

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 544

(Senator Harrington, *et al.*)

Education, Health, and Environmental Affairs

Public Safety - Regulation of Demolition - Demolition Contractors

This bill requires a demolition contractor to obtain a permit from a local authority before beginning demolition in the State. The bill establishes various requirements for activities that must occur before, during, and after demolition activity, including a pre-demolition on-site consultation from the local authority, notification requirements, various deadlines and other requirements for demolition, and provisions governing debris removal, among others. The bill also requires special permits for certain activities. The bill authorizes a local authority to suspend or revoke a demolition permit under specified conditions and establishes a maximum fine of \$1,000 per day for violations.

The bill does not prevent a local authority from enforcing more restrictive laws or regulations.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: Local expenditures increase to the extent that current requirements are less restrictive than the bill's provisions. Local revenues increase to the extent any permit fees are increased or established as a result of the bill and/or any fines are assessed for violations. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Before beginning demolition in the State, a demolition contractor must obtain a demolition permit from the local designated authority. In those jurisdictions that

have an existing approval process requiring county and municipal review, the jurisdiction must designate the authority to issue demolition permits.

To obtain a demolition permit, a demolition contractor must provide specified information to the local designated authority. If a residential unit is to be demolished, a removal plan outlining how removable architectural materials (including windows, banisters, doors, mantels, baseboards, trim, and molding obtained from a residential unit constructed before 1978) will be safely removed is required unless the removable architectural materials are certified as lead-free.

Before demolition begins, a demolition contractor must participate in an on-site consultation with the local designated authority to discuss and confirm:

- appropriate wetting procedures (*i.e.*, control of dust emissions);
- public notification requirements;
- a main truck route that minimizes disruptions to the neighboring community; and
- any other pre-demolition requirements determined by the local designated authority.

The demolition contractor must also notify the local authority at least 24 hours before beginning demolition; provide written notice to owners and occupants of nearby property, as well as owners of wired or other facilities that may have to be removed because of the proposed demolition; and provide specified public notice of the demolition by means of a specified sign. Prior to demolition, the demolition contractor must also have any detected rodent infestation in the building treated with rodenticide by a professional. A special permit is required for specified use of explosives in the demolition.

The local authority must provide the demolition contractor with information about the safe demolition or renovation of buildings that contain lead paint or pigment; a fee may be charged to the demolition contractor for this information.

Demolition must begin within 30 days after, and be completed within 90 days after, obtaining a demolition permit. Unless a special permit is obtained, demolition may only occur between 7 a.m. and 7 p.m. The contractor must remove debris within 10 days after demolition is completed, or as otherwise instructed by the local designated authority.

The contractor must also secure the demolition site with temporary fencing both during the demolition phase and after debris removal. The contractor must remove any dangerous part and properly enclose any adjacent structure if that structure is made unsafe by the demolition. Demolition must be performed in approximately the reverse

order in which the building was erected. The site must be backfilled unless plans for new construction will be submitted within three months after completion of the demolition.

The demolition contractor must comply with all applicable federal, State, and local laws and regulations regarding water management, asbestos, oil tanks, and other environmental remediation standards. A person that recycles, sells, or distributes removable architectural material obtained from a demolition site must provide specified notice of potential lead-based paint exposure.

The bill authorizes a local designated authority to suspend or revoke a demolition permit under specified conditions. A demolition contractor must obtain a new demolition permit (even if the demolition has been completed), pay the demolition permit fee, and pay any penalty established by the local designated authority if the demolition contractor violates the provisions of the bill or performs demolition that is: beyond the scope of the permit; inconsistent with approved plans or drawings; or after a permit is revoked. A demolition contractor that violates the bill's provisions is subject to a maximum fine of \$1,000 per day.

The bill does not prevent a local designated authority from enforcing a local law, regulation, or ordinance that is at least as restrictive as the requirements of the bill.

Current Law/Background:

Enforcement of Demolition Regulations

Enforcement of building demolition regulations is primarily a local government responsibility in Maryland. Some jurisdictions charge a flat fee for demolitions, some charge a fee based on the size of the building, and some charge no fee. Regulations for demolition of commercial property are often different than those for residential property. Some local governments have specific provisions for emergency demolitions (e.g., in the aftermath of a building fire). Additional approval is often required for demolition of certified historic buildings and in historic districts. The local governmental authority that oversees demolitions may be a planning department, a permits and inspections department, a public works department, or some other agency or combination of agencies.

Environmental Considerations

According to the U.S. Environmental Protection Agency (EPA), construction and demolition (C&D) materials consist of the debris generated during construction, renovation, and demolition of buildings, roads, and bridges. C&D materials often contain

bulky, heavy materials that include concrete, wood, asphalt, gypsum, metals, bricks, glass, plastics, salvaged building components (such as doors and windows), and trees, stumps, earth, and rock from clearing sites. According to EPA, reducing and recycling C&D materials conserves landfill space, reduces the environmental impact of producing new materials, creates jobs, and can reduce overall building project expenses through avoided purchase and disposal costs.

Although lead-based paint has been banned since 1978, many older structures still have lead-based paint on walls, woodwork, siding, windows, and doors. According to the Maryland Department of the Environment (MDE), lead is one of the most significant and widespread environmental hazards for children in Maryland; the major source of exposure for children is lead paint dust from deteriorated lead paint or from home renovation. MDE's Lead Poisoning Prevention Program, which was established by Chapter 114 of 1994, serves as the coordinating agency of statewide efforts to eliminate childhood lead poisoning. Among other things, the program assures compliance with mandatory requirements for lead risk reduction in rental units built before 1950; maintains a list of registered and inspected units; provides blood lead surveillance through a registry of test results of all children tested; oversees case management follow-up by local health departments; and certifies and enforces performance standards for inspectors and contractors working in lead hazard reduction.

Local Fiscal Effect: Local permit fee revenues increase to the extent local governments increase their permit fees to cover the costs of the bill's requirements. Because local governments are likely to enforce the bill's requirements, it is assumed that any fines resulting from the bill are retained by local governments; accordingly, local revenues increase to the extent any fines are assessed for violations.

Local expenditures increase to conduct on-site consultations, perform inspections, develop information that must be provided to demolition contractors, and verify materials submitted with permit applications. The impact will vary depending on existing local demolition requirements. For example, Carroll County advises that the bill significantly changes the procedures in place in that county for demolition projects, and thus could have a significant, but indeterminate, impact on local operations and finances. Harford County advises that in order to properly enforce the bill's requirements, it needs to increase its existing demolition permit fee, which is currently \$75, by three times to cover the additional field, administrative, and equipment costs incurred under the bill. Montgomery County reports that costs increase by approximately \$293,000 in fiscal 2011, with costs increasing in the out years, to hire two building inspectors to inspect projects and two permit technicians to review permit applications; however, Montgomery County notes that those costs would be covered by increasing associated permit fees.

On the other hand, the City of Laurel advises that the bill is similar to its requirements and thus has minimal impact on the city.

Small Business Effect: Small business demolition contractors could incur additional costs to obtain required permits to the extent that local authorities either establish new fees or increase existing fees under the bill. Costs may also increase to comply with any other provisions that are not currently required by a given locality. Some contractors may be discouraged from doing business in Maryland due to the prospect of daily fines and higher permit fees, and may not bid for projects involving residential buildings constructed before 1978. Small businesses that are authorized to test and certify architectural material as lead-free may benefit from an increase in the demand for their services.

Additional Information

Prior Introductions: HB 1289 of 2009 received an unfavorable report from the House Economic Matters Committee. Its cross file, SB 975, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but the bill was subsequently withdrawn.

Cross File: HB 912 (Delegate Carr, *et al.*) - Economic Matters.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; Department of State Police; Department of Labor, Licensing, and Regulation; Maryland Department of Planning; Department of Housing and Community Development; Carroll, Harford, and Montgomery counties; City of Laurel; U.S. Environmental Protection Agency; the Construction Industry Compliance Assistance Center; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2010
ncs/hlb

Analysis by: Lesley G. Cook

Direct Inquiries to:
(410) 946-5510
(301) 970-5510