

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 109

(Delegate Stein)

Environment and Transportation

Judicial Proceedings

Public Safety – Maryland Swimming Pool and Spa Standards – Adoption

This bill requires the Maryland Department of Labor (MDL) to adopt by regulation the International Swimming Pool and Spa Code (ISPSA), after review and consultation with the Maryland Department of Health (MDH) and with appropriate modifications. The standards adopted apply to each swimming pool or spa in the State for which an application for a permit is received by a local jurisdiction on or after June 1, 2022, as specified. The bill establishes other related responsibilities for MDL and each local jurisdiction, including that MDL maintain an informational database with specified information about the pool and spa standards and electrical code standards used in the State. MDL must provide local jurisdictions with the hardware and software necessary to access the database.

Fiscal Summary

State Effect: General fund expenditures increase by \$94,900 in FY 2022. Future years reflect annualization and termination of one-time costs, with all costs terminating in FY 2026. MDH can consult with MDL using existing budgeted resources. Costs for State agencies that maintain spas and pools may increase minimally to meet the standards. Revenues are not materially affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	94,900	48,300	49,900	51,600	0
Net Effect	(\$94,900)	(\$48,300)	(\$49,900)	(\$51,600)	\$0

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

Local Effect: Local government expenditures and revenues increase, likely minimally and correspondingly, as they implement and enforce the new standards. Costs for local governments that maintain spas and pools may increase minimally to meet the standards.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Adoption of International Pool and Spa

MDL must adopt by regulation ISPSC as the Maryland Swimming Pool and Spa Standards. MDL must also adopt each subsequent version of the standards within 18 months after they are issued. Before adopting each version of the standards, MDL must, among other things, review them to determine whether modifications should be made, consider specified changes to enhance energy conservation and energy efficiency, consult with MDH on the effect of the proposed changes on health and safety, and follow specified procedures to receive public input. The modifications adopted may not include a requirement that is more stringent than the requirement in ISPSC.

As part of the standards, MDL must adopt, without modification, the provisions relating to the requirements applicable to additions, alterations, or repairs.

Database Establishment and Additional Maryland Department of Labor Responsibilities

MDL must maintain a central automated database that includes, among other things, ISPSC standards and any local modifications to the standards and the electrical code standards used in the State. MDL must (1) make the information available to a local jurisdiction, State unit, or other interested party; (2) provide each local jurisdiction with the technology necessary to enable the local jurisdiction to access the information in the database; and (3) coordinate with specified entities in compiling the information.

MDL may charge a fee for information provided from the database but not for information provided to another State agency or local jurisdiction. Moreover, MDL may not charge a fee to a local jurisdiction for the ongoing maintenance of the database.

MDL must notify each local jurisdiction when there is a change to ISPSC and the impact the change will have on the local modifications to the standards. MDL may provide training for local swimming pool and spa officials on the standards and certify the participation of those officials in the training. On request, MDL must provide a local jurisdiction with technical assistance to implement and enforce the standards. MDL must consult with MDH on the implementation of the standards in relation to the regulation of the operation and maintenance of swimming pools and spas.

Local Responsibilities

Each local jurisdiction must implement and enforce the most current version of the standards. Generally, this responsibility rests with each county, but the bill establishes procedures that allow a municipal corporation to implement and enforce the standards instead. A local jurisdiction must ensure that its standards include specified administrative functions, including the issuance of work permits and inspection of the authorized work.

A jurisdiction may modify the standards for that local jurisdiction; however, any such local modification may not weaken energy conservation and efficiency provisions contained in the standards. Any modification to the standards adopted by the State on or after December 1, 2021, must be implemented and enforced by a local jurisdiction within 12 months.

A local jurisdiction is expressly authorized to charge fees to cover the cost of implementation and enforcement of the standards and any local modifications therein.

Applicability and Limitations

The bill does not alter or abrogate the authority of (1) the State Fire Prevention Commission to enforce the electrical code; (2) the Public Service Commission to enforce the energy code; or (3) MDH to regulate the operation and maintenance of swimming pools and spas. The bill does not alter or abrogate any zoning power or related authority of a county or municipal corporation.

The bill does not allow or encourage the State to initiate or assume an independent role in the administration and enforcement of the standards for a swimming pool or spa that is not owned or operated by the State.

Current Law: Generally, a person may not operate a *public* pool or spa without an annual operating permit issued by the Secretary of Health. The Secretary (or the Secretary's designee) may enter public or private property to inspect and investigate pool conditions at a reasonable time. Local health departments conduct pool inspections.

ISPSC is a model code maintained by the International Code Council that regulates the minimum requirements for the design, construction, alteration, repair, and maintenance of swimming pools, spas, hot tubs, and aquatic facilities.

State law requires each electrical installation in the State to conform to either the National Electrical Code or the electrical code and amendments adopted by the county in which the electrical installation is done.

State Expenditures: General fund expenditures increase by \$94,939 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost of hiring one contractual administrator through fiscal 2025 to coordinate with local jurisdictions and other entities, assist with the development and adoption of the Swimming Pool and Spa Standards, and assist local governments and homeowners with questions and concerns as the State begins to operate under the new standards. The estimate includes \$50,000 in fiscal 2022 only for legal services to help with the development and adoption of the regulatory standards. It also includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$39,358
Legal Services	50,000
Operating Expenses	<u>5,581</u>
Total FY 2022 State Expenditures	\$94,939

Future year expenditures reflect a full salary with annual increases and employee turnover, ongoing operating expenses, and the termination of one-time costs, including legal services. MDL anticipates that, after fiscal 2025, the challenges and difficulties that accompany new regulatory standards will be greatly reduced and, as a result, MDL could absorb the duties established by the bill into its normal processes and the administrator would no longer be needed.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Local Fiscal Effect: Some local jurisdictions, such as Baltimore City and Calvert County, advise that their spa and swimming pool standards already mirror or closely resemble those required under ISPSC. For other local governments, expenditures increase, likely minimally, to implement and enforce the required pool and spa standards. The Maryland Association of County Health Officers advises that some counties may need an additional inspector, for example; however, because the bill authorizes a local jurisdiction to charge fees to cover the cost of implementation and enforcement of the standards, any such expenses are likely to be partially or fully offset by fee revenues.

Small Business Effect: Small businesses that install pools or spas are subject to enhanced regulatory processes and are likely to experience increased costs through additional time spent on projects and materials to implement new safeguards under the bill’s standards.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 254 (Senator McCray) - Judicial Proceedings.

Information Source(s): Maryland Department of Labor; Maryland Association of County Health Officers; Baltimore City; Calvert, Montgomery, and Prince George's counties; Department of Natural Resources; Maryland Department of Health; International Code Council; Department of Legislative Services

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