

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1040 (Delegate Bronrott, *et al.*)

Health and Government Operations and Appropriations

High Performance Buildings Act - Applicability to Recipients of State Aid

This bill phases in a requirement that any new building or major building renovation that is funded solely or partly by a grant of State aid be built as a high-performance building. The bill also raises the minimum size of a State grant that must be reported on the State's Funding Accountability web site from \$50,000 to \$100,000.

Fiscal Summary

State Effect: None. The bill pertains only to recipients of State aid and does not affect the size or number of grants of State aid. No effect on the cost of the Funding Accountability web site, but fewer grants are required to be posted on the site. The Department of Budget and Management (DBM) and the Department of General Services (DGS) can monitor grantees' compliance with existing budgeted resources.

Local Effect: None. The bill exempts units of local government that receive State grants.

Small Business Effect: Potential meaningful for small businesses (for-profit and nonprofit) that receive State aid for building construction.

Analysis

Bill Summary: The bill applies only to construction projects carried out by for-profit or nonprofit entities or associations that receive State aid during a fiscal year. It does not apply to a unit of local government that receives a State grant for building construction. State aid is defined as a contribution, grant, or subsidy of at least \$100,000 through the

State operating or capital budget or directly from a State agency. It does not include reimbursements to providers participating in a State program.

The bill phases in the extent to which projects are subject to the bill based on the percentage of State aid a project receives. In fiscal 2012, the bill applies only to projects for which at least 50% of project funding consists of State aid. In fiscal 2013, it applies to projects for which at least 25% of project funding consists of State aid, and in fiscal 2014 and beyond, all projects that receive any amount of State aid are subject to the bill.

Current Law:

High-performance Buildings

Chapter 124 of 2008 required most new or renovated State buildings and new school buildings to be constructed as high-performance buildings, subject to waiver processes established by DBM, DGS, and the Board of Public Works. Between fiscal 2010 and 2014, the State funds 50% of the local share of increased school construction costs associated with high-performance buildings.

Chapter 124 defines a high-performance building as one that:

- meets or exceeds the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) criteria for a silver rating; or
- achieves a comparable numeric rating according to a nationally recognized, accepted, and appropriate rating system, guideline, or standard approved by DBM and DGS.

Only new or renovated State buildings that are at least 7,500 square feet and are built or renovated entirely with State funds are subject to the high-performance requirement. Additionally, building renovations must include the replacement of heating, ventilation, air conditioning, electrical, and plumbing systems and must retain the building shell. Unoccupied buildings are exempt from the high-performance mandate, including warehouses, garages, maintenance facilities, transmitter buildings, and pumping stations.

For State buildings, the waiver process must include a review by the Maryland Green Building Council and approval by DGS, DBM, and the Maryland Department of Transportation. The waiver process established by BPW must include review and approval by the Interagency Committee on School Construction.

Chapter 116 of 2007 codified the Maryland Green Building Council, which had been established by executive order but had been dormant for several years. The council was charged with:

- evaluating current green building technologies;
- recommending cost-effective green building technologies that the State may consider incorporating into the construction of new State facilities; and
- developing a list of building types for which green building technologies should not be applied.

In December 2007, the council released its report; Chapter 124 incorporated most of its major recommendations into statute.

Funding Accountability Web Site

The Maryland Funding Accountability and Transparency Act (Chapter 659 of 2008) requires the Department of Information Technology to operate a searchable web site that includes a description of all State grants of at least \$50,000. The web site must contain the names of the grantor and grantee, the amount of the grant, the zip code of the grantee, and a description of the State aid provided to the grantee. The Funding Accountability web site can be accessed at www.spending.dbm.maryland.gov.

Background: USGBC is a national coalition of building industry leaders formed to promote construction that is environmentally responsible, profitable, and that creates healthy places to live and work. USGBC developed LEED as a self-assessment tool that measures the extent to which a building meets green building criteria on six dimensions: sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, and innovation and design process. Version 2.2 of the LEED system was released in October 2005. The rating scale has a maximum score of 69 points and four ratings:

- platinum (52-69 points);
- gold (39-51 points);
- silver (33-38 points); and
- certified (26-32 points).

LEED standards have been adopted by 24 states and more than 90 local governments. There are more than 1,000 LEED-certified buildings in the country.

To date, only three State-funded buildings have been built as high-performance buildings. According to the Green Building Council, the Hammerman Beach Services building at Gunpowder Falls State Park cost about 3.4% more than a nonhigh-performance building would have cost but is expected to generate 20% savings on energy costs and 40% reduction in water consumption over its lifespan. Goodpaster Hall on the campus of St. Mary's College of Maryland is estimated to have had a 1.6% cost premium but is expected to generate 30% savings on energy costs and 40% reduction in water consumption over its lifespan. The Universities of Maryland at Shady Grove building, which achieved a LEED gold rating, is estimated to have had a 2.4% cost premium but should generate 30% savings in energy costs and a 40% reduction in water consumption over its lifespan. As of January 2010, four public schools have achieved LEED gold certification; all are currently occupied. Also, 31 schools are seeking LEED silver or gold certification; of those, 2 are occupied, 9 are under construction, and the rest are in the planning stage.

Each year, the capital budget includes numerous direct grants and grant programs that provide State aid to for-profit and nonprofit entities for capital construction projects. Based on the Governor's proposed fiscal 2011 capital budget, among the largest programs likely to be affected by this bill are the Community Health Facilities Grant Program (\$7.9 million), Private Higher Education Facilities Grant Program (\$4.0 million), and numerous recipients of direct State grants through legislative initiatives (\$15.0 million) and other miscellaneous grants in the capital budget. Other large grant programs, most notably Program Open Space (\$82.8 million) and the Community College Construction Grant Program (\$78.8 million), are not affected because they provide grants to units of local government.

Small Business Effect: Most estimates indicate that construction costs for high-performance buildings are 2% to 5% higher than construction costs for nonhigh-performance buildings, which is consistent with Maryland's limited experience. USGBC estimates that, going forward, the average cost premium for LEED silver buildings will be 2% above the cost of traditional construction. Legislative Services concurs with this estimate. However, any buildings constructed as high-performance buildings should generate substantial operational savings over their lifespan, more than covering the initial construction cost premium.

Additional Information

Prior Introductions: None.

Cross File: Although SB 215 (Senator Frosh, *et al.* - Budget and Taxation) is identified as a cross file, it is different.

Information Source(s): Department of Legislative Services

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