

Department of Legislative Services  
 Maryland General Assembly  
 2018 Session

FISCAL AND POLICY NOTE  
 First Reader

Senate Bill 469 (Senator Salling, *et al.*)  
 Budget and Taxation

Public Health - School Buildings - Minimum Health Standards (Healthy Schools Program)

This bill establishes the Healthy Schools Program within the Maryland Department of Health (MDH) to promote a healthy environment in each public school by establishing minimum standards, in consultation with the Interagency Committee on School Construction (IAC), to protect the health of public school building occupants. Under the bill, schools are subject to announced or unannounced inspections by State inspectors; schools that fail to correct any violation of the standards set under the bill are subject to legal action to correct the violation. **The bill takes effect July 1, 2018.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$560,300 beginning in FY 2019 to implement the Healthy Schools Program. No effect on total capital funding for public school construction. No effect on revenues.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	560,300	585,100	601,400	621,800	643,000
Net Effect	(\$560,300)	(\$585,100)	(\$601,400)	(\$621,800)	(\$643,000)

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

**Local Effect:** Capital and operating expenditures by local school boards likely increase significantly to ensure that every school meets the healthy schools standards developed under the program. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful for small construction and school maintenance companies.

## Analysis

**Bill Summary:** The Secretary of Health must, in consultation with IAC, adopt regulations that establish minimum standards to protect the health of public school occupants, including specifications for:

- indoor air quality;
- drinking water quality;
- asbestos encapsulation or removal;
- lead-based paint hazards;
- temperature ranges in classrooms;
- mold remediation; and
- control of pests.

To enforce these standards, a representative of the Secretary may, at any reasonable time, enter and inspect a public school on an announced or unannounced basis to determine whether the school is in violation of any of the standards. A person may not refuse to grant access to the Secretary's representative or interfere with any inspection of a public school.

If the Secretary finds that a public school is in violation of any of the standards, the Secretary *must* notify the school principal and the local school system in writing (1) of the specific findings; (2) a reasonable time by which the local school system must correct the violation; and (3) that, if the violation is not corrected by the date specified, the Secretary may file a complaint in circuit court.

If a local school system fails to correct a violation by the date specified, the Secretary *may* file a complaint in the circuit court where the school is located. The complaint may seek a court order requiring the local school system to correct the violation and prevent the violation from recurring.

**Current Law:** The Board of Public Works, in consultation with the Department of General Services (DGS) and the Department of Housing and Community Development, must develop regulations establishing criteria to enhance indoor air quality in relocatable classrooms constructed after July 1, 2014, which are purchased or leased using State or local funds. Public school buildings that are newly constructed or substantially remodeled must install carbon monoxide detectors in areas where fuel-fired equipment is present.

Each year, IAC must survey the condition of school buildings identified by the Maryland State Department of Education. DGS must conduct the inspections of buildings that IAC requires in order to complete the required inspections. IAC must report the results of the survey annually to the Governor and General Assembly.

**Background:** The U.S. Environmental Protection Agency (EPA) has found that indoor levels of pollutants may be two to five times – and occasionally more than 100 times – higher than outdoor levels. Recent studies by EPA and its Science Advisory Board have consistently ranked indoor air pollution among the top five environmental risks to public health. There is substantial evidence that indoor exposure to allergens plays a role in triggering asthma symptoms, for instance. As a result, EPA has developed numerous tools for schools to use in monitoring and mitigating factors affecting indoor air quality.

There are approximately 1,400 public school buildings in the State. In general, the State Fire Marshal, local school systems, and local governments are responsible for monitoring and enforcing the safety of public schools.

Although current law requires DGS to conduct school maintenance inspections, in practice, IAC hires inspectors to conduct the annual school maintenance survey. IAC has no authority to enforce compliance with its maintenance guidelines, but it does consider maintenance practices and policies in its recommendations of planning and funding requests for public school construction projects.

According to the fiscal 2017 report, IAC performed 233 maintenance effectiveness assessments in fiscal 2017, representing 16.8% of all schools. Until recently, IAC inspectors visited each school facility about every six to seven years. In fiscal 2017, however, IAC instructed the inspectors to alter its schedule so that poor-performing school systems receive a higher percentage of assessments than higher-performing school systems. In fiscal 2017, IAC identified nine school systems with “poor” or “not adequate” effectiveness scores over the most recent five-year period, including the five largest school systems in the State (Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George’s counties).

During the 2016 legislative session, the President of the Senate and Speaker of the House announced the formation of the 21<sup>st</sup> Century School Facilities Commission. The commission is charged with multiple responsibilities, including (1) identifying areas where innovative financing mechanisms including public-private partnerships, as well as alternatives to traditional general obligation debt can be used for construction; (2) determining areas for efficiencies and cost-saving measures for construction and maintenance; and (3) reviewing the relationship between State agencies and local governments. The commission met 17 times over two years, including six subcommittee meetings, and submitted its findings and recommendations to the Governor and General Assembly in January 2018. The report includes five major conclusions in the areas of (1) flexibility; (2) streamlining the process; (3) providing incentives; (4) focusing the role of the State on providing technical assistance and serving as a clearinghouse for best practices; and (5) transparency, as well as 36 recommendations that stem from the

conclusions. The [commission's website](#) contains the final report and all meeting agendas and materials presented to the commission.

**State Expenditures:** MDH lacks the personnel to implement a comprehensive Healthy Schools Program. Therefore, general fund expenditures increase by \$560,345 in fiscal 2019, which accounts for a 90-day start-up delay from the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring five licensed environmental health specialists to conduct school inspections on a regional basis, one program administrator and one office secretary to develop the health standards and manage the program, and one assistant Attorney General to adjudicate filings in circuit court for schools where violations of health standards are not corrected by the required date. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including communication charges and vehicles and related expenses for the environmental health specialists.

Positions	8
Salaries and Fringe Benefits	\$406,225
Vehicle Purchase and Operation	85,000
Other Operating Expenses	<u>59,120</u>
<b>Total FY 2019 State Expenditures</b>	<b>\$560,345</b>

Future year expenditures reflect full salaries with annual increases and employee turnover, termination of one-time costs, and ongoing operating expenses.

IAC can carry out its responsibilities with existing resources. The Judiciary (Administrative Office of the Courts) can accommodate any increase in filings in circuit court with existing budgeted resources.

Funding for public school construction is established annually by the Governor and General Assembly in the capital budget. The bill does not alter to the total amount of funding. To the extent that funding is used to address school deficiencies under the program, other projects do not receive funding.

**Local Expenditures:** Expenditures by local school systems increase, likely significantly, for capital and maintenance improvements to ensure that all schools meet the new health standards developed by the program, either before or after they are inspected. The costs of any necessary capital improvements are shared with the State through public school construction funding, but other maintenance costs are borne entirely by the local school system. In addition, local school systems may incur significant legal costs for violations of the health standards in schools that are not corrected.

**Small Business Effect:** Small businesses that provide maintenance services to public schools may see increased demand for their services. In addition, small construction

companies may see increased demand for systemic projects to upgrade building systems to meet the new health standards.

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### **Additional Information**

**Prior Introductions:** SB 537 of 2017, an identical bill, received a hearing from the Senate Budget and Taxation Committee, but no further action was taken on the bill.

**Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Kent, Montgomery, and Worcester counties; Judiciary (Administrative Office of the Courts); Public School Construction Program; Maryland Department of Health; Department of Legislative Services

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