

February 25, 2025

The Honorable Brian J. Feldman, Chair
Senate Education, Energy, and the Environment Committee
2 West Senate Office Building
Annapolis, Maryland 21401

Unfavorable – SB 804 – Better Buildings Act of 2025

Dear Chair, Feldman and Committee Members:

The NAIOP Maryland Chapters, representing more than seven hundred companies involved in all aspects of commercial, industrial, and mixed-use real estate, recommend your unfavorable report on SB 804.

This bill requires that the Maryland Codes Administration replace sections of the International Building Code, International Residential Code and the International Energy Conservation Code with requirements that include; **1)** that all new construction and major renovations meet all laundry, space and water heating demands without the use of fossil fuels; **2)** that all new construction and major renovation of buildings up to 20 stories in height install infrastructure to make them “solar ready”, and; **3)** new construction of buildings 35,000 square feet and less are required, depending on the building type and year of construction, to achieve performance levels that are 35% - 65% more energy efficient than the 2006 energy code.

NAIOP’s unfavorable position is based on the following considerations:

- The fossil fuel prohibitions in the bill contradict the Building Energy Performance Standards (BEPS) including the deadline for covered buildings to reach net zero direct greenhouse gas emissions by 2040 and the ability to pay alternative compliance fees for direct emissions.
- The bill presents arbitrary and unsupported end to fossil fuel use in existing buildings that will expose natural gas customers to escalating system-wide operating costs. The pace and location of buildings and existing customers dropping off of the natural gas system will be haphazard - based on renovation decisions. As existing users drop off of the natural gas system and new customers fail to replace them, the costs of operating the system will be borne by fewer and fewer remaining natural gas customers resulting in escalating costs. If the General Assembly wishes to sharply curtail the use of natural gas in commercial and residential buildings, the Public Service Commission should be tasked with developing a plan that can limit ratepayer impacts and can keep the gas utilities operational.
- Proponents have, incorrectly, cited a study completed by an MDE consultant (E3) in support of the MDE Building Energy Transition Plan as evidence the bill will reduce consumer costs. What many advocates have failed to note is that the data in that study was based on favorable utility rates and equipment costs in 2035. The findings of the E3 study are summarized in the Plan as follows, “E3 found that, given continued improvement in the cost and performance of electric space and water heating equipment and projected increases in natural gas rates, by 2035, most all-electric buildings will have lower lifecycle costs than mixed-fuel alternatives.” (MDE Building Energy Transition Plan p. 15). Case studies of existing large buildings are returning 20-30% increases in utility costs, coupled with high capital costs for equipment and offsite electric infrastructure upgrades. MDE’s cost benefit analysis of BEPS determined that between 2025 and 2040 compliance with BEPS will cost building owners and occupants \$15.2 billion and only achieve \$8.2 billion in energy costs savings.
- Members should be aware that multifamily residents in some buildings will see new and increased utility bills. Residents of buildings served by central boiler systems that are converted to unitary (in unit) heat pumps will, for the first time, have an individual utility bill to pay. Advocates expect the efficiencies of the heat pump equipment to reduce overall utility costs but that will be determined case by case by personal usage, the quality of insulation and air sealing of the building. These changes will require considerable capital costs to install the equipment and upgrade offsite electric service to the building. In many cases these costs will be higher than what can be offset by lower utility costs.
- NAIOP does not believe a major energy source should be curtailed before its replacement is in place. The requirement that fossil fuel systems be replaced at major renovation and prohibited in new construction begins October 1, 2025. This abrupt end to fossil fuel use comes at a time when the PJM system operator is warning of electric capacity shortages as early as the

2026/2027 delivery year begins June 1, 2026. At its January 15th briefing to the Economic Matters Committee, PJM noted that demand for electricity is growing at the fastest pace in years, in part due to the electrification of buildings. Thermal power generators are retiring at a rapid pace and new replacement electric generating resources with needed reliability attributes are not being built fast enough. There are numerous proposals to increase in-state generation, but it may be several years before they impact the imbalance in electricity supply-demand. This is not the appropriate time to limit access to existing power sources.

- The solar ready requirements mandate installation of infrastructure that may never be used. The bill requires buildings up to 20 stories tall to be solar ready. Buildings that are three stories and taller are unlikely to generate enough solar energy to make up a meaningful percentage of the building's energy use. Further, the installation requirement applies without regard to whether the building is located in an area where the equipment may be approved for grid interconnection. If it were approved for interconnections, because of its intermittent nature, fixed solar has the lowest Effective Load Carrying Capacity and is credited at only 8% of nameplate capacity.,
- The energy efficiency requirements impose new requirements on buildings 35,000 square feet and smaller – This subsection is awkwardly worded, unlikely to be easily implemented and already covered by current and future energy code requirements. Between 2007 and 2022 the ASHRAE Standard 90.1 has improved average energy efficiency in large commercial and multifamily buildings by 51.7%.

The code is reissued every three years with stronger requirements for air sealing, insulation, HVAC system and lighting efficiency. The average improvements are calculated across all building types and include deeper savings in certain building types than others.

SB 804 requires all buildings to achieve on average energy efficiency that is 45-65% better than the 2006 energy code. We don't see how that would be implemented by local code officials or possible for all building types to achieve.

ASHRAE and the IECC, the two main code writing bodies, have both committed to producing progressively more efficient codes and standards. ASHRAE is nearing the limits of performance using commercially available technologies and will reach and surpass that level in one of the next two code cycles.

Both code writing organizations have the testing capacity and expertise to provide a comprehensive approach that will specify mechanical systems and complimentary design practices that are technically feasible, commercially available, and cost effective for builders and occupants. The international codes framework provides technical resources and training for code officials, design teams, construction crews, and building operators to apply these principles across all building types. We urge the committee not to override building and energy codes as proposed in SB 804.

For these reasons, NAIOP respectfully requests your unfavorable report on SB 804.

Sincerely,



Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters - *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.

