



BILL SYNOPSIS

Committee: Judiciary

Bill 20-0557

Baltimore City Administrative Procedure Act – Regulations

Sponsor: *Councilmembers Sneed and Dorsey*

Introduced: *July 6, 2020*

Purpose:

For the purpose of establishing a uniform procedure for the notice, publication, and adoption of regulations in Baltimore City government; establishing the Code of Baltimore Regulations Annotated (COBRA) and providing for its contents; defining certain terms; requiring that a proposed regulation cite the statutory authority under which it is being proposed and embrace only a single subject; requiring that proposed regulation be approved for form and legal sufficiency by the City Solicitor prior to its publication; requiring that agencies publish notice of the proposed regulation and allow for public comments to be submitted for a certain period of time; setting forth the modes of publication of a proposed regulation; establishing the contents of the notice of proposed regulation; allowing for any Councilmember to refer a proposed regulation for review by the Committee on Legislative Investigations and providing for the procedures for that review; requiring that, after the notice and comment period, an agency re-submit the proposed regulation to the City Solicitor for a determination of whether any material changes have been made to the regulation; requiring that proposed regulation be re-published if a material change has been made; providing for a certain period for which a proposed regulation must be adopted by a regulation before the proposed regulation is deemed withdrawn; providing for temporary regulations during certain emergencies; requiring that adopted regulations be submitted to the Director of Legislative Reference prior to the regulations taking effect; permitting the Director of Legislative Reference to make certain non-substantive changes to a regulation; allowing an agency to remove certain obsolete regulations; providing for the severability of certain regulations; providing for a special effective date; and generally relating to

establishing an orderly and transparent administrative procedure for the adoption of regulations in Baltimore City.

Effective: The 180th day after the date it is enacted, except as provided.

AGENCY REPORTS

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|-------------------------------------|---------------------------|
| City Solicitor | Favorable with Amendments |
| Mayor's Office | |
| Department of Legislative Reference | Favorable with Comments |

ANALYSIS

The bill would create a new General Provisions Article, Title 4 to establish a uniform procedure for City agencies to adopt regulations and to provide for the codification of all City regulations in the Code of Baltimore Regulations Annotated.

Uniform Procedure

Pursuant to the new Title 4, an agency proposing a regulation must first submit the proposed regulation to the City Solicitor for approval for form and legal sufficiency. After the proposed regulation has been approved by the Solicitor, the agency must publish notice of the proposed regulation and accept public comment for 30 days.

Publishing means posting the notice conspicuously on the agency's website, posting the notice conspicuously at the agency's offices, and providing a copy of the notice to each public library, each City Council member, and the Department of Legislative Reference. The Solicitor must also maintain an online register of all pending regulations. The notice must provide a brief description of the proposed regulation, a link to the full text of the regulation, the mailing and emailing address (if available) for the public to send written comments, and the date, time, and location of any required public hearing on the regulation.

If referred by a City Council member within 15 days of receiving the required notice, the Committee on Legislative Investigations must hold a public hearing to review the proposed regulation. The Committee must consider whether the regulation conforms to the statutory authority of the agency and reasonably complies with the legislative intent of the statute under which the regulation was proposed. The 30-day notice and comment period is suspended while the Committee completes its review. Within 60 days of the date of referral, the Committee must vote to approve or reject the regulation. If the Committee approves the regulation, the notice and comment period resumes. If the Committee votes to reject the

regulation, the agency must either withdraw the proposed regulation or modify and re-propose the regulation.

At the end of the 30-day notice and comment period, the agency may adopt the regulation without changes by securing the written approval of the agency head and filing the regulation with the Director of Legislative Reference for codification. If the agency has changed the proposed regulation, it must submit the change to the Solicitor to determine if the change is material. If the change is material, the agency must restart the process (propose, publish notice, and accept public comment for 30 days). If the change is not material, the agency may adopt the regulation, including the change, without re-proposing the regulation. If an agency fails to adopt a proposed regulation within 180 days of the initial publication of notice, the regulation is deemed withdrawn.

Code of Baltimore Regulations Annotated

The new Title 4 requires the Director of Legislative Reference to create and maintain the Code of Baltimore Regulations Annotated (COBRA). The COBRA must include each then-current regulation, other documents and annotations as determined by the Director, and an index by agency and subject matter. The Director is authorized to correct non-substantive errors in the COBRA, in consultation with the Solicitor and relevant agencies.

Effective Date

Any regulation that goes into effect after the new Title 4 is effective (the 180th day after it is enacted) must comply with the new requirements. Any regulation that is current and effective before the date the new Title 4 is effective need not be re-proposed, re-publicized, or re-adopted in accordance with the new procedures, provided that it: (1) has been reviewed by the agency, in consultation with the Law Department, to ensure that the regulation conforms to the style set forth in the style manual adopted by the Department of Legislative Reference; and (2) is submitted to the Director of Legislative Reference for codification into the COBRA no later than 1 year from the date that Title 4 is enacted.

Additional Provisions

The new Title 4 also includes:

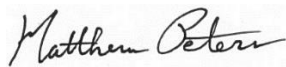
- Relevant definitions;
- Requirements that regulations be written in plain English, be limited to one subject, and contain a citation to the statutory authority for the regulation;

- General authorization for an agency tasked with implementing or enforcing a law to adopt regulations under that law, even if the law does not expressly provide the authority to adopt regulations;
- A process for an agency to remove obsolete provisions of a regulation;
- Provisions authorizing the suspension of the procedures for an agency to adopt temporary regulations needed to respond to a declared emergency;
- A severability provision stating generally that if a court invalidates a portion of a regulation the other portions remain in effect.

ADDITIONAL INFORMATION

Fiscal Note: None

Information Source(s): Reporting Agencies, Bill 20-0557.



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