HB 613

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 613 (Delegate Stifler)
Economic Matters Finance

Public Safety - Elevators - Inspections

This bill requires that certain elevator safety inspections be conducted by State inspectors and that elevator owners hire third-party inspectors for annual inspections. The bill also establishes specific adjudication procedures and penalty provisions for violations of elevator safety standards separate from penalties for occupational, safety, and health violations.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: Special fund expenditures decrease by approximately $152,600 in FY 2010 due to the elimination of three vacant but funded elevator inspector positions. Future year expenditure estimates reflect inflation. Special fund revenues increase by $142,000 in FY 2010 due to the ability of the Department of Labor, Licensing, and Regulation (DLLR) to conduct follow-up inspections of elevators in violation and the registration of new third-party inspectors. General fund revenues increase by $54,500 in FY 2010 due to the bill's penalty provisions.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	$54,500	-	-	-	-
SF Revenue	$142,000	$5,000	$5,000	$5,000	$5,000
SF Expenditure	($152,600)	($154,500)	($160,800)	($167,300)	($174,100)
Net Effect	$349,100	$159,500	$165,800	$172,300	$179,100

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

Local Effect: None. Elevators in public buildings continue to be inspected by DLLR.

Small Business Effect: Potential minimal. DLLR advises that the majority of private-sector elevators in the State are owned by businesses that employ more than 25 people. Nonetheless, small businesses in the State that own elevators pay about $200 per elevator, each year, for third-party inspection.

Analysis

Bill Summary: The bill establishes that State inspectors conduct final inspections of all new elevators prior to initial certification; final inspections of modernized or altered elevators; investigations of accidents and complaints; follow-up inspections to confirm corrective action; comprehensive five-year inspections; and quality control monitoring of inspections conducted by third-party elevator inspectors.

Elevators owned by units of State or local government may be certified either by the State or by their owners.

Other elevator owners in the State must hire qualified third-party elevator inspectors to conduct annual safety inspections to ensure that the elevator complies with the State safety code and other regulations adopted by the Commissioner of Labor and Industry.

Except for minor violations that do not affect health or safety, the commissioner must issue a citation to an elevator owner if an elevator has violated the safety code or other regulation within the past six months. The citation includes a description of the alleged violation and a reasonable timeframe for repair. The owner must post the citation conspicuously near the elevator in question. After issuing the citation, the commissioner must notify the owner of the proposed penalty and the right to request a hearing. If the owner does not request a hearing within 15 days, the citation, along with any assessed penalties, becomes a final order. The commissioner may establish regulations for the issuance of a warning notice instead of a citation for a *de minimus* violation that has no direct effect on heath or safety.

The commissioner may delegate to the Office of Administrative Hearings (OAH) the authority to hold a hearing and issue a proposed finding of fact, conclusion of law, or a proposed or final order. An administrative law judge's decision becomes a final order of the commissioner unless, within 15 days of the issuance of a proposed decision, the commissioner or owner requests a review of the decision. After review of the proposed order, the commissioner may issue a final administrative order.

Individuals who violate the safety code or an adopted regulation may be fined up to $5,000 per unit. The amount of the penalty is determined based on the gravity of the violation, the owner's good faith, and the owner's history of violations. Fines may be doubled for willful or habitual violators. If the violation is not corrected within 10 days, the commissioner may impose a civil penalty of up to $1,000 for each day a violation continues. Civil penalty revenue is paid into the general fund.

Current Law: Elevators in the State must be inspected, tested, and maintained in a safe operating condition in accordance with the State safety code and regulations adopted by the commissioner. Unless otherwise specified by statute (*e.g.*, an elevator in a private residence), an elevator may not operate in a building, structure, or place of employment in the State unless it has been certified by the commissioner or a political subdivision within the State.

Inspections are required for new elevators, after any modifications are undertaken on existing elevators, and on an annual basis. Annual inspections are termed "periodic annual no-load test inspections." Annual inspections may be conducted either by a State inspector or by a third-party inspector hired by the elevator owner.

State inspections are free under most circumstances. Fees are assessed if an elevator scheduled for inspection does not meet the criteria for inspection or if an inspection of a new unit indicates areas of noncompliance with safety regulations. The commissioner provides an inspection checklist prior to the "final acceptance inspection" and third-party inspectors can provide preliminary inspections. While no fee is charged for annual inspections, if a State inspector performing an annual inspection finds that a follow-up inspection is required, a fee must be charged to the owner. Fees may not exceed $250 for a half day or $500 for a full day.

The commissioner may prohibit the use of an elevator either if there is substantial probability that death or serious physical harm could result from continued use, or the elevator has not been properly inspected, tested, or maintained. Violations of the safety code are subject to citations and penalties under the State occupational, safety, and health standards.

Background: According to DLLR, each year between 500 and 700 new elevators require inspection in the State. There are 21,183 elevators in the State that must be inspected every year, and 5,477 elevators are currently overdue for annual inspection. DLLR advises that it has maximized efficiencies and made every attempt to fill vacant elevator inspector positions, but the workload cannot be satisfied with existing resources.

Third-party inspectors charge fees for annual inspections, whereas State inspectors do not. Although owners may currently hire a third-party inspector to ensure compliance with the law, owners may feel there is no economic incentive to do so. Nonetheless, such owners are in violation of the law, may have units that pose a threat of bodily harm, and may be liable if injuries occur.

According to DLLR, there are 17,095 private-sector elevators in the State. Third-party inspection costs are anticipated to be about $200 per unit. DLLR currently has about 50 registered third-party inspectors and anticipates registering another 20 if the bill is enacted.

Under the bill, DLLR anticipates an annual workload of 14,750 inspections, as shown in **Exhibit 1**.

Exhibit 1
Anticipated Annual Workload for State Elevator Inspectors

DLLR Workload Estimates	Inspections Per Year Anticipated
Five-year full-load test (roped units 7,057)	1,415
Inspection of new units/re-inspection	1,097
Annual inspection (public units)	4,059
Inspection of modified/altered units	250
Accident/complaint investigations	120
Violation follow-up inspections	1,000
Quality control – third-party inspections	1,709
Compliance inspections	5,100
Total workload	**14,750**
Number of inspectors for workload	21

Source: Department of Labor, Licensing, and Regulation

State Fiscal Effect: DLLR advises that requiring elevator owners to use third-party inspectors reduces the agency's workload and therefore the number of vacant elevator inspector positions it needs to fill. As a division of the Safety Inspection Program, board expenditures are supported with special funds appropriated from the Workers' Compensation Fund. Special fund expenditures decrease by $152,585 in fiscal 2010. This estimate reflects the savings associated with the elimination of three vacant but funded elevator inspector positions including salaries, fringe benefits, and annual operating expenses.

Positions	3
Salaries and Fringe Benefits	$137,480
Operating Expenses	$15,105
Total FY 2010 State Expenditure Savings	**$152,585**

General fund revenues increase by $54,470 in fiscal 2010 only due to the bill's penalty provisions. DLLR estimates a $54,470 increase in fine revenue in fiscal 2010 due to being able to clear the backlog of 5,477 units in the State that are overdue for annual inspection. DLLR estimates that 1% of these units receives an average $1,000 fine. In future years, as the backlog diminishes, DLLR anticipates no significant increase in revenues due to the bill's penalty provisions.

Special fund revenues for the Elevator Safety Review Board Fund increase by $142,000 in fiscal 2010 due to the ability of DLLR to conduct follow-up inspections of elevators found to be in violation and a rise in third-party elevator inspector registrations and associated fees. DLLR anticipates that 10% of the current backlog of 5,477 elevators overdue for inspection is in violation and thus requires a follow-up inspection to ensure compliance. The half-day fee for such an inspection is $250. In future years, as the backlog diminishes, DLLR anticipates only a minimal increase in revenues due to the bill's penalty provisions.

DLLR estimates an increase in registration fees of $5,000 due to new registration of third-party inspectors. Registration fees are $250 per inspector and DLLR anticipates registering 20 additional third-party inspectors as a result of the bill. Renewal of registration for third-party inspectors is annual. Thus, special fund revenues increase by $5,000 annually beginning in fiscal 2010.

Although DLLR anticipates issuing more citations under the bill than it does currently, it advises that most cases are settled before trial and that only one or two administrative hearings per month are delegated to OAH. According to OAH, this does not have a significant fiscal or operational impact on the agency.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services

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