

Committee: Health and Government Operations Committee
Testimony on: HB 817 - "Regulation Procedures and the Maryland Register"
Organization: Climate Parents of Prince George's
Person Submitting: Joseph Jakuta, Lead Volunteer
Position: Favorable, With Amendment
Hearing Date: March 8, 2023



Dear Ms. Chairman and Committee Members:

Thank you for considering our testimony in favor, with amendment for HB 817, which concerns extending the period for which the Maryland Register is accessible. Climate Parents is a campaign to reduce climate change causing pollution in our schools, and our group is active in Prince George's County. In particular, we recently worked directly with Prince George's County Public Schools (PGCPS) technical staff and other advocates to develop a first in the national School Climate Change Action Plan.

As our group has become more active in climate progress in our schools, we have determined it is necessary to follow the regulatory actions of such agencies as the Interagency Commission on School Construction (IAC), though of course, other groups follow actions by the host of administrative agencies in the State of Maryland. However, we have realized the immense challenges with this undertaking due to the lack of access to the Maryland Register.

As an example, we submitted comments to the IAC concerning a proposed regulatory action made on Sept. 9, 2022. The comments were accepted and processed and this was revealed at a meeting finalizing the regulation on Nov, 10, 2022. Of course, the proposal disappeared from the Maryland Register's website on Oct. 21, 2022. This is not indicative of a transparent process to follow Maryland's administrative procedures. Someone that had not been following this as rigorously would not have been able to view the proposed rule prior to the final action having been taken. Passing this legislation would at least allow voters and taxpayers to follow straightforward, noncontroversial rulemakings that are due completed in less than a year.

Though this became more acute as we tried to follow the process the IAC has completed to implement [MD. Education Code Ann. § 5-319](#) as it was adopted in 2018 through HB1783, since there is now a bill to update the requirements in place this session (SB235/HB300). However, since we cannot go back through the administrative history of these rulemakings due to it being behind a paywall we cannot understand whether any attempts were made to follow the General Assembly's directive to the IAC. Of course, this bill would not solve that specific issue since it does limit the amount of issues of the Maryland Register available to the taxpayers.

That is why the only amendment we request is that there be no time period as to which they should be taken down, and if anything a requirement should be included to post historical issues as well. More controversial rules that involve reproposal or take longer to finalize will still not be available by the end of the regulatory process. Additionally, It takes more staff time to take down register notices than it would to just leave them up in an organized system in permanence and this follows best practices by both the federal and state governments. One can publicly access a searchable Federal Register online back to 1994.¹ More importantly, many of our peers go back quite some time, some even further than the searchable Federal Register goes:

- The Commonwealth of Pennsylvania has their code bulletin available online back until 1996.²

¹ <https://www.federalregister.gov/>

² <http://pacodeandbulletin.gov/>

- The Commonwealth of Virginia has their register available online back until 1985.³
- The State of New Jersey has their register available online back until 1995.⁴
- The State of West Virginia has their register available online back until 1983.⁵
- The State of Delaware has their register available online back until July 1997.⁶
- The District of Columbia has complete sets of online issues back until 2010, and incomplete sets back to 2003⁷

Having access to our public documents is necessary for a well functioning administrative state. The public must be able to see if the legislation passed by the General Assembly is being properly administered and having easy access to our taxpayer funded documents is one necessary aspect to that.

We encourage an **FAVORABLE, with Amendment**, report for this important legislation.

³ <http://register.dls.virginia.gov/archive.aspx>

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<https://advance.lexis.com/container?config=00JABkMGM5YTkyOS1IZWRkLTRmMTktOTAxMS03YzU0MTU1ZWY0OWYKAFBvZENhdGFsb2deD7LQBBLcCbuY7q4FNupa&crd=9cb79b86-825e-4f35-9712-028cf3663e4b&prid=0ff98b4e-5476-454a-a1c0-25e3bfff8066>

⁵ <https://apps.sos.wv.gov/adlaw/registers/>

⁶ https://regulations.delaware.gov/register/previous_issues.shtml

⁷ <https://dcregs.dc.gov/Common/DCR/SearchIssues.aspx?AgencyID=1>