HB 709

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 709 (Delegate Hubbard, *et al.*)
Ways and Means and Health and Government Operations

Children's Environmental Health Protection Act

This bill requires each local board of education to adopt a health and safety program that includes specified plans. The Department of Health and Mental Hygiene (DHMH) is required to develop a curriculum to train individuals who implement the plan and develop model plans for the local boards of education. By July 1, 2010, each local board of education must submit its health and safety program to the Secretary of Health and Mental Hygiene for approval. Prior to approving the plan, the Secretary is required to allow for public notice and an opportunity for public comment. Each local board of education must prepare, publish, and make available to interested parties an annual report on the plans adopted. The Secretary must make information on the compliance of local boards in meeting these requirements available to the public.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: General fund expenditures in DHMH increase an estimated $36,500 in FY 2010 to hire a contractor to implement the bill. FY 2011 expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	$0	$0	$0	$0	$0
GF Expenditure	36,500	41,800	0	0	0
Net Effect	($36,500)	($41,800)	$0	$0	$0

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

Local Effect: Local school system expenditures may increase significantly beginning in FY 2010 to develop and implement the specified health and safety plans. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: Each local board of education's health and safety program must include plans for:

- hazardous substance removal;
- fire and life safety code repairs;
- regulated facility and equipment violations;
- health, safety, and environmental management;
- integrated pest management; and
- mold and moisture containment.

Hazardous Substance Removal Plan

The hazardous substance removal plan must address the removal or encapsulation of asbestos from school buildings or property and asbestos-related repairs. If the local board has developed a plan for the removal and encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act (AHERA), then it may use a summary of the plan, including a description and schedule of response actions, to meet these requirements.

The plan must also include procedures for the cleanup and disposal of polychlorinated biphenyls (PCBs) found in school buildings or property. The cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels also need to be addressed.

In addition, the plan is required to incorporate provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances as determined by the State Superintendent of Schools or as regulated by the federal Occupational Safety and Health Administration.

Fire and Life Safety Code Repair Plan

The fire and life safety code repair plan must describe the current fire and life safety code violations and a plan for the removal or repair of the hazards. It must also describe safety preparation and awareness procedures to be followed until the hazard is corrected.

Facility and Equipment Violation Plan

The facility and equipment violation plan has to describe how health and safety hazards will be corrected.

Health, Safety, and Environmental Management Plan

The health, safety, and environmental management plan must require the use of third-party certified environmentally preferable cleaning and maintenance products. Cleaning and maintenance products include general all-purpose cleaning products for floors and floor finishes, carpets, walls, desks, lavatories, and windows. Hand soaps and hand sanitizers must also be third-party certified. To qualify as a third-party certified environmentally preferable product, a product must be certified by an established and legitimate, nationally recognized program.

DHMH is required to develop regulations to implement the use of third-party certified environmentally preferable cleaning and maintenance products. DHMH must also produce a sample list of third-party certified environmentally preferable products and a list of contractors who produce, manufacture, or offer for sale such products.

Each local board of education may deplete its supply of cleaning and maintenance products that are not third-party certified environmentally preferable products and are being used by the local board education as of July 1, 2009, as long as the products are not used after January 1, 2011.

Integrated Pest Management Plan

In addition to eliminating or mitigating economic and health damage caused by pests, the integrated pest management plan must minimize the use of pesticides and the risk to human health and the environment associated with pesticide applications.

The plan is required to use integrated pest management methods including sanitation, structural repairs, mechanical and living biological controls, and other nontoxic options. If nontoxic options are unreasonable and have been exhausted, the least toxic pesticide should be used.

Current Law: The Maryland Department of the Environment (MDE) regulates hazardous waste disposal and removal, including mercury, PCBs, asbestos, lead in water, lead in paint, boilers, refrigerants, and underground fuel storage tanks. The Office of the State Fire Marshal and local governments regulate and enforce fire and life safety codes.

The federal AHERA of 1986 required that all public and private elementary and secondary schools conduct inspections for asbestos-containing material and develop asbestos containment plans within two years. The schools should have implemented their management plans within two years and eight months of the law being enacted and were required to complete appropriate response actions in a timely fashion.

By regulation, each local board of education is required to develop and implement for its schools an integrated pest management (IPM) system approved by the Maryland Department of Agriculture (MDA). The integrated pest management plan must be filed with MDA for approval, and any revisions to the plan must be submitted to MDA before initiation of a new plan.

At the beginning of each school year, each school must include notice of the school's IPM system in the school calendar or other universal notification. The notice is required to list the common name of any pesticide or bait station that may be used in a school building or on school grounds and a statement that the product label or material safety data sheet is available for review by a parent, guardian, staff member, or student attending the school. The notice must also include information about how to get in touch with the pest management contact person. This information is also required to be provided to the parents or guardians of a newly enrolled student and a newly employed staff member. The written notice must be approved by MDA before distribution.

At least one week before space spraying in a school building, written notice must be provided to each parent or guardian and staff member. There is no requirement that the schools use the "least toxic" pesticide as part of its IPM system.

School buildings must conform to all applicable State and county building, electrical, fire, and plumbing regulations and codes. There are currently no federal regulations or standards for airborne mold contaminants.

Background: The State Children's Environmental Health and Protection Advisory Council formed in November 2000 (Chapter 585 of 2000). The council identifies environmental health issues for children and seeks to protect children in Maryland from exposure to environmental hazards. It also advises the General Assembly on legislation and recommends uniform guidelines for State agencies to help reduce and eliminate children's exposure to environmental hazards. The council reports in *Maryland's Children and the Environment* from 2008 that there have been efforts to reduce children's exposure to pesticide in Maryland, including notification when pesticides are applied at schools; however, there is no data regarding actual pesticide levels in children or pesticide-related illnesses. According to the report, low-level pesticide exposure has been linked to adverse health effects including central nervous system tumors and leukemia. Before use, pesticides must be tested and approved by the U.S. Environmental

Protection Agency. Certain pesticides found to be persistent in the environment or highly toxic such as DDT (Dichloro-Diphenyl-Trichloroethane) have been banned by federal regulations. MDA, which regulates pesticide application and licenses applicators in Maryland, promotes the use of IPM and pesticide application techniques that reduce potential exposures; however, MDA does not rank pesticides by toxicity.

Many studies have shown that prolonged exposure to asbestos can lead to serious diseases such as increased incidences of lung and gastrointestinal cancer. The federal AHERA of 1986 developed a regulatory framework to require schools to inspect their buildings for asbestos and take appropriate abatement actions using qualified, accredited persons for inspection and abatement. Schools must prepare a management plan that recommends the best way to reduce the hazards from any asbestos that is present. Options given to reduce asbestos hazards include repairing damaged asbestos-containing material, spraying it with sealants, enclosing it, removing it, or keeping it in good condition so that it does not release fibers. An inspection must be performed every three years as periodic surveillance of the present asbestos.

PCBs are synthetic chemicals that were manufactured for use in various industrial and commercial applications – including oil in electrical and hydraulic equipment as well as plasticizers in paints, plastics, and rubber products – because of their nonflammability, chemical stability, high boiling point, and electrical insulation properties. PCBs have been shown to reduce cognitive development in exposed children, as well as other adverse health effects including cancer. Due to its toxicity and persistence, the federal government banned domestic production in 1979; however, PCBs may be present in products and materials produced before the 1979 PCB ban.

There are currently two leading standard-setters and certifiers of "green" products. Green Seal, a District of Columbia-based nonprofit organization, establishes minimum standards for "environmentally responsible" products and certifies products that meet their standards. The Environmental Choice Program's EcoLogo certification program, launched by the Canadian government in 1988 and administered by TerraChoice Environmental Marketing, offers a competing certification. Between them, Green Seal and EcoLogo have standards for bathroom cleaners, general purpose cleaners, carpet cleaners, glass cleaners, and floor strippers. Though they differ somewhat, their standards generally require that ingredients used in certified products be biodegradable and nontoxic to humans and that packaging be recyclable.

In the 1990s, Santa Monica, California became the first major city to adopt a policy of purchasing green cleaning supplies. Since then, San Francisco and Seattle have followed suit, as have Yellowstone and Grand Teton National Parks. According to Green Seal, New York, New Jersey, and Illinois have enacted legislation requiring or encouraging school systems to use green cleaning supplies.

Exposure to mold can lead to adverse health effects including allergic reactions, asthma, and other respiratory problems. Molds can grow on almost any surface when there is moisture present, so the only way to control mold is to control moisture.

The Maryland State Department of Education (MSDE) advises that several local boards of education employ certified industrial hygienists in their central office and operate well-managed and well-documented health and safety programs. In addition, from 1987 to 1997, MSDE published numerous guidelines and provided training to local school systems on improving indoor air quality.

State Expenditures: General fund expenditures increase by an estimated $36,518 in fiscal 2010. The estimate reflects the cost of hiring one contractual administrative officer to implement the bill. The administrative officer will be responsible for developing a sample list of third-party certified environmentally preferable products and developing model plans for local school systems. The administrative officer will also develop a curriculum for the individuals who will implement the plans and will conduct training. Once the plans are submitted to DHMH, the administrative officer will catalogue and review the plans. A contractual salary, fringe benefits, travel, and operating expenses are included in the estimate. The estimate reflects a 90-day start-up delay following the July 1, 2009 effective date.

	FY 2010	**FY 2011**
Salary and Fringe Benefits	$31,594	$40,988
Travel	206	278
Start-up and Operating Expenses	4,718	515
Total	**$36,518**	**$41,781**

Fiscal 2011 expenditures reflect a contractual salary with a 4.4% salary increase and 6.8% employee turnover; and a 1% annual increase in ongoing operating expenses. The contractual position is no longer needed in fiscal 2012.

MSDE advises that its staff will be required to continue involvement with other State agencies and with the Children's Environmental Health and Protection Advisory Council on environmental matters affecting public schools.

Local Expenditures: Local school systems expenditures may increase significantly beginning in fiscal 2010 to develop and implement the specified health and safety plans. The actual increase for each school system will depend on current practices and current adherence to existing requirements. A discussion of the potential impact of each plan is provided below.

Hazardous Substance Removal Plan

Local school systems can base their hazardous substance removal plans on the asbestos removal plans developed for AHERA. To that, they can add an inspection for PCBs of schools built before the 1979 PCB ban and an inspection for the heating or transportation fuels that need to be cleaned up. Local school systems should already be following federal regulations to limit personal exposure to hazardous substances. However, removing materials which contain PCBs from schools may be costly because PCBs were widely used in electrical equipment and paints prior to 1979.

Fire and Life Safety Code Repairs Plan

Local schools should be receiving regular fire inspections from officials from the local fire marshal's office; therefore, schools should be regularly finding and correcting violations. The fire and life safety code repair plan can be based off the findings from these regular fire inspections and is not expected to increase expenditures significantly.

Regulated Facility and Equipment Violations Plan

The regulated facility and equipment violations plan can be based off the regular facility maintenance plans developed by those in charge of facilities maintenance. If regular repairs to school buildings and equipment are not occurring, there may be additional expenditures to perform the required maintenance.

Health, Safety, and Environmental Management Plan

The health, safety, and environmental management plan can be developed once DHMH develops regulations and produces a sample list of third-party certified environmentally preferable products. Based on Howard County school system's experience in soliciting bids for Green Seal-certified cleaning products in 2006, implementing this requirement will increase costs for cleaning supplies from $6,000 in the smallest school systems to almost $200,000 annually in the largest, beginning in fiscal 2010. This estimate is based on an increase in per school costs of $750 to $900 for environmentally preferable cleaning products.

Integrated Pest Management Plan

Local school systems are required by regulation to use IPM; however, the bill defines IPM differently from the system that is currently in use. Local school systems will be required to use the least toxic pesticide when all reasonable nontoxic options have been exhausted. Since it is unknown which pesticides will be deemed the least toxic, it is unknown how local school system expenditures may be affected.

Mold and Moisture Containment Plan

Mold and moisture containment plans can be based on each local school system's regular maintenance plans, which should include plans to fix water leaks from the roof or indoor plumbing. If regular maintenance to school buildings is not occurring, there may be additional expenditures to perform the required maintenance in order to contain mold and moisture.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Maryland State Department of Education; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Green Seal; EcoLogo; U.S. Environmental Protection Agency; Department of Legislative Services

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