



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 1023 – Maryland Building Performance Standards – Fossil Fuel Use, Energy Conservation, and Electric- and Solar-Ready Standards (Better Buildings Act of 2024)
Senate Education, Energy, and the Environment

Monday, March 4, 2024

Dear Chairman Feldman and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

Senate Bill 1023 requires the Maryland Department of Labor to adopt a requirement, as part of the Maryland Building Performance Standards, that new buildings are electric- and solar-ready and meet energy conservation requirements without the use of fossil fuels.

This legislation creates high barriers to new construction, resulting in significant challenges for existing and new businesses and future economic development in Maryland. Senate Bill 1023 would severely restrict the availability of affordable energy options for all new buildings in the state. It also places Maryland at a significant regional economic competitiveness disadvantage by ultimately phasing out the use of other affordable energy sources for commercial buildings that are critical to every jurisdiction in our state. This bill sets Energy Use Intensity standards that lack clarity, as it remains uncertain how these standards will be applied on a building-by-building basis or whether they are realistically achievable.

While the intention of SB 1023 is to reduce greenhouse gas emissions by mandating electric-only buildings, it overlooks the fact that a significant portion of Maryland's electricity is generated from fossil fuels. This legislation simply shifts emissions from individual buildings to electric generation facilities, without fundamentally reducing carbon output. Moreover, it neglects the importance of maintaining a diverse energy portfolio for grid stability and reasonable utility rates, which are vital to both residential and commercial consumers. Additionally, this legislation restricts the adoption of innovative technologies such as renewable natural gas and hydrogen, which offer cost-effective and environmentally friendly alternatives for heating and energy needs.

[The Maryland Energy Administration released a study in January 2024](#) on the costs, barriers, and impacts related to requiring both new and existing multifamily residential buildings to include

MDCHAMBER.ORG

60 West Street, Suite 100, Annapolis 21401 | 410-269-0642

electric vehicle supply equipment or EV-ready parking spaces. The report explains that the infrastructure comes at a steep cost, estimated at \$7.4 billion dollars to install EV-ready infrastructure for 50% of parking spaces, which does not include the cost of running power to the building. We encourage the committee to consider these large cost impacts, as an electric vehicle-ready requirement alone will have substantial costs to businesses and residents building or purchasing a new building.

SB 1023 also brings forward legal concerns. This legislation is intended to reduce greenhouse gas emissions by mandating electric only buildings and preventing the use of fossil fuel appliances. In April of 2023, the U.S. Court of Appeals for the Ninth Circuit held that the Energy Policy and Conservation Act (EPCA) preempts state and local building codes concerning the energy use of natural gas appliances, including Berkeley's building code which prohibits natural gas piping into new buildings, preventing the use of natural gas. In January 2024, the Ninth Circuit denied Berkeley's request for review and the panel's decision, which struck down Berkeley's ordinance, was reaffirmed.

It is also important to note that the federal Energy Policy and Conservation Act (EPCA) preempts state laws and regulations that effectively ban certain EPCA-regulated energy products from accessing energy sources. In most buildings, appliances like natural gas furnaces and water heaters fall under the category of "covered products" according to the EPCA. EPCA precludes states from setting energy conservation standards for these products, especially when state laws effectively prohibit their use. SB 1023, by mandating electric-only buildings and prohibiting fossil fuel appliances, conflicts with EPCA regulations, likely rendering it preempted by federal law.

Lastly, the Chamber is concerned that SB 1023 fails to account for customer choice and could lead to affordability and reliability issues. We believe that legislation aimed at reducing greenhouse gas emissions must be comprehensive, inclusive of innovative technologies, and mindful of federal regulations to ensure a sustainable and prosperous energy future for Maryland. While we have been supportive of efforts to responsibly reduce emissions, Senate Bill 1023 sets for an unrealistic implementation timeline that would drastically change the permitting process for future construction in the state. A sole source energy policy poses risks, high costs and challenges. A balance should be struck between reducing emissions, promoting technological innovation, and ensuring affordability, accessibility and choice for consumers.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on **SB 1023**.

