

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1235 (Delegates Aumann and Bates)
Environmental Matters

**State and Local Government - Disposition or Demolition of Surplus Real Property
- Asbestos Remediation**

This bill requires the State and local governments to remove and destroy any asbestos or asbestos-containing material (ACM) in any interior space of a building that is on excess/surplus real property before it is sold, transferred, or demolished. Asbestos abatement must be conducted in accordance with current law except that it may not be performed by a thermal process or by incineration, and it must be performed at a temperature less than 180 degrees Fahrenheit. The Governor may waive the requirement by declaring to the General Assembly that it is in the interest of national security to do so.

Fiscal Summary

State Effect: Potential significant increase in general and special fund expenditures to pay for asbestos removal and destruction for buildings on State excess real property, but a reliable estimate cannot be determined. The cost of asbestos removal and destruction varies by type of property and the scope of work to be performed. No direct effect on revenues.

Local Effect: Local government expenditures increase to the extent that local governments have excess real property of which they are trying to dispose that contains ACM in internal spaces. A reliable estimate of the expenditure increase is not possible.
This bill imposes a mandate on a unit of local government.

Small Business Effect: Potential meaningful for licensed asbestos removal companies that are small businesses.

Analysis

Bill Summary: ACM is defined as any material containing more than 1% asbestos by weight.

Current Law: State law does not currently require asbestos removal before the sale or transfer of real property.

State law requires a business entity or public unit that removes or encapsulates any asbestos in the State to be licensed by the Maryland Department of the Environment (MDE). The license authorizes a licensee to remove or encapsulate asbestos, but it does not extend to destruction of asbestos. Statute establishes notification requirements that licensees must follow prior to the removal or encapsulation of asbestos at a site. Any person who violates the licensing statute is subject to a civil penalty of no more than \$5,000. A person who knowingly and willfully violates the statute is subject to criminal penalties of \$20,000 for a first offense and \$25,000 or up to a two-year incarceration, or both, for a second offense.

“Interior space” includes exterior hallways connecting buildings, porticoes, and mechanical systems used to condition interior space.

Each unit of State government is required to notify the Maryland Department of Planning (MDP) in writing of any real property that is in excess of the needs of the unit or any substantial change to any real property owned by the State. After MDP receives notice, MDP must study the proper disposition of the property, determine whether any local government or unit of State government is interested in the property, and make an appropriate recommendation to the unit of State government and to the Board of Public Works regarding the disposition of the property.

Background: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos developed by the U.S. Environmental Protection Agency under the Clean Air Act establishes work practices to minimize the release of asbestos fibers during activities involving the processing, handling, and disposal of asbestos and ACM when a building is being demolished or renovated. NESHAP standards distinguish between Category 1 nonfriable ACM, such as packings, gaskets, and resilient floor covering, which typically do not need to be removed prior to demolition of a site, and friable ACM, which can release toxic materials when burned. However, even nonfriable Category I ACM must be removed if a building is to be demolished by intentional burning.

State/Local Fiscal Effect: The costs of asbestos remediation can vary tremendously based on the size and type of facility and scope of work to be performed. The

Department of General Services advises that asbestos removal for former medical buildings it is currently seeking to dispose of could be as high as \$1 million to \$2 million. Baltimore City recently received an invoice for \$160,000 for asbestos removal from a commercial property and advises, however, that the cost of removing asbestos floor tiling from a rowhouse can be as low as \$2,000. These costs generally do not include destruction of ACM, which typically is disposed of in landfills.

MDE cannot estimate the cost of asbestos destruction using the limited number of processes allowed by the bill, but estimates that it is considerably more than the cost of depositing the material in a landfill. The Maryland Aviation Administration advises that many of the strategies currently used to destroy asbestos do not conform to the bill's requirements because they involve intense heat.

Therefore, the bill could have significant effects on the profitability of disposing of excess State or local real property by requiring agencies to pay for the removal and destruction of all ACM in those buildings. A reliable estimate of the cost of asbestos removal and destruction under the bill cannot be provided because it will vary by project and site. Current agency budgets do not include funding for asbestos removal and destruction.

To the extent the bill delays or precludes disposition of excess/surplus real property, anticipated revenues are likewise adversely affected or not realized.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Worcester counties, towns of Bel Air and Leonardtown, City of Salisbury, Baltimore City, Board of Public Works, Maryland State Department of Education, Maryland Department of the Environment, Department of General Services, Department of Health and Mental Hygiene, Department of Juvenile Services, Maryland Department of Transportation, University System of Maryland, U.S. Environmental Protection Agency, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2011
mc/rhh

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