

Department of Legislative Services  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 26 (Delegate Smigiel)  
Environmental Matters

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**Public Safety - Building Code Enforcement Officials - Removal for Cause**

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This bill prohibits any entity that has adopted the Model Performance Code (MPC) for building standards from removing a building code enforcement official without both cause and an opportunity for a hearing by the appointing authority.

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**Fiscal Summary**

**State Effect:** None. The bill would not substantively change State activities or operations.

**Local Effect:** None. The MPC has not been adopted by any local jurisdiction.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The MPC covers elements of building construction to ensure safe and sound construction, including plumbing, structure, and electrical systems. The MPC is not binding unless adopted by a political subdivision.

By regulation, the Department of Housing and Community Development (DHCD) certifies building inspectors who inspect buildings for compliance with the MPC.

By regulation, DHCD adopted the “International Building Code” in part and the “International Residential Code for One and Two Family Dwellings” under the MPC. As such, building inspectors are appointed by the chief appointing authority of the

jurisdiction. The Department of General Services (DGS) is responsible for maintaining and operating many State-owned buildings, including conducting building inspections.

**Background:** Model codes are intended to establish minimum standards to ensure that construction is safe and structurally sound, and also to establish consistency throughout different regions and jurisdictions. They are often developed by associations of developers, architects, engineers, and safety officials.

The Building Officials and Code Administrators (BOCA) International, Inc. is a nonprofit membership association, dedicated to preserving the public health, safety, and welfare in the built environment through the effective, efficient use and enforcement of Model Codes. DHCD had adopted the “International Building Code” and the BOCA code of 1996 to regulate building construction, but replaced it with the “International Residential Code for One and Two Family Dwellings.” The BOCA code of 1996 stated that “code officials shall be appointed by the chief appointing authority of the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointed authority.”

The International Residential Code for One and Two Family Dwellings does not contain that protection, and in fact does not reference hiring or firing of building officials. The section of the International Building Code that does reference personnel decisions has not been adopted; personnel decisions are left up to the local jurisdiction.

**State Fiscal Effect:** By executive order, the State has adopted the MPC for State buildings. However, DGS advises that State employee building and safety inspectors are skilled or professional service workers. Such workers cannot be fired without cause and also have appeal rights, including the right to a hearing if a dispute cannot be mediated. Therefore, this bill will have no effect on DGS operations.

**Local Fiscal Effect:** The MPC has not been adopted by any jurisdiction; some jurisdictions still use the BOCA code, while others use other model codes. According to the Maryland Municipal League, municipalities currently enjoy discretionary authority to determine employment protocols; some municipalities hire and terminate staff on an “at will” basis, meaning they can be terminated at the discretion of the hiring authority for whatever reason, while others utilize a merit system.

## **Additional Information**

**Prior Introductions:** An identical bill, HB 400, was introduced in the 2005 session and heard by the House Environmental Matters Committee, but no action was taken.

**Cross File:** None.

**Information Source(s):** Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Department of General Services, Department of Housing and Community Development, Office of Administrative Hearings, Department of Legislative Services.

**Fiscal Note History:** First Reader - January 20, 2006  
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