

CITY OF BALTIMORE

BRANDON M. SCOTT, MAYOR



DEPARTMENT OF LEGISLATIVE REFERENCE

City Hall  
100 N. Holliday Street, Suite 626  
Baltimore, MD 21202

Council Bill 23-0354

July 18, 2023

TO: President and Members of the City Council

FROM: Benjamin Guthorn, Department of Legislative Reference

RE: 23-0354 – Administrative Procedure Act – Revisions

POSITION: SUPPORT WITH AMENDMENTS

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Chair Schleifer and Members of the Committee, please be advised that the Department of Legislative Reference (“DLR”) supports City Council Bill 23-0354 with the addition of amendments authored by DLR and the Department of Law (“Law”).

This bill amends the Administrative Procedure Act (“APA”) to improve processes for promulgating City regulations, including the initial drafting period as well as the required public notice and comment period. Additionally, Council Bill 23-0354 provides for the creation and management of a monthly register of City regulations (the “COBRA Register”) and clarifies the role of the City Administrator in the approval of proposed regulations.

BACKGROUND:

Under Title 4 of the General Provisions Article, DLR is currently responsible for selecting and maintaining a style guide for regulations housed in the Code of Baltimore Regulations Annotated (“COBRA”) (§ 4-202), as well as correcting non-substantive drafting, style, or typographical errors within the regulations (§ 4-303). In this capacity, DLR undertakes the work of editing, formatting, and revising City regulations to meet the specifications of the Code of Maryland Regulations (“COMAR”) style guide, which DLR adopted as the style guide for COBRA. Under the current provisions of Title 4, this work must occur after a regulation has already been promulgated, including the completion of the required 30-day public notice and comment period (§ 4-301). Initial drafting and editing of a regulation are handled by the City agency proposing the regulation and the City Solicitor (§ 4-205). The City Solicitor is responsible for approving the form and legal sufficiency of the proposed regulation before it is posted by the City agency for the 30-day public notice and comment period.

PROPOSED AMENDMENTS:

Amendments proposed in Council Bill 23-0354 address the issues detailed below.

1. Modify Submission Process.

- Issue: Review of a regulation for form and adherence to the style guide occurs after a regulation is enacted.
- Solution: Create a preliminary style and formatting review period by DLR before a regulation is submitted to Law for review of form and legal sufficiency.
- Discussion: The process for drafting, approving, and promulgating regulations as provided for in Title 4 of the General Provisions article is inefficient, as it does not allow DLR to edit, revise, or format a regulation until after it has already been promulgated. This creates duplicative work for DLR, Law, and promulgating agencies, as required revision to adhere to the style guide cannot take place until after a regulation has already been promulgated. Further, if a stylistic revision provided by DLR substantively alters a regulation in order to adhere to the style guide, the regulation must be posted for an additional 30-day public comment period (§ 4-304(b)).

Council Bill 23-0354 would meaningfully alter the process for drafting regulations, allowing DLR to work directly with the promulgating agency to revise, edit, and ensure adherence to the style guide prior to the 30-day notice and comment period. This amendment will reduce the need for duplicative “back-end” work after a regulation has already been enacted.

2. Create COBRA Register.

- Issue: Posting regulations for public comment is a fragmented process that puts unnecessary burden on agencies and the public.
- Solution: Create a centralized register of City regulations (the “COBRA Register”) to be published monthly by DLR.

**Discussion:** Currently, City agencies promulgating regulations must undertake their own public comment period. This responsibility includes posting a proposed regulation on the agency’s website and physically in their agency offices, as well as providing a copy of the proposed regulation to each public library in the City, all City Councilmembers, and DLR. Once a proposed regulation is posted, members of the public must individually access each agency’s website to review them. Further, if a member of the public wants to monitor the progress of multiple proposed regulations, that individual must track multiple dates, as each set of regulations will have a different deadline noting the end of its public comment period.

The proposed COBRA Register provided for in Council Bill 23-0354 will create a centralized, single document that contains all proposed regulations undergoing the 30-day notice and comment period within a given calendar month. The COBRA Register will also improve recordkeeping practices, as it will provide exact dates of when a proposed regulation is posted for public comment, as well as when the comment period ends. Finally, the COBRA Register will reduce the workload of promulgating agencies, who will no longer have to undertake and manage their own public comment periods, allowing them to focus solely on collecting and responding to public comments.

### 3. Clarify Role of City Administrator.

**Issue:** In conflict with the City Charter, the APA does not include the City Administrator in the regulatory process.

**Solution:** After a proposed regulation is approved by DLR, an agency will submit the proposed regulation to the City Administrator for approval.

**Discussion:** Currently, Title 4 of the General Provisions Article does not provide for the approval of proposed regulations by the City Administrator. This omission conflicts with the powers and duties of the City Administrator’s Office provided for in § 140(3) of the Baltimore City Charter.

#### FISCAL IMPACT:

Council Bill 23-0354 would not have a fiscal impact on DLR. The anticipated operational impact could be accommodated with existing resources and personnel.

The Honorable President and Members  
of the Baltimore City Council  
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## **SUPPORT WITH AMENDMENTS**

We respectfully request a favorable report on City Council Bill 23-0354 with the proposed amendments authored by DLR and Law. These amendments further refine the proposed changes in Council Bill 23-0354, as well as clarify and remove obsolete language in Title 4 of the General Provisions Article.

cc: Natawna Austin, Executive Secretary of the City Council  
Nina Themelis, Mayor's Office of Government Relations  
Sophia Gebrehiwot, Mayor's Office of Government Relations  
Elena DiPietro, Law Department  
Michele Toth, Law Department