

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 502 (Delegate J. Long, *et al.*)
Environment and Transportation

Public Safety - Fire Dampers, Smoke Dampers, Combination Fire Smoke
Dampers, and Smoke Control Systems

This bill requires that each installed fire damper, smoke damper, combination fire smoke damper, or smoke control system (1) meet specified engineering practices and applicable standards and (2) be approved by the State Fire Marshal or local authority responsible for the adoption of applicable fire prevention code standards. Owners of buildings equipped with such dampers and systems must have the dampers and systems inspected and tested and must maintain inspection and testing reports. The State Fire Prevention Commission (SFPC) must adopt regulations relating to inspection and testing. In addition, the bill requires the State Fire Marshal or other specified local entities to enforce the bill's provisions and establishes a criminal penalty for violations. Finally, the bill establishes a related study and reporting requirement for the Department of General Services (DGS).

Fiscal Summary

State Effect: General fund expenditures increase by \$447,900 in FY 2025 for the State Fire Marshal alone; out-year costs reflect annualization and inflation. State expenditures (multiple fund types) for various State agencies – as building owners – increase *significantly* – potentially by more than \$100.0 million only in FY 2025; agencies can otherwise comply with the bill's requirements with existing resources in the out-years. The bill's penalty provision is not anticipated to materially affect State finances.

Local Effect: Local government expenditures increase significantly in FY 2025 for local jurisdictions – as building owners – to meet the inspection and testing requirements. Local government expenditures further increase as jurisdictions with authorized fire marshals enforce the bill's provisions. The bill's penalty provision is not anticipated to materially affect local finances. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Installation

Each fire damper, smoke damper, combination fire smoke damper, or smoke control system installed must (1) be installed in accordance with accepted engineering practices that meet standards for the installation of fire dampers, smoke dampers, combination fire smoke dampers, or smoke control systems; (2) meet applicable National Fire Protection Association (NFPA) standards; and (3) be approved by the State Fire Marshal or local authority responsible for the adoption of applicable fire prevention code standards.

Inspections and Testing

The owner of a building that is equipped with fire dampers, smoke dampers, or combination fire smoke dampers must have the dampers inspected and tested as follows: (1) for a building with dampers installed before October 1, 2023, within 12 months after October 1, 2023; (2) for a building with dampers installed on or after October 1, 2023, within 12 months after initial installation; and (3) following the initial inspection and testing, at least every four years for a building other than a hospital, and at least every six years for a hospital.

The owner of a building that is equipped with a smoke control system must have the smoke control system inspected and tested in accordance with time periods established in standards adopted by NFPA.

However, a building (other than a hospital) may not be required to undergo inspection and testing earlier than four years following the initial or subsequent inspection and testing if the individual conducting the inspection and testing certifies in writing that subsequent inspection and testing is not required earlier.

A building engineer or another individual knowledgeable about the building system must be available in person or by phone during the inspection and testing in order to provide building and systems access information.

Affected building owners must maintain full inspection and testing reports on the premises and make any reports available upon request to the State Fire Marshal, county or municipal fire marshal, a fire chief, the Baltimore City Fire Department, or any other designated authority having jurisdiction.

SFPC must adopt, as part of the State Fire Prevention Code, regulations establishing procedures for the inspection and testing of fire dampers, smoke dampers, combination fire smoke dampers, or smoke control systems in accordance with technical specifications required by NFPA.

The inspection and testing of dampers must be performed by an individual licensed to provide heating, ventilation, air conditioning, and refrigeration services who has a current, valid fire and smoke damper technician certification that is accredited as specified. The inspection and testing of a smoke control system must be performed by (1) a fire protection engineer; (2) a mechanical engineer; or (3) a certified air balancer that possesses a valid smoke control system technician certification that is accredited as specified. SFPC must adopt regulations to implement these provisions.

Enforcement and Penalties

The State Fire Marshal, a county or municipal fire marshal, a fire chief, the Baltimore City Fire Department, or any other designated authority having jurisdiction must enforce the bill's provisions.

A person may not knowingly violate the bill's provisions. A violator is guilty of a misdemeanor and on conviction is subject to imprisonment for up to 10 days and/or a fine of up to \$1,000.

Department of General Services – Study of State Buildings and Related Report

DGS must conduct a study of buildings owned by the State that are equipped with fire dampers, smoke dampers, or combination fire smoke dampers to (1) identify those buildings owned by the State with fire dampers, smoke dampers, or combination fire smoke dampers in greatest need of repair or replacement and (2) make recommendations for achieving the necessary repair and replacement of fire dampers, smoke dampers, or combination fire smoke dampers. By December 31, 2025, DGS must report its findings and recommendations to the Governor and the General Assembly.

Current Law: The State Fire Marshal must enforce all laws of the State relating to, among other things, the prevention of fire and the installation and maintenance of all kinds of equipment intended to control, detect, or extinguish fire. The State Fire Marshal must also enforce regulations adopted by SFPC.

SFPC within the Department of State Police (DSP) must adopt comprehensive regulations as a State Fire Prevention Code. The commission adopted by reference, subject to some exceptions noted in the regulations, the NFPA 1 Fire Code (2018 Edition), the NFPA 101 Life Safety Code (2018 Edition), and some requirements of the International

Building Code as the State Fire Prevention Code. The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State, and enforcement is the responsibility of the State Fire Marshal, a legally designated fire official of a county or municipal corporation of the State, or other persons legally appointed by the State Fire Marshal (as specified under the Public Safety Article).

NFPA 101 (2018 Edition) includes provisions specifying that fire dampers, smoke dampers, combination fire smoke dampers, and smoke control systems must be inspected, tested, and maintained in accordance with NFPA 80 and NFPA 105; both NFPA 80 and NFPA 105 provide regulations for the installation and maintenance of assemblies and devices used to protect openings in walls, floors, and ceilings against the spread of fire and smoke within, into, or out of buildings. Among other things, NFPA 80 and NFPA 105 require specified fire and smoke control systems to be tested within one year of installation, and reinspected every four years thereafter, or every six years if the system is within a hospital. All related documentation must remain on site for review by the authority having jurisdiction (e.g., the State Fire Marshal) for at least three years.

State Fiscal Effect: The bill specifies that all owners of buildings with affected fire dampers, smoke dampers, or combination fire smoke dampers installed before *October 1, 2023*, must have the systems inspected and tested *within 12 months of that date*. However, the bill’s effective date is October 1, 2024, so compliance with the bill’s requirements is not feasible. Therefore, for the purposes of this analysis, it is assumed that the intent of the bill is to require that all such inspections and testing occur *within 12 months of the bill’s effective date*.

State Fire Marshal Administrative Expenditures

The State Fire Marshal cannot absorb any additional duties with existing resources and requires five fire safety inspectors to enforce the bill. Even though the bill also requires specified local authorities to enforce the bill, it is assumed that the State Fire Marshal has a significant enforcement role. Therefore, general fund expenditures increase by an estimated \$446,868 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects the cost of hiring five fire safety inspectors to enforce the bill. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of a vehicle for each inspector), and ongoing operating expenses.

Positions	5.0
Salaries and Fringe Benefits	\$270,468
One-time Vehicle Purchases	140,120
Operating Expenses	<u>36,280</u>
Total FY 2025 DSP Expenditures	\$446,868

Although the bill does not require the State Fire Marshal to conduct the inspections required by the bill, the additional staff may be available to conduct inspections at the request of local governments and other entities, to the extent that their enforcement duties allow.

Future year expenditures, which range from \$356,811 in fiscal 2026 to \$406,242 in fiscal 2029, reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

It is assumed SFPC can develop and implement the required regulations with existing resources.

Expenditures for State Agencies as Building Owners

Although the bill codifies an existing requirement under the State Fire Prevention Code regarding the reinspection of fire dampers, smoke dampers, or combination fire smoke dampers every four or six years, the requirement that all existing dampers be tested within one year results in additional costs to affected State agencies.

Several State agencies – as owners of buildings – report the potential for significant costs to meet the bill’s inspection and testing requirements. While the Department of Legislative Services (DLS) is unable to independently verify these estimates, it acknowledges that costs for State agencies as building owners increase significantly in fiscal 2025 to test all existing dampers. In future years, it is assumed that staggered testing schedules already used to comply with existing standards enable State agencies to comply with the bill’s requirements at no additional cost.

Department of General Services: DGS advises that to hire contractors for the initial inspection and subsequent repairs of the estimated 1,400 buildings with fire dampers, smoke dampers, or combination fire smoke dampers that it manages, State expenditures (multiple fund types) increase by approximately \$117.0 million in fiscal 2025. DGS further advises that general fund expenditures increase by approximately \$361,000 in fiscal 2025 to hire three project engineers and one procurement officer to handle the additional workload resulting from the bill, including producing the required report upon completion of the study. DLS assumes that any additional personnel would only be needed on a temporary basis in fiscal 2025.

Maryland Department of Transportation and Maryland Transportation Authority: The Maryland Department of Transportation advises that Transportation Trust Fund expenditures increase significantly – by approximately \$1.0 million in fiscal 2025 – for its various modal units to hire contractors or contractual employees to conduct the required inspections and testing; for example, the estimated costs for the State Highway

Administration alone total between \$500,000 and \$800,000 in fiscal 2025 for initial inspections and testing.

University System of Maryland and other Public Institutions of Higher Education: The University System of Maryland (USM) advises that many of its buildings across all campuses have fire dampers, smoke dampers, or combination fire smoke dampers and that costs increase significantly to have those damper systems inspected and tested in accordance with the bill. For example, USM advises that the cost for the University of Maryland, Global Campus alone is anticipated to be approximately \$200,000 for one-time expenses related to the initial study and potential upgrades to its damper systems. Frostburg State University advises it anticipates approximately \$30,000 annually for inspections. The University of Maryland, Baltimore County anticipates costs of more than \$100,000 for inspection and testing of their damper systems.

Penalty Provisions

The bill's penalty provision does not materially affect State finances or operations.

Local Fiscal Effect: Similar to the effect on State agencies, local government expenditures increase in fiscal 2025, likely significantly, to hire licensed inspectors to conduct the required inspections with respect to buildings owned by local governments. Local expenditures further increase for some jurisdictions, as local governments with authorized fire marshals enforce the bill's requirements within their jurisdictions.

The bill's penalty provision does not materially affect local finances.

Small Business Effect: Any small business that owns a building with an installed fire damper, smoke damper, or combination fire smoke damper experiences costs to meet the bill's inspection requirements. Small businesses providing services for the installation and maintenance of fire dampers, smoke dampers, or combination fire smoke dampers, or small businesses providing inspection and testing services for those damper systems, could experience additional business as a result of the bill.

Additional Comment: The State Fire Marshal advises that only it or its authorized designees may enforce the State Fire Prevention Code or any other law relating to fire protection; "fire chiefs," as specified in the bill, do not have that authority.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 614 and HB 769 of 2023.

Designated Cross File: None.

Information Source(s): National Fire Protection Association; Howard and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Morgan State University; Interagency Commission on School Construction; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Maryland Department of Labor; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Maryland Stadium Authority; Baltimore City Public Schools; Department of Legislative Services

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