

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

Senate Bill 592 (Senator Conway, *et al.*)
 Education, Health, and Environmental Affairs

Environment - Indoor Air Quality - Regulation

This bill establishes an Office of Indoor Air Quality in the Maryland Department of the Environment (MDE) to regulate indoor air quality in office buildings. The bill also establishes a 16-member Indoor Air Quality Advisory Council in MDE. MDE, in consultation with the advisory council, must adopt regulations to implement the bill.

Fiscal Summary

State Effect: Given the broad mandate established by the bill and the large number of buildings that would be affected, general fund expenditures could increase by \$1.8 million in FY 2004 for MDE to develop and begin implementing the program. Special fund revenues from fees will increase by an estimated \$150,000 annually beginning in FY 2005 and will be offset by an increase in special fund expenditures for technical assistance and training. Special fund revenues could increase further due to fines. Regulations could result in a significant increase in State expenditures to ensure compliance of affected State buildings.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$0	\$150,000	\$150,000	\$150,000	\$150,000
GF Expenditure	1,812,500	2,988,300	7,449,300	7,409,300	7,742,100
SF Expenditure	0	150,000	150,000	150,000	150,000
Net Effect	(\$1,812,500)	(\$2,988,300)	(\$7,449,300)	(\$7,409,300)	(\$7,742,100)

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

Local Effect: Local expenditures for the provision of fees to MDE would increase for any technical assistance and training requested. Regulations adopted pursuant to the bill could result in a significant increase in local expenditures to ensure compliance of affected local government buildings. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The advisory council must develop and make recommendations to the Secretary of Environment concerning the adoption of regulations. The office must:

- enforce regulations that establish indoor air quality standards and requirements for office buildings;
- implement and administer the indoor air quality surveillance program recommended by the advisory council;
- provide technical assistance and training related to indoor air quality;
- conduct outreach programs to promote awareness of indoor air quality problems;
- collect data on the impact of indoor air quality on the health of workers;
- address employee complaints regarding indoor air quality in office buildings;
- levy and collect fines and fees established by regulation;
- advise local government agencies that are considering implementing indoor air quality programs; and
- coordinate activities with other appropriate State and local agencies.

The regulations must:

- establish fines for violations of regulations, and fees for the provision of technical assistance and training;
- prohibit an employer from taking or refusing to take any personnel action against an employee because the employee filed a complaint alleging a violation of the regulations adopted pursuant to the bill; and
- establish a complaint process.

The bill applies to public and private office buildings that have greater than 2,500 square feet of floor space and where office activities comprise at least 50% of the activities that take place in the building.

Current Law: There is no clear State authority for indoor air quality, with governmental responsibility historically allocated partly to MDE, the Department of Health and Mental Hygiene, and the Department of Labor, Licensing, and Regulation. Local health departments are also often involved. There are no federal or State regulatory standards for what constitutes acceptable or unacceptable indoor air quality in office buildings.

Background: Chapter 591 of 2001 established the Task Force on Indoor Air Quality to study the nature, location, and extent of health and environmental risks posed to workers as a result of molds, spores, and other toxic organisms located in the heating, ventilation, and air conditioning (HVAC) systems of office buildings. The task force was directed to make recommendations regarding: (1) the prevention of workers' HVAC-related illnesses; (2) the institution of appropriate remedies and controls; (3) a plan to provide educational information, and, as may be necessary, warnings to affected workers; and (4) legislative or regulatory measures that are necessary and appropriate to address current gaps in federal, State, and local protection of office workers from HVAC-borne toxins.

In its July 2002 report, the task force recommended that legislation be adopted to establish MDE as the lead agency to implement and enforce policies with respect to indoor air quality. The task force also recommended that building owners should be required to comply with standards for operation and maintenance of an office building that will prevent the development of most indoor air quality problems. Finally, the task force recommended that a permanent advisory council be established to advise the Secretary of Environment on indoor air quality issues and, as one of its first tasks, to consider how to implement an effective indoor air quality surveillance program. The bill is a direct result of those recommendations.

State Expenditures: Given the broad mandate to develop and implement an indoor air quality regulatory program within MDE, general fund expenditures could increase by an estimated \$1.8 million in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate includes:

- \$749,192 in salaries and fringe benefits for 19 new positions, including one environmental manager (to oversee and coordinate the new program), two environmental specialists (one toxicologist to research scientific literature and evaluate data on the health effects of contaminants and one specialist to develop and conduct training courses and outreach activities), three public health engineers (to perform site related research needed for program development, assist industrial hygienists in fieldwork, and conduct some training), ten industrial hygienists (to perform site related research, inspect buildings, investigate complaints, collect data, and provide technical assistance), one statistical associate (to develop databases and analyze data), one assistant attorney general (to provide legal counsel in the development of regulations and the review of enforcement actions), and one administrative aide;
- \$605,527 in equipment, including field equipment and instruments, desktop and laptop computers, printers, digital cameras, audio/visual equipment, and furniture;
- \$248,000 in contractual services, including laboratory services, equipment service contracts, a court recorder service, graphics arts services, and advertising;

- \$131,220 for the purchase and operation of ten vehicles (one per industrial hygienist); and
- \$78,579 in communications, supplies, and travel (both in-State travel and out-of-state travel to conferences).

The work to be performed by the office falls into three broad categories: program development, training and outreach, and fieldwork involving complaint response, periodic on-site inspections, and technical assistance. MDE expects that the first two program elements will be undertaken primarily in the first year, although training and outreach will continue in the out years. MDE also advises that some fieldwork will begin immediately and will increase as the program matures.

The significant number of new positions reflected in this estimate is based largely on the premise that no indoor air quality models exist upon which to base the new program. Accordingly, MDE will be required to research scientific literature, evaluate it, and conduct site visits to develop the information that will be used by the advisory council and MDE in developing the regulations and training courses. The estimate also assumes that as soon as the office is established, a significant number of requests to evaluate buildings will be made.

Future year expenditures reflect: (1) costs to hire an additional 16 employees in fiscal 2005 (15 industrial hygienists to perform inspections and one economist to analyze the economic impact of the program) and an additional 47 employees in fiscal 2006 (45 industrial hygienists and two administrative aides), bringing the total staff of the office to 82; (2) full salaries with 4.5% annual increases and 3% employee turnover; and (3) 1% annual increases in ongoing operating expenses. Beginning in fiscal 2005, the estimate assumes that costs related to four of the industrial hygienists will be supported with special funds collected from fees for technical assistance and training (see State Revenues section of this fiscal note).

The fiscal 2005 estimate assumes that as the program moves beyond the first year, regulatory requirements will be in place and additional staff will be needed to implement and enforce the standards and provide training, outreach, and technical assistance to affected entities. Once the program fully matures in fiscal 2006, additional industrial hygienists will be needed to provide timely and quality service to complainants, provide technical assistance to building owners, and to help ensure regulated buildings are inspected periodically. The need for a total of 70 industrial hygienists is based on the assumption that each office building will need to be inspected once every five years. Although the exact number of regulated buildings is unknown, MDE estimates that the bill could apply to as many as 50,000.

Legislative Services advises that actual costs to develop and implement the program within MDE could increase or decrease for a variety of reasons. First, the number of buildings subject to the regulatory program, which is directly related to the number of inspectors and associated equipment and contractual services that will be needed, is unknown. Second, the extent of indoor air quality problems in office buildings is unknown. In its July 2002 report, the task force itself indicated that because it was not able to define the extent of indoor air quality problems in Maryland buildings, the staffing needs for the office are uncertain. Third, the specifics of the program (and therefore, its costs) will depend largely on the recommendations of the advisory council and the regulations that are developed as a result.

While the State agencies represented on the advisory council could incur some additional costs, any such costs are anticipated to be minimal.

The State could incur significant costs to comply with the standards and requirements established by the regulations adopted pursuant to the bill because the vast majority of State office buildings would become subject to those regulations. Until regulations are developed, any increase in expenditures cannot be reliably estimated.

State Revenues: Special fund revenues paid into the Maryland Clean Air Fund could increase by an estimated \$150,000 annually beginning in fiscal 2005 as a result of fees collected for technical assistance and training. This estimate assumes that regulations establishing such fees will be in place at the start of fiscal 2005 and that MDE will set fees at a level necessary to recover the costs associated with the four industrial hygienists that will primarily be conducting those activities.

In addition to fee revenues, special fund revenues could also increase as a result of any penalties assessed for violations of the regulations. Because noncompliance cannot be predicted, and because the level of penalties would be established by regulation, any such increase cannot be reliably estimated at this time.

Small Business Effect: The extent to which small businesses will be subject to the regulations adopted under the bill is unknown; any entity subject to the bill's regulations could face increased costs in order to comply with the standards and requirements adopted. The bill could also have a positive economic impact on small businesses that sell the types of equipment or services that MDE would need to purchase as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of General Services, Maryland State Department of Education, Maryland Department of Transportation, Calvert County, Caroline County, Howard County, Montgomery County, Baltimore City, Town of Elkton, Town of Thurmont, Department of Legislative Services

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mdf/jr

Analysis by: Lesley Frymier

Direct Inquiries to:
(410) 946-5510
(301) 970-5510