

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1290 (Delegate Lafferty, *et al.*)
 Health and Government Operations

State Government - Management of Public Buildings - Indoor Air Quality

This bill requires the Secretary of Labor, Licensing, and Regulation (Secretary), in consultation with the Maryland Department of the Environment (MDE), to develop comprehensive indoor air quality (IAQ) standards for public buildings and to establish a schedule for the regular testing of IAQ in public buildings. The bill applies only to buildings, structures, or improved areas that are owned or constructed for lease by the State and maintained by the Department of General Services (DGS) or the Maryland Department of Transportation (MDOT); those departments must bring all the buildings under their management into compliance with the standards. The Secretary must adopt regulations to implement the bill by February 1, 2018.

Fiscal Summary

State Effect: General and special fund expenditures by the Department of Labor, Licensing, and Regulation (DLLR), DGS, and MDOT increase, in total, by \$358,500 in FY 2018 to develop IAQ standards and testing procedures and by about \$9.0 million in FY 2019 to conduct IAQ tests in all affected State buildings and for additional staff to prepare air quality reports (in DGS and MDOT) and review and approve reports (in DLLR). Out-year expenditures reflect annual salaries and ongoing operating expenses, including conducting annual IAQ tests on all affected buildings. General and special fund expenditures likely increase further, in the tens of millions of dollars, to bring State buildings into compliance with IAQ standards. No effect on revenues.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	239,000	611,700	738,000	771,000	805,800
SF Expenditure	119,500	838,000	836,100	873,300	912,600
GF/SF Exp.	0	7,550,000	7,550,000	7,550,000	7,550,000
Net Effect	(\$358,500)	(\$8,999,700)	(\$9,124,100)	(\$9,194,300)	(\$9,268,400)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful for small businesses that conduct IAQ testing, which likely see a dramatic increase in the demand for their services.

Analysis

Bill Summary: The bill defines a “public building” as any building, structure, or improved area that is owned by the State or constructed for lease by the State.

After establishing the standards, the Secretary must (1) recommend cost-effective solutions to bring public buildings maintained by DGS and MDOT into compliance with the IAQ standards and (2) establish a timetable for buildings managed by DGS and MDOT to be brought into compliance with the standards. DGS and MDOT must submit air quality reports for each building they maintain by February 1, 2019, or by February 1 of the year following the calendar year that either agency begins maintaining the building. The bill specifies the information that must be contained in the air quality report, including a plan, subject to the Secretary’s approval, to bring the public building into compliance. The bill requires that DGS and MDOT submit supplemental reports annually with specified updated information.

Within 90 days of receiving an initial or supplemental air quality report for a building, the Secretary must notify DGS or MDOT either that (1) the schedules and procedures for bringing the building into compliance may be adopted or (2) the schedules and procedures do not conform to the standards. Within 45 days of receiving a notice of nonconformance, DGS or MDOT must revise and resubmit the air quality report or supplement.

A current or former State employee or contractor may request a copy of an air quality report or supplement relating to a public building in which the employee or contractor has been employed. MDOT and DGS must provide copies of the requested reports within five days of receiving the request.

Current Law: There is no relevant current law related to IAQ in public buildings managed by DGS or MDOT. The only IAQ provision in current law relates to relocatable classrooms in public schools.

The federal Occupational Safety and Health Administration (OSHA) does not explicitly regulate IAQ in the workplace. Employers are required to follow the General Duty Clause of the OSHA Act, which requires them to provide workers with a safe workplace that does not have any known hazards that cause or are likely to cause death or serious injury. DLLR

advises that OSHA once sought to promulgate IAQ regulations but ultimately withdrew them.

Background: The U.S. Environmental Protection Agency (EPA) has found that indoor levels of pollutants may be 2 to 5 times – and occasionally more than 100 times – higher than outdoor levels. Recent studies by EPA and its Science Advisory Board have consistently ranked indoor air pollution among the top five environmental risks to public health. There is substantial evidence that indoor exposure to allergens plays a role in triggering asthma symptoms, for instance.

New Jersey and California have developed their own IAQ standards for public buildings.

State Expenditures: MDOT advises that it owns and maintains approximately 700 buildings across all of its business units, ranging from Baltimore/Washington International Thurgood Marshall Airport and the World Trade Center in Baltimore City to maintenance facilities and salt domes. The bill does not distinguish among building types; it applies to all buildings or structures that are owned or constructed for lease by the State and maintained by either DGS or MDOT. Therefore, it is assumed that all of these buildings are affected. DGS advises that it maintains 55 buildings.

Staffing Needs within the Department of Labor, Licensing, and Regulation

DLLR's initial responsibilities involve establishing the IAQ standards in consultation with MDE. Although DLLR does not have any expertise relevant to developing IAQ standards, it is assumed that it can rely on MDE – to the extent MDE has the in-house capacity to develop such standards – as well as draw heavily from similar standards in New Jersey and California and the draft standards developed and then withdrawn by OSHA. To manage the development of the standards and implement procedures for the eventual submission of air quality reports, DLLR requires a program administrator and an office secretary beginning October 1, 2017, the bill's effective date. As DLLR does not begin receiving air quality reports until February 2019, it also needs three environmental health specialists beginning January 2019 to review and either approve or disapprove the plans for each building in the reports it receives.

Staffing Needs with the Department of General Services and the Maryland Department of Transportation

Although DGS and MDOT do not need to begin submitting air quality reports to DLLR until February 2019, they must begin conducting IAQ testing in their buildings much earlier in order to be able to complete all the tests by the statutory deadline. Therefore, both agencies need a program manager and an office secretary to begin procuring IAQ tests from external vendors. Beginning July 1, 2018, both agencies require additional staff to

receive the IAQ tests and prepare the reports that are then submitted to DLLR by February 2019. As MDOT has substantially more buildings affected by the bill than DGS, MDOT requires more staff.

Combined Impact for All Three Departments

General fund expenditures by DLLR and DGS increase by \$238,972 combined, and special fund expenditures by MDOT increase by \$119,486 in fiscal 2018, which accounts for the bill’s October 1, 2017 effective date. This estimate reflects the cost of hiring a program manager and an office secretary for each of the three agencies, specifically to develop IAQ standards (in DLLR) and manage the building testing process (in both MDOT and DGS). General fund expenditures by DLLR and DGS and special fund expenditures by MDOT increase further in fiscal 2019, reflecting the addition of program staff to review the IAQ reports and prepare (in DGS and MDOT) or review (in DLLR) the individual building reports submitted to the Secretary. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

General and special fund expenditures by MDOT and DGS also increase by about \$7.6 million in fiscal 2019 to conduct IAQ tests in roughly 755 State buildings and structures. The cost of such tests can range from about \$4,000 to \$25,000, depending on the size and type of each building; this analysis assumes an average cost of \$10,000 per test.

	<u>FY 2018</u>	<u>FY 2019</u>
New Positions	6	13
Salaries and Fringe Benefits	\$316,554	\$1,330,920
IAQ Tests		7,550,000
Operating Expenses	<u>41,904</u>	<u>118,758</u>
Total State Expenditures	\$358,458	\$8,999,678

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses, including the annual IAQ tests in every building.

The estimate does not account for any impact on MDE in its consultation role with DLLR; MDE advises that it does not have the in-house expertise to establish health-based standards, particularly within the bill’s timeframe. The estimate also does not include the cost of bringing all State buildings into compliance with the IAQ standards developed by DLLR. DGS and MDOT advise that any necessary improvements or upgrades to heating and air-conditioning systems likely cost tens of millions of dollars.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of General Services; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; U.S. Environmental Protection Agency; U.S. Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2017
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