



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**House Bill 1540 - Environment - Mold Inspections - Standards,
Reporting, and Penalties** *Heard on March 4, 2020*

Delegate Shaneka Henson

Delegate Henson's Commentary of the Fiscal Note & Friendly Amendments

This bill really costs the State **\$108,064**, not \$1 million. I received the fiscal note today, as did the committee. Thank you for the opportunity to address its misgivings.

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Fiscal Summary

“General fund expenditures increase significantly, likely more than \$1.0 million annually, beginning in FY 2021.”

-- Discussion of Page 6 MDE budget breakdown explains why this is incorrect.

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Mold Assessment and Remediation

“The regulations adopted pursuant to the bill must...”

-- Of the 7 bullet points listed here, 6 of them are being effectuated at little or no cost.

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Enforcement and Penalties

-- CO-OCCURRING INSPECTIONS

- MD ANN. CODE Public Safety § 12-203 Min. Livability Code requires each local jurisdiction to adopt and enforce minimum safety and sanitary livability standards [the penalties provided are lesser penalties & the enforcement mechanism is the same- enforced by State’s Attorney’s Office]
 - As a result many counties conduct regular code enforcement inspections to enforce this state mandate.
- COMAR 13A.15.13.01 & 13A.16.17.02 MSDE inspects at home and institutional child care centers annually
- COMAR13A.01.02.04 Facilities Assessment Survey – Interagency Commission on School Construction (IAC) already required to report periodically on the condition of school buildings to the State Board of Education

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State Expenditures

Maryland Department of the Environment

“MSDE estimates that its general fund expenditures increase by \$2.7million in fiscal 2021, and by a minimum of \$2.0 million annually thereafter to hire, 28 employees (23 environmental compliance specialists, 2 assistant attorneys general, 1 environmental program manager, 1 administrative specialist, and 1 paralegal) for a new division within MDE...”

-- This is outlandish and NOT called for under the bill.

- Under the bill, the local State’s Attorney and/or municipal attorney provides enforcement action (as is consistent with MD ANN. CODE Public Safety § 12-203 Min. Livability). Strike the ~~2 assistant attorneys general & paralegal~~. **(\$285,000)**
- Contrary to page 7, the bill does not task MDE with “tracking responsibilities required to coordinate required inspections and remedial actions.” Strike the ~~23 environmental compliance specialists~~. **(\$900,000)**
- “Develop a process for third-party inspectors to conduct inspections, establish a methodology to verify inspectors are qualified and develop a registry that lists verified third-party inspectors.”
 - --These exist already. Independent certification agencies, institute of inspection. [Institute of Inspection Cleaning and Restoration Certification (IIRC)]
- 1 Environmental Program Manager \$69,761 + 1 Administrative Specialist \$38,303 = \$108,064

TOTAL STAFF SHOULD COST BE: \$108,064

“... the tracking responsibilities required to coordinate required inspections and remedial actions are expected to be significant.” FALSE

- Bill does NOT require MDE to track inspections. The bill does NOT require MDE to coordinate inspections or remedial actions.
- Inspections are conducted
 - 1) through local governments
 - 2) co-occurring with existing inspections (ex. Licensed child care facility inspection conducted by MSDE)
 - 3) third party vendors (as is the case already with lead inspections)

“Because it is assumed that MDE is the lead State agency, this analysis assumes MDH, MSDE, DGS and DHCD can consult with MDE to develop the required regulations using existing budgeted resources.” **THIS IS CORRECT**

Judiciary (Administrative Office of the Courts)

“General fund revenues may also increase from the bill’s administrative penalty provision.” -- Agreeable with a **friendly AMENDMENT** to enable fee revenue to revert to local enforcing authority (Bill pg. 8)

“The bill is silent with regard to inspection fees, so it is unknown whether a local jurisdiction can recoup inspection costs through fees.” -- Agreeable with a **friendly AMENDMENT** to enable local jurisdictions to assess a fee for inspections.

State Expenditures

Maryland Department of the Environment

- “Local entities provided the following information regarding the potential fiscal effect of the bill” Friendly AMEND to enable local governments to pass appropriate financing structure
- “The Maryland Association of County Health Officers advises that ... LHDs” LHDs are a code enforcement issue

- “Baltimore City estimates that ... equipment to test for mold.” Incorrect presumption that it will require equipment; there is a two-step process envisioned by the bill. Sight inspection, done by code enforcement, is step 1. If sighted, the property owner would pay a professional to remediate, as optional step 2. However, the regulation has yet to be adopted. The
 - There are tons of buildings that are inspected in Baltimore City, tax credit buildings, buildings that receive HUD funds, which receive smoke detectors and lead paint inspections [The fiscal note, MACo and MML testimony is absent these important co-occurring inspection data points]
- “Montgomery and Wicomico did not provide specific estimates but anticipate that costs could be significant.” The use of “could be” is speculative language
- “It is assumed local schools ... Costs could be significant” The use of “could be” is speculative language

POTENTIAL FRIENDLY AMENDMENTS

- **PENALTY REVENUE.** General fund revenues may increase from the penalty provision which can be used to cover at least part of the cost. An amendment can be drafted to revert penalty revenue to local jurisdictions to cover costs of carrying out these inspections.
- **INSPECTION FEES REVENUE.** An amendment could be added to increase general fund revenues by charging inspection fees.
- **OWNER OCCUPIED UNIT EXEMPTION.** Require inspection of rental housing only for non-owner occupied rental housing. This would reduce the inspected number of units by approximately 67%.
- **REMOVE SCHOOLS.** There is a bill before the house to address mold inspection and remediation standards in K-12 schools, HB7. Schools could be deleted as an institution under this bill.