

2020 ANNUAL REPORT
OF THE
ADVISORY COUNCIL ON THE IMPACT OF
REGULATIONS ON SMALL BUSINESSES
As required by the Maryland Code of Laws, Economic Development Article,
Section 3-508

Respectfully submitted to the General Assembly of Maryland by

Secretary Kelly M. Schulz, Chair

401 East Pratt Street

Baltimore, MD 21202

December 2020



Larry Hogan, Governor | Boyd Rutherford, Lt. Governor

OPEN *for* **Business**

The Advisory Council on the Impact of Regulations on Small Businesses

Membership Roster

Kelly M. Schulz, Chair

Secretary of the Maryland Department of Commerce

Ellington Churchill

Secretary of the Maryland Department of General Services

Senator Pamela Beidle

Delegate Benjamin Brooks

Michael Whitson

Tri-County Abstracts

Claudia Towles

aMuse Toys

Leslie Goodwyn

SpeedPro Imaging

One Vacancy

Staff

Malachy Rice

Regulations Analyst, Maryland Department of Commerce

Advisory Council's History

The Advisory Council on the Impact of Regulations on Small Businesses (Advisory Council) was created as a result of the work of the Maryland Economic Development and Business Climate Commission, or more commonly known as the Augustine Commission. The General Assembly created the Augustine Commission in 2014 to examine Maryland's economic development structure and incentive programs, and to make recommendations to keep Maryland economically competitive.

To accomplish its charge, the Augustine Commission held a series of public forums across the State to solicit input and suggestions from the public and business community on ways to improve Maryland's economic competitiveness. A repeated concern heard by the Augustine Commission was that not enough focus or attention is paid to the economic impact statements that are required to be prepared for proposed regulations, particularly for proposed regulations determined to affect small businesses. To address this concern, the Augustine Commission recommended to: Authorize a member of the Joint Committee on Administrative, Executive, and Legislative Review (AELR) to hold a hearing on a proposed regulation if the State's analysis of the proposed regulation notes a meaningful adverse, small business impact.

In 2015, the General Assembly built upon this recommendation and created the Advisory Council essentially to: (1) review all proposed State regulations and advise AELR if the Advisory Council determined that a proposed regulation affects small businesses; (2) adopt guidelines to assist State agencies with considering the economic impact of regulations on small businesses; and (3) make recommendations to the Governor and General Assembly for improving the State's regulatory process for the benefit of small businesses.

The Advisory Council was fully appointed in 2017, and began its work by focusing on addressing the concern that led to its creation: that not enough focus or attention is paid to the economic impact analyses of proposed regulations determined to affect small businesses. To address this concern, the Advisory Council examined ways to improve the quality of small business economic impact analyses conducted by State agencies that will allow agencies to consider more flexible alternatives and less burdensome regulations for small businesses.

The Advisory Council's 2017 Annual Report submitted to the Governor and General Assembly included a series of recommendations for improving the State's regulatory process to make it less restrictive and burdensome for small businesses. As a result of its report, the Governor issued Executive Order 01.01.2017.33 that requires agencies to use the *Guidelines for Estimating and Minimizing the Economic Impact of Regulations on Small Businesses* adopted by the Advisory Council. The legislative members of the Advisory Council sponsored legislation (SB 1082/HB 855) during the 2018 legislative session to implement its remaining recommendations. This legislation passed the House unanimously but was not voted on in Committee in the Senate.

Two pieces of legislation that contained the Advisory Council's recommendations were introduced during the 2019 legislative session. The House member of the Advisory Council, Delegate Benjamin Brooks, reintroduced the legislation he sponsored for the Advisory Council in 2018 (HB 1124). Governor Hogan introduced legislation (SB 173/HB 157) that contained the

primary and selected secondary recommendations of the Advisory Council. The General Assembly passed HB 1124, which was amended to conform to the legislation introduced by Governor Hogan. However, the provision to allow for potential relief to small businesses from regulatory fines and penalties in the Governor's proposed legislation was not included in HB 1124. Exhibit 1 provides a summary of the Advisory Council's recommendations that were adopted in 2019, and status of their implementation.

ADVISORY COUNCIL'S RECOMMENDATIONS ADOPTED IN 2019	
<i>Recommendation</i>	<i>Implementation Status</i>
1. Require agencies to use the Advisory Council's small business economic impact guidelines.	Guidelines are available on the State's electronic filing system for regulations.
2. Require training for State employees on how to conduct a small business economic impact analysis.	An RFP for training will be developed in late spring of 2020.
3. Require agencies to provide a compliance guide for regulations that affect small businesses.	Guidelines to assist agencies with developing small business compliance guides are available to State agencies.
4. Require agencies to post proposed regulations to their websites for at least 15 days prior to their submission to the General Assembly for review.	The Department of Information & Technology (DoIT) created a centralized webpage for agencies to post proposed regulations affecting small businesses.
5. Require agencies to create an electronic registry for small businesses and their trade associations to register to receive an electronic notification when new regulations are posted to their website.	The centralized webpage created by DoIT, which is maintained by Executive Branch agencies, allows small businesses to register to receive an electronic notification.

2020 Activity

Senator Hester introduced legislation (SB 720/HB 317) based upon a recommendation of the Advisory Council to reduce the duplication of State and local regulations on small businesses. Chapter 333, Acts of 2020 allows State agencies to exempt small businesses from a State regulation if an agency certifies that small businesses are subject to a regulation of a local jurisdiction that is at least as stringent as the State's regulation.

The Advisory Council did not meet in 2020 due to the Covid-19 pandemic. As indicated in Exhibit 1, Advisory Council staff was to assist the Office of State Procurement with developing a Request for Proposal (RFP) to provide training to State employees on how to conduct a small business economic impact analysis in the spring of 2020. However, the Advisory Council's staff was designated the responsibility of implementing and managing Commerce's COVID-19 Emergency Small Business Relief Grant and Loan Programs in March. The Advisory Council's staff will hopefully be able to assist with preparing a training RFP in 2021 before the Advisory Council sunsets.