

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 831
 Finance

(Senator Middleton, *et al.*)

Rules and Executive Nominations

Public Safety – Elevator Inspections – Testing and Apprenticeship Program

This bill phases in a requirement that annual and five-year tests performed on elevators in both privately and publicly owned buildings be conducted in the physical presence of a third-party qualified elevator inspector. The bill also allows tests on publicly owned elevators to be in the presence of a State inspector if there are insufficient third-party inspectors, makes related changes, and requires the Department of Labor, Licensing, and Regulation (DLLR) to submit a related report to specified committees of the General Assembly by January 1, 2020. DLLR must also establish and administer an apprenticeship program for third-party elevator inspectors.

Fiscal Summary

State Effect: State expenditures (all funds) increase by \$191,300 in FY 2020 and by \$255,000 annually thereafter. Special fund revenues decrease minimally in FY 2019, by \$138,700 in FY 2020 and by \$185,000 annually thereafter. DLLR can otherwise handle the bill’s requirements with existing budgeted resources.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
SF Revenue	(-)	(\$138,700)	(\$185,000)	(\$185,000)	(\$185,000)
GF/SF/FF Exp.	\$0	\$191,300	\$255,000	\$255,000	\$255,000
Net Effect	(-)	(\$330,000)	(\$440,000)	(\$440,000)	(\$440,000)

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

Local Effect: Local expenditures increase by \$337,500 in FY 2020 and by \$450,000 annually thereafter to pay for third-party elevator inspections. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A test performed on an elevator that requires an inspector to “witness” the test must be performed by a licensed elevator mechanic in the physical presence of a third-party qualified elevator inspector. This requirement is phased in as follows:

- *Beginning October 1, 2018:* five-year inspections of privately owned elevators (currently a State inspection that is physically witnessed)
- *Beginning October 1, 2019:* annual and five-year inspections of elevators owned by the State or local governments (currently both are State inspections; annual inspections are not physically witnessed)
- *Beginning October 1, 2020:* annual inspections of privately owned elevators (currently a third-party inspection but not required to be physically witnessed)

However, if the Commissioner of Labor and Industry determines that the number of third-party inspectors is insufficient to physically witness tests on elevators owned by the State or local governments, a licensed elevator mechanic may perform the test in the physical presence of either a State inspector or a third-party inspector. If the commissioner subsequently determines that there is a sufficient number of third-party inspectors, the tests must be performed in the presence of a third-party inspector. DLLR must adopt regulations to implement this requirement.

A State inspector oversees all third-party qualified inspectors and retains authority over final acceptance of new construction, modernization, and service upgrade turnovers of elevators. The requirement for a new elevator to receive a pre-final inspection from a third party inspector is repealed.

Elevator tests and inspections must be coordinated between the elevator owner or the owner’s agent, the elevator contracting company, and the third-party elevator inspector as specified. A test may be rescheduled under specified circumstances. The third-party inspector must notify DLLR of the time, date, and location of each test.

By January 1, 2020, DLLR must report to the Senate Finance Committee and the House Economic Matters Committee on the status of how elevator inspections are being conducted under the bill.

Apprenticeship Program

Beginning October 1, 2018, DLLR must establish and administer, within the Maryland Apprenticeship and Training Program, an apprenticeship program for third-party qualified elevator inspectors.

Current Law/Background: Elevators in the State must be inspected, tested, and maintained in a safe operating condition in accordance with the State Safety Code and regulations adopted by the Commissioner of Labor and Industry. Unless otherwise specified by statute, an elevator may not operate in a building, structure, or place of employment in the State unless it has been certified by the commissioner. Inspections are required for new elevators and after any modifications to existing elevators. Generally, operational elevators must undergo periodic annual inspections and more comprehensive five-year inspections. There is an exception for cliffside residential elevators, which must be inspected every two years.

State inspectors make final inspections for all new elevators and comprehensive five-year inspections for all elevators. They also conduct annual inspections of elevator units owned by the State or local governments. Annual inspections for privately owned elevators are conducted by third-party qualified inspectors, who must be registered by the State. Generally, initial inspections conducted by State inspectors are conducted at no charge, but any follow-up reinspections cost \$62.50 per hour. Third-party inspectors typically charge for their services.

An elevator mechanic is a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator or accessibility lift units. An elevator contractor is a person who is in the business of doing so. Licensed mechanics must perform their work, including maintaining and servicing, under the direct supervision of a licensed elevator contractor. Both are licensed by the Elevator Safety Review Board within DLLR.

Apprenticeships

Generally, apprenticeship is a voluntary, industry-sponsored system that prepares individuals for occupations typically requiring high-level skills and related technical knowledge. Apprenticeships are sponsored by one or more employers and may be administered solely by the employer or jointly by management and labor groups. An apprentice receives supervised, structured, on-the-job training under the direction of a skilled journeyman and related technical instruction in a specific occupation. Apprenticeships are designed to meet the workforce needs of the program sponsor.

The Division of Workforce Development and Adult Learning (DWDAL) in DLLR administers the Maryland Apprenticeship and Training Program. More specifically, DWDAL approves new apprenticeship programs and changes to current programs. The approval process involves assessing the appropriateness of an apprenticeship program in a proposed industry, the education that will be provided to the apprentice, the current staffing level of the entity proposing the program to determine whether adequate supervision can be provided, recruitment and retention efforts, and the overall operations of the entity.

State Expenditures: State inspections of State-owned elevators are transitioned to third-party inspections beginning October 1, 2019. Generally, inspections conducted by State inspectors are conducted at no charge. About 1,700 State-owned elevators receive either an annual or a five-year inspection from a State inspector each year. While the costs of third-party inspections are privately negotiated and unknown, if the inspections average \$150 per elevator, a conservative estimate, State expenditures (all funds) increase by \$191,250 in fiscal 2020 and \$255,000 annually thereafter to pay for the services of third-party inspections.

DLLR advises that the bill allows State inspectors to focus on current backlogs of final acceptance inspections, modifications, and other activities such as accident investigations or public complaint investigations. Additionally, oversight of third-party inspectors is expected to increase. Therefore, DLLR does not anticipate reducing the number of State inspectors – just reprioritizing their daily duties. This may include physically witnessing tests of publicly owned elevators if the commissioner determines that the number of third-party inspectors is insufficient, as discussed below.

DLLR can adopt regulations and complete the required report with existing budgeted resources.

This estimate assumes that the commissioner does *not* determine that the number of third-party inspectors is insufficient to conduct inspections of publicly owned elevators, but even if the commissioner made such a determination, the existing number of inspectors is sufficient to physically witness any incremental inspections. To the extent this is not the case, and existing inspectors can physically witness the tests, State expenditure increases are mitigated beginning as early as fiscal 2020. However, if the existing number of inspectors is insufficient to physically witness the incremental inspections, special fund expenditures increase to hire additional inspectors.

Apprenticeship Program

As noted above, *employers* sponsor apprenticeship programs, subject to approval by DLLR. To the extent that an employer seeks to become a registered sponsor of elevator

inspector apprentices, DLLR can assist the employer with the creation of an elevator inspector apprenticeship program through its existing process and with existing resources.

State Revenues: As discussed above, specified State inspections are transitioned to third-party inspections, effective October 1, 2018, and October 1, 2019. State elevator inspections are conducted at no charge, although reinspection fees apply when an inspector must go back to verify that an issue identified during an inspection is resolved; DLLR advises it conducts about 2,000 reinspections each year.

Conversely, the bill also repeals the requirement for an elevator to receive a pre-final inspection from a third-party inspector, which DLLR advises likely increases the reinspection rate for final acceptance inspections; DLLR expects to have to conduct about 470 additional reinspections of new elevators because they will no longer have a pre-final inspection.

Therefore, when these changes are fully phased in (as of October 1, 2019), DLLR expects to conduct about 1,530 fewer reinspections annually. Assuming this number of reinspections, each lasting about two hours, special fund revenues for the Elevator Safety Review Board Fund decrease by approximately \$143,437 in fiscal 2020 and by \$191,250 annually thereafter. Revenue is also reduced in fiscal 2019 as the phase-in begins; the revenue loss cannot be reliably estimated but is likely minimal.

The bill also increases demand for third-party inspectors, which must pay \$250 annually to register with DLLR. All of the fees related to these activities accrue to the Elevator Safety Review Board Fund; assuming an increase of 25 additional registrations each year concurrent with the requirement to inspect publicly owned elevators, special fund revenues increase by \$4,690 in fiscal 2020 and \$6,250 in fiscal 2021 annually thereafter.

This estimate assumes that the commissioner does *not* determine that the number of third-party inspectors is insufficient to conduct inspections of publicly owned elevators. To the extent this is not the case, special fund revenue losses are mitigated beginning as early as fiscal 2020 due to additional reinspection fees.

Local Expenditures: State inspections of elevators owned by local governments are transitioned to third-party inspections beginning October 1, 2019. Generally, inspections conducted by State inspectors are conducted at no charge. About 3,000 local, government-owned elevators receive either an annual or a five-year inspection from a State inspector each year. While the costs of third-party inspections are privately negotiated and unknown, if the inspections average \$150 per elevator, a conservative estimate, local expenditures increase by \$337,500 in fiscal 2020 and \$450,000 annually thereafter.

This estimate assumes that the commissioner does *not* determine that the number of third-party inspectors is insufficient to conduct inspections of publicly owned elevators.

Small Business Effect: Small businesses must coordinate their schedules so that elevator tests occur while a third-party inspector is physically present, which may increase scheduling issues between building owners, elevator contractors, and elevator inspectors. Businesses that employ third-party inspectors benefit from an increased demand for their inspection services and may need to allocate more time to each inspection, both of which place upward pressure on inspection costs, which may be passed on to other small businesses (*e.g.*, an apartment building owner). Small businesses also benefit from the repeal of the pre-final inspection requirement.

Additional Information

Prior Introductions: None.

Cross File: HB 1107 (Delegate Wilson) - Economic Matters.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2018
md/mcr Third Reader - May 10, 2018
Revised - Amendment(s) - May 10, 2018
Revised - Clarification - May 10, 2018

Analysis by: Stephen M. Ross

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