division of State Documents.

4 (c) “Committee” means the Joint Committee on Administrative, Executive, and
5 Legislative Review.

6 (d) “Local government unit” means:

7 (1) a county;

8 (2) a municipal corporation;

9 (3) a special district that is established by State law and that operates
10 within a single county;

11 (4) a special district that is established by a county pursuant to public
12 general law; or

13 (5) an office, board, or department that is established in each county under
14 State law and that is funded, pursuant to State law, at least in part by the county governing
15 body.

16 (e) “Mandate” means a directive in a regulation that requires a local government
17 unit to perform a task or assume a responsibility that has a discernible fiscal impact on the
18 local government unit.

19 (f) “Register” means the Maryland Register.

20 (g) (1) “Regulation” means a statement or an amendment or repeal of a
21 statement that:

22 (i) has general application;

23 (ii) has future effect;

24 (iii) is adopted by a unit to:

25 1. detail or carry out a law that the unit administers;

26 2. govern organization of the unit;

27 3. govern the procedure of the unit; or

1 4. govern practice before the unit; and

2 (iv) is in any form, including:

3 1. a guideline;

4 2. a rule;

5 3. a standard;

6 4. a statement of interpretation; or

7 5. a statement of policy.

8 (2) “Regulation” does not include:

9 (i) a statement that:

10 1. concerns only internal management of the unit; and

11 2. does not affect directly the rights of the public or the

12 procedures available to the public;

13 (ii) a response of the unit to a petition for adoption of a regulation,
14 under § 10–123 of this subtitle; or

15 (iii) a declaratory ruling of the unit as to a regulation, order, or
16 statute, under Subtitle 3 of this title.

17 (3) “Regulation”, as used in §§ 10–110 and 10–111.1 of this subtitle, means
18 all or any portion of a regulation.

19 (h) “Small business” has the meaning stated in § 2–1505.2 of this article.

20 (i) “Substantively” means in a manner substantially affecting the rights, duties,
21 or obligations of:

22 (1) a member of a regulated group or profession; or

23 (2) a member of the public.

24 (j) “Unit” means an officer or unit authorized by law to adopt regulations.

25 10–110.

26 (c) (1) **(I)** At least 15 days before the date a proposed regulation is
27 submitted to the Maryland Register for publication under § 10–112 of this subtitle, **AND IN**

1 ACCORDANCE WITH **§ 10–111.2(C) OF THIS SUBTITLE**, the promulgating unit shall
2 submit the proposed regulation to the Committee [and], the Department of Legislative
3 Services, **AND THE ADMINISTRATOR**.

4 (II) IF A UNIT WANTS TO ALTER THE TEXT OF A PROPOSED
5 REGULATION AFTER IT HAS BEEN SUBMITTED TO THE COMMITTEE AND THE
6 DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH SUBPARAGRAPH
7 (I) OF THIS PARAGRAPH, SO THAT ANY PART OF THE TEXT AS SUBMITTED FOR
8 PUBLICATION DIFFERS ~~SUBSTANTIVELY~~ FROM THE TEXT PREVIOUSLY SUBMITTED
9 TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES, THE UNIT
10 SHALL:

11 1. NOTIFY THE COMMITTEE, THE DEPARTMENT OF
12 LEGISLATIVE SERVICES, AND THE ADMINISTRATOR OF THE CHANGE;

13 2. WITHDRAW THE PROPOSED REGULATION; AND

14 3. RESUBMIT THE PROPOSED REGULATION WITH THE
15 ALTERED TEXT TO THE COMMITTEE, THE DEPARTMENT OF LEGISLATIVE SERVICES,
16 AND THE ADMINISTRATOR AT LEAST 15 DAYS PRIOR TO PUBLICATION IN THE
17 REGISTER.

18 10–111.

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

21 (i) after submission of the proposed regulation to the Committee for
22 preliminary review under § 10–110 of this subtitle; and

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

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

28 (ii) If notice is provided to the promulgating unit pursuant to
29 subparagraph (i) of this paragraph, the promulgating unit may not adopt the regulation
30 until it notifies the Committee, in writing **BY U.S. MAIL AND E-MAIL**, of its intention to
31 adopt the regulation and provides the Committee with a further period of review of the
32 regulation that terminates not earlier than the later of the following:

33 1. the [30th] **60TH** day following the notice provided by the
34 promulgating unit under this subparagraph; or

1 **(II) ANY REQUIREMENT UNDER THIS SUBTITLE FOR A UNIT TO**
2 **SUBMIT A REGULATION TO THE COMMITTEE MAY NOT BE SATISFIED BY SUBMITTING**
3 **THE REGULATION TO THE DIVISION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

5 (a) On or before October 1, 2023, the Department of Information Technology, in
6 consultation with the Administrator of the Division of State Documents, shall develop and
7 maintain an electronic filing system for use by units of State government, the Joint
8 Committee on Administrative, Executive, and Legislative Review, the Department of
9 Legislative Services, and the Division of State Documents for the submission and tracking
10 of proposed and emergency regulations from the time of submission to the Joint Committee
11 through publication in the Maryland Register and final approval by the unit or, in the case
12 of an emergency regulation, approval by the Joint Committee.

13 (b) The ~~Administrator shall consult with the Department~~ Department of
14 Information Technology shall consult with the Administrator and the Department of
15 Legislative Services on the functionality and security of the electronic filing system.

16 (c) The electronic filing system shall:

17 (1) allow a unit to upload, in a format approved by the Administrator and
18 the Department of Legislative Services, the text of a proposed or emergency regulation
19 along with all statutorily required information;

20 (2) contain a tracking function and automated notification system by which
21 the Joint Committee and the Department of Legislative Services shall be sent notice of new
22 or updated proposed or emergency regulations;

23 (3) prohibit anyone other than Division employees from modifying the text
24 of a submitted proposed or emergency regulation or any other required submittals;

25 (4) allow the Joint Committee and the Department of Legislative Services
26 to access and download, in a format required by the Department of Legislative Services, all
27 information submitted by a unit relating to a proposed or emergency regulation;

28 (5) allow the Joint Committee and the Department of Legislative Services
29 to approve emergency regulations, including providing for the time period during which the
30 emergency regulation is approved;

31 (6) allow a unit to view all information pertaining to a proposed or
32 emergency regulation submitted by the unit, including all tracking information;

33 (7) allow the tracking of regulatory holds; and

34 (8) include the functionalities necessary for the Division to publish the
35 Maryland Register.

1 (d) On or before December 31, 2023, the ~~Administrator~~ Department of
2 Information Technology shall report to the Joint Committee on Administrative, Executive,
3 and Legislative Review, in accordance with § 2-1257 of the State Government Article, on
4 the status of the development and deployment of the electronic filing system required under
5 this section.

6 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
7 effect June 1, 2023.

8 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
9 3 of this Act, this Act shall take effect October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.