

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1134 (Delegate Acevero, *et al.*)

Environment and Transportation and
 Economic Matters

Maryland Building Performance Standards – Fossil Fuel Use and Electric-Ready Standards

This bill requires the Maryland Department of Labor (MDL) by January 1, 2024, to adopt, as part of the Maryland Building Performance Standards (MBPS), (1) a requirement that new buildings meet all energy demands of the building without the use of fossil fuels and (2) an electric-ready standard for new buildings that receive a waiver from that requirement, as specified.

Fiscal Summary

State Effect: General fund expenditures increase by \$164,600 in FY 2024 for contractual staff; future years reflect annualization, ongoing costs, and the termination of the contractual positions at the end of FY 2025. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	164,600	190,000	0	0	0
Net Effect	(\$164,600)	(\$190,000)	\$0	\$0	\$0

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

Local Effect: Potential significant increase in local expenditures, as discussed below. Local revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Requirements for New Buildings

The requirement that new buildings meet all energy demands without the use of fossil fuels must be met (1) by October 1, 2025, for a building that will be less than seven stories tall and for which a building permit application is received by a local jurisdiction and (2) by October 1, 2029, for a building that will be seven stories or more stories tall and for which a building permit application is received by a local jurisdiction.

Waivers

A local jurisdiction may grant a waiver from the requirement that new buildings meet all energy demands without the use of fossil fuels for (1) emergency back-up power systems for new buildings and (2) new buildings specifically designated for occupancy by a commercial food establishment, laboratory, laundromat, hospital, or crematorium. A waiver granted under the bill must be limited to building systems and areas that cannot feasibly use energy generated from a source other than fossil fuels. Financial considerations are not a sufficient basis for determining feasibility. A building that is granted a waiver must (1) seek to minimize emissions from its fossil fuel use; (2) maximize health, safety, and fire protection; and (3) be required to comply with the electric-ready standards adopted pursuant to the bill.

To ensure a waiver granted is still necessary, the waiver must be reviewed by MDL each time MBPS are modified and by the local jurisdiction that granted the waiver each time the local jurisdiction modifies its local amendments to MBPS.

Reporting

By December 1, 2024, MDL, in conjunction with the Maryland Energy Administration (MEA), the Public Service Commission (PSC), and the Department of Housing and Community Development (DHCD), must report to the Governor and the General Assembly on any policy changes needed to ensure that the bill's provisions do not diminish the availability of affordable housing or the affordability of electricity in all-electric buildings, including changes to (1) electricity rates and tariff structures; (2) laws; (3) policies; (4) regulations; and (5) subsidy programs.

Current Law:

Maryland Building Performance Standards

MDL currently incorporates by reference the International Building Code (2018 Edition), including the International Energy Conservation Code (IECC) (2018 Edition), with modifications, as MBPS. In general, the standards apply to all buildings and structures within the State for which a building permit application is received by a local government. Chapter 38 of 2022 (the Climate Solutions Now Act) required MDL to adopt IECC (2018 Edition) by January 1, 2023, and to adopt each subsequent version of IECC within 18 months after it is issued.

Each local jurisdiction must implement and enforce the most current version of MPBS and any local amendments to MPBS. In addition, any modification to MBPS adopted by the State after December 31, 2009, must be implemented and enforced by a local jurisdiction no later than 12 months after the modifications are adopted by the State.

Energy Conservation Building Standards

The Energy Conservation Building Standards under Title 7, Subtitle 4 of the Public Utilities Article generally require a builder of any building that is constructed after July 1, 1982, to certify under oath that the building is in compliance with the latest edition of the Energy Code. If a builder fails to comply with the energy conservation standards required for certification, the builder is liable to the first purchaser who either occupies or rents the building for an amount up to \$2,000 and for the cost of bringing the building into compliance with the energy conservation standards.

EmPOWER Maryland

In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in per capita electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018-2020 and 2021-2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company's 2016 sales. That legislation also required PSC to conduct a related study by July 1, 2022. The Climate Solutions Now Act further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter. The Act also specified that the core objective of the reductions must include development and implementation of a portfolio of mutually reinforcing goals, including greenhouse gas (GHG) emissions reduction, energy savings, net customer benefits, and reaching underserved customers. The Act included related administrative requirements in uncodified language.

Maryland Greenhouse Gas Emissions Reduction Targets and the Climate Solutions Now Act

The Climate Solutions Now Act made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045. The Act also established new and altered existing energy conservation requirements for buildings and increased and extended the EmPOWER Maryland program, as described above.

The Climate Solutions Now Act also requires MDL's Building Codes Administration to (1) develop recommendations for an all-electric building code for the State, including exemptions for particular industries (including life sciences, as specified), local conditions, and sectors deemed critical infrastructure vital to the interest of national security, as specified; (2) develop recommendations for the fastest and most cost-efficient methods to decarbonize buildings and other sectors in the State; (3) assess the availability of technology and equipment that will be needed to construct all-electric buildings in the State; (4) assess the impact of building electrification on workforce shortages; (5) develop recommendations regarding efficient cost-effectiveness measures for the electrification of new and existing buildings; (6) by January 1, 2023, report to PSC on the projected annual and peak summer and winter gas and electric loading impacts of electrification, as specified; and (7) consider recommendations for the inclusion of renewable, low-carbon biofuels, including biodiesel, during the State's transition to an all-electric building code, including an analysis of the impact on electric and gas rates, market availability, and environmental impact. The Building Codes Administration is explicitly authorized to work with consultants and experts to complete the required study. By January 1, 2023, the Building Codes Administration must make an interim report of its findings to the Legislative Policy Committee. By December 1, 2023, a final report of its findings and recommendations is due.

State Expenditures: MDL advises it is in the process of adopting new regulations for MBPS to account for the 2021 editions of the International Residential Code, IBC, and IECC. The proposed regulations can be read [here](#). MDL advises that in order to meet the bill's requirement that MBPS include requirements for new buildings to meet all energy demands of the building without the use of fossil fuels, in addition to incorporating an electric-ready standard for new buildings that receive a waiver from MBPS by January 1, 2024, it requires additional resources. MDL further advises that it does not have the technical expertise to develop the report on policy changes needed to ensure the bill's

provisions do not diminish the availability of affordable housing or the affordability of electricity in all-electric buildings. The Department of Legislative Services concurs.

Therefore, general expenditures increase by \$164,613 in fiscal 2024, which accounts for the bill's October 1, 2023 effective. This estimate reflects the cost of hiring two contractual employees (one administrative officer and one assistant Attorney General) to review codes, develop the amendments to MBPS, coordinate public hearings, and prepare the required report. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including rent.

Contractual Positions	2.0
Salaries and Fringe Benefits	\$144,295
Operating Expenses	<u>20,318</u>
Total FY 2024 State Expenditures	\$164,613

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the contractual positions at the end of fiscal 2025.

The Department of General Services (DGS) advises that it can comply with the bill's requirements for new State buildings with existing resources. DGS further advises that, as a result of Chapter 38, it created a policy that all new buildings and major renovations be designed and constructed to meet the energy demands of the buildings without the use of fossil fuels.

DHCD and MEA advise they can assist MDL with preparing the required report with existing resources. It is anticipated that PSC can also assist with preparing the required report with existing resources.

Local Expenditures: The bill's requirements that new buildings meet all energy demands without the use of fossil fuels may result in a significant increase in costs for local governments. Specifically, beginning in fiscal 2024, local expenditures may increase to (1) meet the updated MBPS for the construction of new local government buildings; (2) enforce the updated MBPS for new buildings in the local jurisdiction; (3) grant waivers; and (4) and review past waivers each time local amendments to MBPS are made.

Small Business Effect: Any small businesses involved in the provision, installation, and maintenance of heating, cooling, and electrical systems for buildings are significantly

affected by the bill's changes to MBPS for new buildings. In addition, any small businesses involved in the construction of new buildings (*e.g.*, architects, engineers, and general contractors) must comply with the new standards.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Caroline and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Public School Construction Program; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Maryland Energy Administration; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2023
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