Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 207 (The President, *et al.*)
(Administration)
Economic and Environmental Affairs

Smart Codes - Maryland Building Rehabilitation Code

This Administration bill addresses the adoption of a statewide building rehabilitation code, the Maryland Building Rehabilitation Code (MBRC).

The bill takes effect July 1, 2000.

Fiscal Summary

State Effect: General fund expenditures would increase by $843,900 in FY 2001 to implement the new code. Of that amount, $551,703 is in the FY 2001 budget and is contingent upon enactment of this bill. Of the remaining $292,200, $122,500 will be reimbursed to the general fund in FY 2002 by the Worker's Compensation Commission. Future year estimates are annualized, adjusted for inflation, and reflect ongoing salary and operating expenses and ongoing reimbursements.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	-	$122,500	$219,700	$229,400	$239,600
GF Exp.	843,900	1,398,900	1,421,000	1,515,400	1,468,100
Net Effect	($843,900)	($1,276,400)	($1,201,300)	($1,286,000)	($1,228,500)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - =indeterminate effect

Local Effect: The bill may impose a mandate on a unit of local government. Depending on the code adopted by regulation pursuant to the bill, the cost to implement and enforce it will vary. Local jurisdictions choosing not to amend the code will be eligible for increased funding for specified programs.

Small Business Effect: A small business impact statement was not provided by the

Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Bill Summary: The bill requires the Department of Housing and Community Development (DHCD), in cooperation with the Maryland Building Rehabilitation Code Advisory Council, the Department of Labor, Licensing, and Regulation (DLLR), and the State Fire Marshal, to adopt by regulation the MBRC. The MBRC must be modeled on the nationally applicable recommended rehabilitation provisions developed by the U.S. Department of Housing and Urban Development (HUD) and the National Association of Home Builders (NAHB) research center. The bill requires that the MBRC shall, at a minimum: (1) maintain a level of safety consistent with existing codes, and provide for multiple categories of work with multiple compliance standards; (2) be enforceable by local officials using existing enforcement procedures; (3) apply to the repair, renovation, modification, reconstruction, change of occupancy, and addition to an existing building; (4) provide an expedited review process for proposed amendments to the MBRC submitted by a local government or an organization that represents local governments; and (5) contain provisions that provide an opportunity for a person proposing a complex rehabilitation project involving multiple codes, prior to submitting a construction permit application, to meet with specified local officials or designees, as applicable, to anticipate and expedite the resolution of problems a complex rehabilitation project may have in complying with the applicable laws and regulations and the MBRC. The bill also:

- provides that except as otherwise permitted, the MBRC shall apply to all rehabilitation projects for which a construction permit application is received;
- authorizes a local jurisdiction to adopt local amendments to the MBRC;
- provides that a municipal corporation whose authority to adopt or amend a building code is, by law, limited by the authority of any county in which it is located, is not subject to any amendment to the MBRC adopted by the county unless the municipal corporation also adopts the amendment;
- provides that "only a local jurisdiction that does not amend the MBRC shall be eligible for any funding appropriated above the appropriation" in fiscal 2000 for: (1) circuit rider inspectors; (2) training; (3) a smart growth mortgage program to be created by DHCD; (4) the Neighborhood Conservation Program in the Maryland Department of Transportation (MDOT); and (5) the Rural Legacy Program in the Department of Natural Resources (DNR);

- provides that only a local jurisdiction that does not amend the MBRC shall be eligible for priority consideration under MDOT's Transportation Enhancements Programs;
- requires DHCD to submit proposed regulations to adopt the MBRC to the Joint Committee on Administrative, Executive, and Legislative Review on or before December 31, 2000, and to adopt the MBRC as soon as possible thereafter;
- establishes a 27-member MBRC Advisory Council and describes its composition and duties;
- requires DHCD, in cooperation with the advisory council, to review the MBRC and adopt any necessary or desirable revisions at least every three years;
- requires, within 90 days of adoption of the MBRC and subsequent changes: (1) DLLR to submit proposed regulation changes to make the mechanical code, the plumbing code, the boiler safety code, and the elevator code consistent with the MBRC; (2) the Department of State Police and the State Fire Prevention Commission to submit proposed regulation changes to make the State fire prevention code consistent with the MBRC; and (3) DHCD to submit proposed regulation changes to make the Maryland Building Performance Standards, the safety glazing code, the energy code, and the accessibility code consistent with the MBRC;
- requires DHCD, the Board of Boiler Rules, and the Commissioner of Labor and Industry, within 90 days of the adoption of the MBRC, to submit proposed regulations to amend definitions, rules, and regulations to be consistent with the MBRC; and
- requires that the rules and regulations governing elevator safety be consistent with the MBRC.

The provisions of the bill are severable.

Current Law: DHCD is required to adopt a specified code into the Maryland Building Performance Standards (MBPS). Those standards include provisions governing the rehabilitation of existing buildings in the State. Local jurisdictions are responsible for the implementation and enforcement of the standards. In general, local jurisdictions, with the exception of those jurisdictions governed by the Maryland-National Capital Park and Planning Commission, have unlimited authority to adopt their own local building codes.

Background: In May 1999, several architects, planners, local code officials, environmentalists, and others joined the Governor at the Maryland Smart Codes Conference. Participants discussed impediments to development caused by Maryland's existing construction codes. Specifically, concern was raised over the lack of uniformity arising from overlapping and unclear requirements, the lack of predictability due to varying requirements and interpretations among jurisdictions, the lack of flexibility, and the lack of training for local code officials and private businesses. As a result of the conference, DHCD and the Maryland Office of Planning, with participation of the State Fire Marshal and DLLR, convened the Smart Codes Strategy Group. The Governor appointed a steering committee and charged the group with recommending innovative ways to strengthen Maryland's existing communities by altering the State's building codes. The steering committee recommended that a statewide code be established to address the rehabilitation of existing buildings. The steering committee recommended that the code: (1) integrate the existing ten State codes into one document governing building rehabilitation; (2) distinguish rehabilitation requirements from those for new construction; and (3) establish five categories of work that gradually increase compliance requirements proportionally to the amount of work required. The steering committee recommended that the code be based on a model developed by HUD and NAHB, which itself was modeled on a code currently in place in New Jersey. The steering committee also recommended that the code permit local amendments, but that the State should offer incentives to local governments that administer the code without making any amendments.

State Fiscal Effect: General fund expenditures will increase by an estimated $843,900 in fiscal 2001 to implement the new code. All but $292,200 is in the fiscal 2001 budget. This estimate assumes that proposed regulations to adopt the MBRC will be submitted by January 2001, as required by the bill. Legislative Services advises that if there is a significant delay in the adoption of regulations to incorporate the MBRC, costs could vary accordingly. Future year estimates are annualized, adjusted for inflation, and reflect ongoing salary and operating expenses.

Department of Housing and Community Development

The fiscal 2001 budget includes $551,703 in general funds for DHCD to implement the new code, contingent upon enactment of this bill. The budgeted amount reflects:

- $122,700 in salaries, fringe benefits, and operating costs for three new positions (one civil engineer, one resource and process specialist, and one administrative specialist) to develop the code, amend the code, review proposed rehabilitation project plans, review and revise existing regulations including the MBPS, develop and implement a code hotline, and staff the advisory council. This estimate also includes the salary for the director of the advisory council and fees for 1/2 contractual attorney to assist the advisory council on a part-time basis;

- $100,000 in additional funds to the existing circuit rider program to provide grants to municipalities to administer permitting, inspection, and enforcement services. Grants are anticipated to average $20,000 per jurisdiction and would be available only to municipalities that: (1) rely on their counties to provide code implementation; (2) are located in counties that amend the MBRC; and (3) wish to follow the MBRC without amending it; and
- $329,000 to conduct statewide training in the MBRC for local code officials, private design professionals, contractors, and others. DHCD advises that costs are based on information from the Virginia Building Codes Academy and assume training of 1,000 individuals in 20 sessions. Assuming that DHCD charges a nominal fee for those private individuals and local governments that amend the code, the bill could result in an increase in general fund revenues that could offset a portion of these costs. DHCD was unable to provide a schedule of anticipated fees.

The bill provides an additional incentive for local governments choosing not to amend the code. DHCD will create a Smart Growth Mortgage Program to offer below-market interest rate mortgages to single-family homebuyers in jurisdictions that agree not to amend the code. This program will have no net fiscal impact on DHCD. It is assumed that DHCD will restructure single-family mortgage bonds under its existing programs in order to finance the new mortgage program.

Future year estimates are annualized, adjusted for inflation, and reflect ongoing salary and operating expenses. The estimates assume that the Governor will approve an increase of approximately 0.5% annually for activities related to the bill and an increase in the funding for the circuit rider program to approximately $500,000. Legislative Services advises that costs for the circuit rider program could be less in future years depending on the number of municipalities that qualify.

Department of Labor, Licensing, and Regulation

The fiscal 2001 budget does not include any funds for DLLR to meet the bill's requirements. General fund expenditures could increase by an estimated $122,500 in fiscal 2001, which accounts for a 180-day start-up delay. This estimate reflects the cost of hiring two elevator inspectors and two deputy boiler inspectors to attend meetings, review plans, provide guidance on applicable requirements, monitor the codes, provide assistance or serve on the Advisory Council, conduct training, and provide periodic progress reports. These individuals would primarily serve as designees for meetings to be held prior to the issuance of specified permits, as provided by the bill. It is assumed that the number of meetings would be significant. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It is assumed that any costs to review existing codes could be absorbed within existing budgeted resources. Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Legislative Services advises that because the Workers' Compensation Commission reimburses to the general fund the cost of the elevator and boiler inspection programs, it is estimated that general fund revenues will increase by an estimated $122,500 in fiscal 2002. It is assumed that reimbursements will occur in the fiscal year following the fiscal year in which the expenditures are made.

Department of State Police and the State Fire Prevention Commission

General fund expenditures could increase by an estimated $169,700 in fiscal 2001, which accounts for a 180-day start-up delay. This estimate reflects the cost of hiring one fire protection engineer and two deputy fire marshals to attend meetings, review plans, provide guidance on applicable requirements, monitor the codes, and serve on the advisory council. These individuals would primarily serve as designees for meetings to be held prior to the issuance of specified permits, as provided by the bill. It is assumed that the number of meetings would be significant. The estimate also reflects the cost of hiring one office secretary to support these new activities. It includes salaries, fringe benefits, one-time start-up costs (including three vehicles), and ongoing operating expenses. Legislative Services advises, however, that the Department of State Police and the State Fire Prevention Commission did not provide any information or assumptions necessary to independently verify these costs. Future year expenditures are adjusted for inflation and reflect full salaries with annual increases and ongoing operating expenses. In fiscal 2004, it assumes that additional vehicles and equipment would be purchased.

Maryland Department of Transportation

The fiscal 2001 budget includes an increase of $10.8 million over the fiscal 2000 legislative appropriation for MDOT's Neighborhood Conservation Program (NCP). Under this bill, that increase in funding would only be available for projects in local jurisdictions that agree not to amend the new code. Although the bill does not specify whether the baseline for fiscal 2000 is the legislative, working, or actual appropriation, for purposes of this estimate, the fiscal 2000 legislative appropriation is used. The amount of funding targeted to these jurisdictions in future years will depend on that year's appropriation with respect to the fiscal 2000 appropriation. MDOT's Neighborhood Conservation Program (NCP) provides funding to local governments for community reinvestment projects such as roadways, lighting, traffic controls, landscaping, bus shelters, and transit stations. The program pays up to 100% of eligible costs for projects in designated neighborhoods, including Baltimore City.

The fiscal 2001 budget includes $15.5 million for MDOT's Transportation Enhancement Program. Under this bill, MDOT will give priority under the program to funding proposed projects within local jurisdictions that choose not to amend the code. The program funds transportation-related community amenities such as bicycle and pedestrian facilities, historic preservation, landscaping, and billboard removal. The program currently pays up to 50% of eligible costs. Projects are administered through a partnership with the State Highway Administration and the project sponsor. Project sponsors can be local governments, private nonprofit agencies, community groups, or individuals.

It is assumed that any administrative changes to these programs within MDOT can be absorbed within existing resources.

Department of Natural Resources

The fiscal 2001 budget includes an increase of $3.4 million ($1.2 million in special funds and $2.2 million in general obligation bonds) for the Rural Legacy Program. Under this bill, that increase in funding would only be available for grants in local jurisdictions that agree not to amend the new code. Although the bill does not specify whether the baseline for fiscal 2000 is the legislative, working, or actual appropriation, for purposes of this estimate, the fiscal 2000 legislative appropriation is used. The amount of funding targeted to these jurisdictions in future years will depend on that year's appropriation with respect to the fiscal 2000 appropriation. The Rural Legacy Grants Program aims to protect targeted rural greenbelts from sprawl through the purchase of development rights, easements, and fee estates from willing landowners along with supporting activities of sponsors and local governments.

It is assumed that any administrative changes to the program within DNR can be absorbed within existing resources.

To the extent that the bill increases activity in the rehabilitation of properties, the bill could result in an increase in revenues from additional taxes. Legislative Services advises that there is no reliable way of estimating any such increase at this time.

Local Fiscal Effect: Once adopted, local governments would be responsible for implementing and enforcing the new rehabilitation code. While local jurisdictions would have the ability to amend the code, the bill provides several incentives to local jurisdictions to encourage them not to amend the code. Costs to implement the program will vary depending on the code that is developed and cannot be reliably predicted at this time. To the extent possible, the advisory council must develop the MBRC to seek to avoid increased costs to local jurisdictions arising from the implementation of the MBRC. To the extent that the advisory council succeeds, costs to local jurisdictions would be minimal. Legislative

Services advises, however, that it is possible that costs could still be significant. Until a code is adopted by regulation, the number of local jurisdictions choosing to adopt amendments to the code is unknown.

Local jurisdictions choosing not to amend the code would be eligible for the bill's incentives under specified programs in DHCD, MDOT, and DNR as described above. Those jurisdictions (and entities within those jurisdictions) would be eligible for the increases in the appropriations for those programs over the fiscal 2000 appropriations. The total increase in funding for fiscal 2001 for which those local jurisdictions and entities within those jurisdictions would be eligible is estimated at approximately $14.6 million as follows:

- $100,000 for DHCD's Circuit Rider Building Inspector Program;
- $329,000 for DHCD's Rehabilitation Code Training Program;
- $3.4 million for DNR's Rural Legacy Program; and
- $10.8 million for MDOT's Neighborhood Conservation Program.

This estimate does not include additional funding for the new mortgage program established pursuant to the bill, or the benefit local jurisdictions might realize as a result of receiving priority consideration under MDOT's Transportation Enhancements Program.

Local governments that amend the code would not be eligible for the bill's incentives and associated funding. According to DHCD, the training provided to local governments that do not amend the code would be available to local governments that amend the code for a nominal fee.

To the extent that the bill increases economic activity related to the rehabilitation of existing buildings, the bill could result in an increase in local tax revenues. Any such increase cannot be reliably estimated at this time.

Additional Comments: Because the new code will establish multiple categories of work, the bill should result in a decrease in expenditures for individuals wishing to rehabilitate existing buildings. To the extent that the bill increases activity related to the rehabilitation of existing buildings, the bill could result in an increase in revenues for businesses involved in the planning, design, and construction of buildings. However, these entities would also likely need to spend a significant amount of time to learn the new code and incorporate it into their existing practices. Because the costs of DLLR's elevator and boiler inspection programs are reimbursed by the Workers' Compensation Commission, the bill will result in an increase in assessments on insurance carriers. It is assumed that those entities would recover those costs by increasing premiums to businesses in the State. Any such increase is not anticipated to be significant.

Additional Information

Prior Introductions: None.

Cross File: HB 284 (The Speaker, *et al.*) - Economic Matters.

Information Source(s): Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of the Environment; Maryland Department of Transportation; Maryland Office of Planning; Maryland-National Capital Park and Planning Commission; Allegany, Montgomery, Prince George's, Talbot, and Wicomico counties; Baltimore City; Department of Legislative Services

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