

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 53 (Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Department of Agriculture - Administrative Review of Contested Cases

This departmental bill repeals provisions relating to the Board of Review of the Maryland Department of Agriculture (MDA), eliminating the board and associated requirements governing appeals to the board.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: None.

Small Business Effect: MDA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: The Board of Review of MDA is a seven-member board appointed by the Governor with the advice and consent of the Senate. Members of the board receive compensation provided in the State budget, are reimbursed for expenses in accordance with the standard State travel regulations, and have the staff provided in the State budget.

The board is required to hear and determine appeals from any decision of the Secretary of Agriculture or any position or unit within MDA subject to judicial review under the Administrative Procedure Act (APA) or any other provision of law. The Secretary may

also, by rule or regulation, provide for review by the board of any action or failure to act of any position or unit within the department.

Before filing an appeal, the aggrieved person must provide notice to the individual responsible for the decision, action, or nonaction complained of, file a statement with the Secretary, and allow 30 days for a satisfactory resolution or decision.

The board is required to adopt procedures as provided in APA and in all other respects is governed by that Act. At least three members must sit at any hearing of the board and decisions are made by a majority of the members sitting. A decision of the board is the final agency decision for purposes of judicial review under APA.

APA governs procedures for contested cases. "Contested case" is defined under the Act as a proceeding before an agency to determine:

- a right, duty, statutory entitlement, or privilege of a person that is required by statute or constitution to be determined only after an opportunity for an agency hearing; or
- the grant, denial, renewal, revocation, suspension, or amendment of a license that is required by statute or constitution to be determined only after an opportunity for an agency hearing.

Background: MDA indicates that the board of review has not met since 2004 because no cases have been filed. As a result, no expenses have been incurred by the board, and it does not have a designated budget or staff. The department believes that there are currently statutory controls in place to allow for similar review in circuit court that make the board unnecessary. A person would still receive an agency hearing under APA in a contested case (where a hearing is required by statute or constitution) and then have the opportunity to appeal an adverse decision to the circuit court.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 9, 2013
mlm/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Agriculture – Administrative Review of Contested Cases

BILL NUMBER: SB 53

PREPARED BY: Maryland Department of Agriculture

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.