

TO: The Honorable Brian Feldman
Chair, Education, Energy and the Environment

SB256
Favorable with
Amendments

FROM: Leslie Ford Weber
Associate Director, Maryland Government Affairs

DATE: February 11, 2025

RE: SB256: Environment – Building Energy Performance Standards – Compliance and Reporting

Johns Hopkins supports with amendments **SB256: Environment – Building Energy Performance Standards – Compliance and Reporting**. As introduced, this bill establishes an alternative compliance fee to the attainment of the anticipated Net Site Use Intensity (EUI) targets. Johns Hopkins has its own sustainability goals and supports the State’s climate initiative. We appreciate the opportunity for buildings to seek alternative compliance pathways to meet the goals established in the Climate Solutions Now Act (CSNA) of 2022 for both the reduction in direct Greenhouse Gas (GHG) emissions and EUI.

When the legislature passed the CSNA, it directed MDE to include “special provisions or exceptions to account for...the unique needs of particular buildings or occupancy types, including health care facilities, laboratories, assisted living and nursing facilities, military buildings, critical infrastructure, and buildings used in life sciences...”. It has been the experience of both the Johns Hopkins Health System (JHHS) and Johns Hopkins University (JHU) during the comment periods for the draft and final regulations, that MDE did not include any special provisions or exceptions to account for the unique needs of our health care facilities, laboratories and life sciences buildings. We ask this legislature to amend SB256 to explicitly establish the special considerations.

Hospitals Should Not be Covered Buildings

The JHHS has a sustainability committee that is currently looking at a variety of measures to reduce GHG emissions from our facilities, increase the share of clean energy that powers those facilities and increase energy efficiency across the system. In making its recommendations, the committee considers the state of technology, cost, return on investment and the impact on our sustainability goals.

Hospitals have unique building needs and provide vital life-saving services 24 hours a day, every day. Additionally, with the State’s hospital financing system there is limited funding available to make the necessary investments for the buildings and equipment to implement the State’s climate’s goals.

Hospital and ambulatory surgical centers also have unique needs to generate steam at a minimum temperature of 250° F. The moist heat is used to warm our buildings and, most importantly, to sterilize surgical equipment which is essential to patient safety. At present, there is no way to retrofit electric boilers with this capacity into our existing buildings. All-electric boilers require more square feet to accommodate. This has not been recognized by MDE when it promulgated the regulations to implement the CSNA.

For these reasons, Johns Hopkins joins the Maryland Hospital Association in requesting that hospitals be added to the list of building types that will be exempt from the BEPS standards in Maryland. This could be accomplished as noted below:

Environment 2-1601

(E) (2) “COVERED BUILDING” DOES NOT INCLUDE:

(I) A BUILDING DESIGNATED AS A HISTORIC PROPERTY UNDER FEDERAL, STATE, OR LOCAL LAW;

(II) A PUBLIC OR NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL BUILDING;

(III) A HOSPITAL;

~~(III)~~ *(IV)* A MANUFACTURING BUILDING; OR

~~(IV)~~ *(V)* AN AGRICULTURAL BUILDING.

Clarification on Backup Generators and Steam Production

Johns Hopkins has consistently requested the exclusion of emissions from generators that ensure continuous power supply to protect patient care, research and animal welfare. However, when MDE promulgated regulations, it limited the exclusion for generators only if “a federal or State regulation requires a covered building...to use a backup generator or other equipment that shall run on combustible fuels.”

It is a Joint Commission standard that requires hospitals to have backup generators that can support the facility for at least 72 hours, not a federal or state regulation. Similarly, standards for research integrity and continuity compel JHU and the Applied Physics Lab to ensure that ongoing laboratory experiments are not compromised by a power interruption, not a federal or state regulation.

We respectfully request that the legislature direct MDE to exclude emissions from generators without qualification and to recognize the unique demands of generating steam to safely care for patients. As mentioned earlier, fossil fuels are essential to these processes for the foreseeable future. In the CSNA, the legislature ensured that equipment used in the preparation of food was excluded. We believe the production of steam and backup generation should be similarly treated. This could be accomplished in the language of the original bill with the additions below:

Environment 2-1602

(E) IN CALCULATING THE STATEWIDE STANDARDS DEVELOPED BY THE DEPARTMENT UNDER THIS SECTION, AN OWNER OF A COVERED BUILDING MAY NOT CONSIDER GREENHOUSE GAS EMISSIONS OR ENERGY USE BY A COMMERCIAL TENANT OF THE COVERED BUILDING THAT:

(1) IS A FOOD SERVICE FACILITY AS DEFINED IN COMAR 10.15.03.02; AND

(2) ENGAGES IN COMMERCIAL COOKING AND WATER HEATING. *OR*

(3) Generates steam for essential systems of a healthcare facility, laboratory, assisted living and nursing facility, military building,

scientific research facility, critical infrastructure, and a building used in life science; or

(4) Provides backup generation for essential systems of a healthcare facility, laboratory, assisted living and nursing facility, military building, scientific research facility, critical infrastructure, and a building used in life sciences

Capped Compliance Fee

Johns Hopkins notes that the CSNA directed the MDE to offer only one alternative compliance pathway to attaining the interim and final standards, but there are models in the state and elsewhere that the legislature could consider offering to Maryland building owners and operators to certify compliance.

The singular path identified in the CSNA is a fee payment set at a level no “less than the social cost of greenhouse gases adopted by the [Maryland] Department [of the Environment] or the U.S. Environmental Protection Area.” MDE has outlined a steadily increasing fee structure between 2030-2040. Johns Hopkins Medicine estimates that its liability for alternative compliance fees would begin at over \$5 million a year and rise to over \$23 million a year after 2040.

Johns Hopkins is concerned that the fee schedule poses an excessive financial burden, particularly for tax-exempt organizations. Resources diverted to paying fees are resources not available to advance our education, research and patient-care mission. The fees associated with a failure to meet interim and final EUI targets would be in addition to those assessed for GHG emissions. As you are aware, hospitals in Maryland operate under a capped revenue model that both limits investments in capital and the flexibility to pass on increased costs to patients, including these types of fees.

We encourage the committee to adopt language to cap these fees for nonprofit organizations in Maryland. This could be accomplished with language similar to this:

Environment 2-1602

[2-1602. (c) (3)] *The Department may not set an alternative compliance fee that is less than the social cost of greenhouse gases adopted by the Department or the U.S. Environmental Protection Agency except that alternative compliance fees assessed against non-profit organizations recognized under section 501(c)(3) of the U.S. Internal Revenue code cannot exceed 1% of the social cost of greenhouse gases adopted as above.*

Accordingly, Johns Hopkins respectfully requests a **FAVORABLE WITH AMENDMENTS** committee report on **SB256**. Thank you.