

SENATE BILL 454

P3

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CF HB 459

By: **Senator Pinsky**

Introduced and read first time: February 1, 2010

Assigned to: Budget and Taxation

Re-referred to: Education, Health, and Environmental Affairs, February 22, 2010

Committee Report: Favorable

Senate action: Adopted

Read second time: March 3, 2010

CHAPTER _____

1 AN ACT concerning

2 **State Licensing Agencies – Justification Statements Required for Fee**
3 **Increases Proposed by Regulations**

4 FOR the purpose of requiring units of State government, when adopting by regulation
5 increases or decreases in fees for licenses to practice any business activity,
6 business or health occupation, or business or health profession licensed or
7 otherwise regulated under State law, to submit to the Joint Committee on
8 Administrative, Executive, and Legislative Review certain information
9 explaining or justifying the reasons for the proposed increase or decrease; and
10 generally relating to regulations proposed by units of State government that
11 license and regulate various occupations, professions, and business activities.

12 BY repealing and reenacting, with amendments,
13 Article – State Government
14 Section 10–110
15 Annotated Code of Maryland
16 (2009 Replacement Volume)

17 Preamble

18 WHEREAS, The units of the Executive Branch of State government that license
19 and regulate by State law various health and business occupations and professions
20 and business related activities periodically propose, through the regulatory process,

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 increases in license and permit fees for those occupations, professions, and activities;
2 and

3 WHEREAS, When seeking fee increases by regulation, the units are not
4 consistent with respect to the justification provided on which they relied to propose the
5 increase in the fees for the licenses or permits issued by them, and, in many instances,
6 no justification is provided at all; and

7 WHEREAS, The General Assembly finds that there is a need to strengthen its
8 ability to review, analyze, and otherwise engage in effective legislative oversight of
9 proposed regulations by units of State government that seek to increase licensing fees
10 for various occupations and professions and business activities and to foster greater
11 transparency with respect to and accountability for those increases; and

12 WHEREAS, The work of the Joint Committee on Administrative, Executive,
13 and Legislative Review (AELR), as the statutory committee of the General Assembly
14 charged with the oversight of Executive Branch regulations, would be enhanced by its
15 having meaningful and practical information submitted to it from units of State
16 government, when they seek occupational and professional license fee increases, that
17 sets forth their justification for the increases; now, therefore,

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 (a) **[This] EXCEPT FOR SUBSECTION (C) OF THIS SECTION, THIS** section
23 does not apply to a regulation adopted under § 10–111(b) of this subtitle.

24 (b) At least 15 days before the date a proposed regulation is submitted to the
25 Maryland Register for publication under § 10–112 of this subtitle, the promulgating
26 unit shall submit to the State Children’s Environmental Health and Protection
27 Advisory Council established under § 13–1503 of the Health – General Article for
28 review any proposed regulations identified by the promulgating unit as having an
29 impact on environmental hazards affecting the health of children.

30 (c) **(1)** At least 15 days before the date a proposed regulation is submitted
31 to the Maryland Register for publication under § 10–112 of this subtitle, the
32 promulgating unit shall submit the proposed regulation to the Committee and the
33 Department of Legislative Services.

34 **(2) (I) IF THE PROPOSED REGULATION, EITHER IN WHOLE OR**
35 **IN PART, SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF**
36 **LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (1) OF THIS**
37 **SUBSECTION INCLUDES AN INCREASE OR DECREASE IN A FEE FOR A LICENSE TO**

1 PRACTICE ANY BUSINESS ACTIVITY, BUSINESS OR HEALTH OCCUPATION, OR
2 BUSINESS OR HEALTH PROFESSION LICENSED OR OTHERWISE REGULATED
3 UNDER STATE LAW, THE PROMULGATING UNIT SHALL INCLUDE CLEARLY
4 WRITTEN EXPLANATORY REASONS THAT JUSTIFY THE INCREASE OR DECREASE
5 IN THE FEE.

6 (ii) IF A REGULATION SUBMITTED UNDER SUBPARAGRAPH
7 (i) OF THIS PARAGRAPH PROPOSES AN INCREASE IN A FEE FOR A LICENSE, THE
8 WRITTEN JUSTIFICATION ALSO SHALL INCLUDE INFORMATION ABOUT:

9 1. THE AMOUNT OF MONEY NEEDED BY THE
10 PROMULGATING UNIT TO OPERATE EFFECTIVELY OR TO ELIMINATE AN
11 IMBALANCE BETWEEN THE REVENUES AND EXPENDITURES OF THE UNIT;

12 2. THE MOST RECENT YEAR IN WHICH THE
13 PROMULGATING UNIT HAD LAST INCREASED ITS FEES;

14 3. THE STRUCTURE OF THE PROMULGATING UNIT AS
15 TO WHETHER IT IS ONE THAT RETAINS THE LICENSE FEES IT RECEIVES OR
16 PASSES THEM THROUGH TO A NATIONAL ORGANIZATION OR ASSOCIATION THAT
17 CREATES AND ADMINISTERS A UNIFORM LICENSING EXAMINATION THAT IS
18 TAKEN BY ANYONE IN THE UNITED STATES WHO IS SEEKING A LICENSE TO
19 PRACTICE A PARTICULAR OCCUPATION OR PROFESSION OR BUSINESS ACTIVITY
20 ISSUED BY THE PROMULGATING UNIT;

21 4. MEASURES TAKEN BY THE PROMULGATING UNIT
22 TO AVOID OR MITIGATE THE NECESSITY OF A FEE INCREASE AND THE RESULTS
23 OF THOSE MEASURES;

24 5. SPECIAL CIRCUMSTANCES ABOUT THE ACTIVITIES
25 AND RESPONSIBILITIES OF THE PROMULGATING UNIT, INCLUDING
26 INVESTIGATIONS OF INDIVIDUALS LICENSED BY THE UNIT, THAT HAVE HAD AN
27 ADVERSE IMPACT ON THE UNIT'S OPERATING EXPENSES;

28 6. CONSIDERATION GIVEN BY THE PROMULGATING
29 UNIT TO THE HARDSHIP A LICENSE FEE INCREASE MAY HAVE ON INDIVIDUALS
30 AND TRAINEES LICENSED OR REGULATED BY THE UNIT; AND

31 7. ACTIONS TAKEN BY THE PROMULGATING UNIT TO
32 ELICIT THE OPINIONS OF THE INDIVIDUALS WHO ARE LICENSED BY THE
33 PROMULGATING UNIT AND THE MEMBERS OF THE PUBLIC AS TO THE
34 EFFECTIVENESS AND PERFORMANCE OF THE PROMULGATING UNIT.

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1 (d) (1) The Committee is not required to take any action with respect to a
2 proposed regulation submitted to it pursuant to subsection (c) of this section.

3 (2) Failure by the Committee to approve or disapprove the proposed
4 regulation during the period of preliminary review provided by subsection (c) of this
5 section may not be construed to mean that the Committee approves or disapproves the
6 proposed regulation.

7 (3) During the preliminary review period, the Committee may take
8 any action relating to the proposed regulation that the Committee is authorized to
9 take under §§ 10–111.1 and 10–112 of this subtitle.

10 (e) Prior to the date specified in subsection (c) of this section, the
11 promulgating unit is encouraged to submit the proposed regulation to the Committee
12 and to consult with the Committee concerning the form and content of that regulation.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.