

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

House Bill 1503 (Delegate Hubbard)

Ways and Means and Health and  
Government Operations

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**Children's Environmental Health Protection Act**

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This bill requires each local board of education to adopt a health and safety policy that includes specified standards, and then develop and implement plans in accordance with those standards. By July 1, 2011, each local board of education must submit its health and safety plan, developed under its required policy, to the Secretary of Health and Mental Hygiene for approval. Prior to approving the policy and 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 Department of Health and Mental Hygiene (DHMH), in conjunction with the Maryland Department of the Environment (MDE), must develop a written curriculum for training individuals who implement the plans, model plans for use by local boards, and a training program for local board staff and school system personnel.

The bill takes effect July 1, 2010.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase by an estimated \$50,600 in FY 2011 to hire a contractual administrator in DHMH to implement the bill. FY 2012 expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	50,600	60,400	0	0	0
Net Effect	(\$50,600)	(\$60,400)	\$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 2011 to develop and implement the specified health and safety plans and to conduct the training program for all local board staff and school system personnel. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The policy and any related plan applies to the following activities on school property: construction and renovation projects; maintenance and custodial activities; and educational and instructional activities.

Each local board of education's health and safety policy must include standards for:

- hazardous substance removal, including any residual materials;
- fire and life safety code repairs;
- regulated facility and equipment violations;
- health, safety, and environmental management; and
- water intrusion 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 provisions 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 DHMH 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, including safeguards to be implemented to prevent contact with a known hazard, 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, in conjunction with MDE, 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, 2010, as long as the products are not used after January 1, 2012.

### *Water Intrusion and Moisture Containment Plan*

The water intrusion and moisture containment plan must require school personnel to take the appropriate corrective action to eliminate the source of any exterior water intrusion, interior water leakages, or any other source within 72 hours of discovery or the time when school personnel reasonably should have discovered the moisture.

### *Observational Walkthroughs*

Each year a local board must conduct a walkthrough of each building under its jurisdiction with an observation team appointed by the board to determine the presence of hazardous conditions. The team must also conduct a walkthrough of each new building before it is commissioned and occupied. The observation team must include the regional director of school facilities, and when conducted at a high school, a student. The team must also include representatives from the following groups:

- teachers and school staff;
- administrative personnel;
- custodial staff;
- a school-parent organization;
- a community advisory council; and
- a union representing school personnel.

The observation team must use a uniform observation checklist similar to those developed by the Indoor Air Division of the federal Environmental Protection Agency.

### *Training Program*

The training program developed by DHMH, in conjunction with MDE, must include:

- information about hazardous substances in the work area;
- the location of any projects, operations, or activities in an employee's work area that includes the use of hazardous substances;
- methods to detect, identify, and protect against hazardous substances;
- the physical and health effects of hazardous substances; and
- the details of the hazard communication program, if available.

Local board staff and school system personnel must attend the training program at least once. A local board is required to determine the method and manner in which staff and school system personnel are to receive additional information about hazardous substances as new hazardous substances are identified in an employee's work area.

**Current Law:** 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.

Chapter 454 of 2009 requires local boards of education to procure, to the extent practicable and economically feasible, green product cleaning supplies for use in schools. Green product cleaning supplies are defined as those that have positive environmental attributes, including biodegradability, low toxicity, low volatile organic compound content, reduced packaging, and low life-cycle energy use. Local school systems must draft specifications that provide a clear and accurate description of the functional characteristics or nature of the cleaning products to be purchased.

The specifications drafted by a local board of education must allow disinfectants, disinfecting cleaners, sanitizers, or other antimicrobial products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to be used when necessary. Multiple avenues of green product cleaning supplies certification must be permitted.

Current law prohibits a person from using, selling, manufacturing, or distributing for use or sale within the State any “cleaning agent” that contains more than 0.0% phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5% phosphorus that is incidental to manufacturing.

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:** 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.

The third-party standard-setters and certifiers of “green” products include the U.S. Environmental Protection Agency’s Design for the Environment Program, Green Seal, Green Label, Environmental Choice, and the U.S. Green Building Council. Though they differ somewhat, their standards generally require that ingredients used in certified products be biodegradable and nontoxic to humans.

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 \$50,628 in fiscal 2011. 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 in local school systems. 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, 2010 effective date.

	<u><b>FY 2011</b></u>	<u><b>FY 2012</b></u>
Salary and Fringe Benefits	\$46,190	\$59,924
Start-up and Operating Expenses	<u>4,438</u>	<u>515</u>
<b>Total</b>	<b>\$50,628</b>	<b>\$60,439</b>

Fiscal 2012 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 2013.

**Local Expenditures:** Local school systems expenditures may increase significantly beginning in fiscal 2011 to develop and implement the specified health and safety plans. Lesser costs may also be incurred to train school personnel and conduct observational walkthroughs in school buildings.

#### *Health and Safety Plans*

The actual increase for each school system to implement its health and safety plan will depend on current practices and current adherence to existing standards and 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. Under current law, local boards of education are required to procure, to the extent practicable and economically feasible, green product cleaning supplies for use in schools so no additional cost is anticipated.

#### *Water Intrusion and Moisture Containment Plan*

Water intrusion 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.

#### *Training Program*

The cost of conducting a training program for all local board staff and school personnel will depend on the written curriculum developed by DHMH. If the required training is extensive, teachers may need to be paid stipends for the extra training time.

#### *Observational Walkthroughs*

It is assumed that the required observational walkthroughs can be conducted using existing resources, as long as they are scheduled during a time when the school personnel are already required to be at the school. However, it may be difficult to schedule the walkthroughs so that the regional director of school facilities can attend every walkthrough.

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### **Additional Information**

**Prior Introductions:** HB 709 of 2009 received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** None.



**Information Source(s):** Maryland State Department of Education, Maryland Department of the Environment, Department of Health and Mental Hygiene, Public School Construction Program, Baltimore City, Department of Legislative Services

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