

House Bill 939 Proposed Regulations - Determination of Impact on Small Businesses

Creates Advisory Council on the Impact of Regulations on Small Businesses (Council) within the Department of Business and Economic Development (DBED) to review proposed regulations and determine whether they have a significant impact on small businesses.

A “significant small business impact” is defined as a likely meaningful effect, as determined by the advisory council, on the revenues or profits of a significant number of small businesses or a significant percentage of small businesses within a single industry in the State; it does not include an impact from a regulation necessary to comply with federal law.

A “small business” is defined as a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: is independently owned and operated; is not dominant in its field; and employs 50 or fewer full-time employees.

The Council

The Council consists of:

- DBED’s Secretary or a designee of the Secretary
- One Member of the Senate of Maryland, appointed by the President of the Senate
- One Member of the House of Delegates, appointed by the Speaker of the House
- The following four members, two appointed by the President of the Senate and two appointed by the Speaker of the House:
 - Two small businesses;
 - One minority business enterprise owner; and
 - One women’s business enterprise owner; and
- One Secretary of a principal department with experience in the regulatory process, or a designee of the Secretary appointed by the Governor.

DBED’s Secretary or designee is the Chair of the Council.

DBED staffs the advisory council.

DBED Responsibilities

DBED staff must:

- Review small business impact statements accompanying each proposed regulation;
- Consult with the Joint Committee on Administrative, Executive, and Legislative Review (AELR) and Department of Legislative Services (DLS) regarding any significant small business impacts identified;
- Compare proposed regulations with federal law;
- Consult with and train, as necessary, staff of State agencies that promulgate regulations; and
- Testify at advisory council meetings or AELR Committee hearings, as necessary.

The State agency promulgating the regulation must provide subject matter experts as needed to DBED.

Council Responsibilities

The Council must meet at least once annually, but may meet as often as necessary to carry out its duties. The Council must also:

- Review regulations submitted to the Council;
- Determine whether the proposed regulations poses a significant small business impact;
- Provide an estimated range of costs for small businesses affected by the proposed regulation;
- If a proposed regulation establishes a standard that is more restrictive or stringent than an applicable federal standard:
 - Identify how the proposed regulation is more restrictive
 - Estimate the additional costs that a small business may incur from compliance
 - Identify alternative standards that are less restrictive
 - Identify the potential benefit to the public health, safety or welfare, or the environment, expected from adopting the proposed regulation
- If the Council cannot quantify a range of costs, then the Council shall describe the estimated impact
- If the Council finds that a proposed regulation poses a significant small business impact, the Council must submit a written statement of its findings to AELR and DLS within 15 days of receiving the proposed regulation.

The Council must report annually to the Governor and General Assembly.

AELR

Any member of the AELR Committee may request a hearing on a proposed regulation that has been found to have a significant impact on small businesses. If a hearing is requested, the AELR Committee must hold the hearing and may request that adoption of the proposed regulation be delayed.

Effective October 1, 2015