

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 763 (Senator Jacobs)
 Education, Health, and Environmental Affairs

Indoor Air Quality - Separation of Assessment and Remediation Functions

This bill specifies that a person licensed, certified, or otherwise authorized – such as an industrial hygienist or environmental sanitarian – to perform indoor air quality assessments in the State may not perform remediation at the same property for an indoor air pollutant identified in the assessment. The Maryland Home Improvement Commission (MHIC) may impose a fine of up to \$5,000 per violation.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$45,400 in FY 2010 for an additional staff member to investigate cases of unauthorized indoor air pollutant remediation. Out-year costs reflect inflation, annualization, and the cost of contested case hearings. No effect on revenues in FY 2010; out-year revenues reflect increased assessment of civil penalties.

| (in dollars) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|----------------|------------|------------|------------|------------|------------|
| GF Revenue | \$0 | \$15,000 | \$15,000 | \$30,000 | \$30,000 |
| GF Expenditure | \$45,400 | \$91,100 | \$93,600 | \$111,300 | \$114,200 |
| Net Effect | (\$45,400) | (\$76,100) | (\$78,600) | (\$81,300) | (\$84,200) |

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

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: MHIC – a commission housed within the Department of Labor, Licensing, and Regulation (DLLR) – licenses and regulates home improvement contractors, subcontractors, and salespersons in Maryland who perform services at residential properties with fewer than four dwelling units. Chapter 537 of 2008 gave MHIC the added responsibility of regulating mold remediation firms that operate in the same residential context.

Neither environmental sanitarians nor industrial hygienists are licensed or otherwise regulated by MHIC. Environmental sanitarians must be licensed by the State Board of Environmental Sanitarians. The work performed by environmental sanitarians, as defined in statute, includes assessment of indoor air quality, but does not specifically authorize a remediation function to remove any pollutants found. Industrial hygienists are not required to be licensed by the State.

Background: Environmental sanitarians protect public health and consumer interests by enforcing compliance with federal, State, and local health laws and regulations. They perform a variety of functions related to the control of environmental hazards and the preservation and improvement of human health and the environment. Approximately 815 environmental sanitarians are licensed by the board.

Industrial hygienists assess and control physical, chemical, or environmental hazards in the workplace that may cause disease or discomfort. Physical hazards may include noise, temperature extremes, illumination extremes, ionizing or nonionizing radiation, ergonomics, and indoor air quality.

The Maryland Department of the Environment (MDE) advises that there are about 280 industrial hygienists in the State, which includes government employees, industrial employees, and consultants. MDE is aware of 64 consulting firms that conduct investigations related to indoor air quality, although the agency advises that there may be other firms in the State that perform these services. MDE advises that some companies perform assessments and remediation services.

State Expenditures: The bill extends MHIC's responsibilities relating to mold remediation, which is not the primary mandate of the commission. Further, it requires MHIC to sanction practitioners for unauthorized remediation related to other air pollutants, which is outside of the commission's scope of operation.

MHIC currently regulates residential properties with fewer than four dwelling units; the bill expands MHIC's authority related to remediation to any property in the State, including commercial and residential buildings normally outside the scope of MHIC's oversight.

Because the requirements of the bill are beyond MHIC's normal scope of operation, DLLR requires an additional staff member.

General fund expenditures increase by \$45,369 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring one inspector to investigate claims of unauthorized air pollutant remediation. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|-----------------|
| Position | 1 |
| Salary and Fringe Benefits | \$35,728 |
| Start-up Costs | 4,065 |
| Other Operating Expenses | <u>5,577</u> |
| Total FY 2010 State Expenditures | \$45,369 |

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% inflation for other operating expenses.

DLLR anticipates additional costs in out-years due to delegating contested case hearings to the Office of Administrative Hearings. The agency also must incur costs associated with hiring expert witnesses to testify in cases that involve indoor air pollutants other than mold, as these pollutants are outside MHIC's area of expertise. Court and expert witness costs are expected to be \$35,000 in fiscal 2011 and 2012, and \$50,000 in fiscal 2013 and 2014, assuming an increase in investigative activity results in a rise in contested cases.

State Revenues: General fund revenues increase \$15,000 annually in fiscal 2011 and 2012, and \$30,000 in fiscal 2013 and 2014. These assumptions are based on the imposition of civil penalties – averaging \$3,000 per action – on 5 practitioners annually in the second and third years, and 10 annually in years four and five.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2009
mcp/mcr

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