

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 900 (Delegate Kerr)
 Environment and Transportation and
 Appropriations

Occupational Safety and Health - Public Buildings - Indoor Air Quality

This bill requires the Commissioner of Labor and Industry, by October 31, 2025, to adopt a comprehensive indoor air quality standard for public buildings (generally meaning government and school buildings). The standard must include specified requirements for public employers and be developed in consultation with the Secretary of the Environment, Secretary of Health, and Director of the Maryland Energy Administration. In developing the standard, the Commissioner must also establish a technical advisory committee to make recommendations, as specified.

Fiscal Summary

State Effect: No effect in FY 2024 or 2025. State expenditures (all funds) increase significantly, likely by hundreds of millions of dollars annually beginning in fiscal 2026, to come into compliance with the air quality standards adopted by the Maryland Department of Labor (MDL) and to conduct annual indoor air quality assessments. Special fund expenditures for MDL increase by \$1.8 million in fiscal 2026 for additional staff to handle compliance, complaints, inspections, and investigations; future years reflect ongoing operating costs. Affected agencies can consult with MDL and participate in the advisory committee using existing budgeted resources. Revenues are not directly affected.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	0	0	1.8	1.7	1.8
GF/SF/FF Exp.	0	0	-	-	-
NonBud Exp.	0	0	-	-	-
Higher Ed Exp.	0	0	-	-	-
Net Effect	\$0.0	\$0.0	(-)	(-)	(-)

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

Local Effect: Local expenditures increase significantly beginning in fiscal 2026, to come into compliance with the air quality standards adopted by the MDL and to conduct annual building air quality assessments. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Public building” means a building, structure, or improved area that is owned by a public body (a governmental unit, public or quasi-public corporation of the State, school district, or special district) or constructed for the purpose of being leased to a public body. “Public employer” means an employer that is a public body.

The comprehensive indoor air quality standard for public buildings must (1) establish minimum evidence-based standards for safe building operation and levels of contaminants and pollutants as determined by the Commissioner to pose a risk to the health and safety of employees working in public buildings; (2) include optional templates for comprehensive indoor air quality plans as an appendix to the standard; and (3) require each public employer to:

- conduct an annual assessment of building envelopes and enclosures, heating, ventilating, and air conditioning (HVAC) systems, and the maintenance and operation of HVAC systems, as specified;
- annually certify, in writing, that the building HVAC systems have been inspected and are being operated as designed; and
- develop and regularly revise a written comprehensive indoor air quality plan, based on the standard developed by the Commissioner, as specified.

The technical advisory committee must make recommendations regarding (1) the scope and requirements of the standard; (2) cost-effective solutions to bring public buildings into compliance with evidence-based consensus air quality standards, including specified American Society of Heating, Refrigerating and Air-Conditioning Engineers thermal environmental and ventilation standards; and (3) other appropriate health standards and guidance related to indoor air quality.

The commissioner must also (1) provide comprehensive guidance to all public employers on cost-effective solutions to bring public buildings into compliance with the standard; (2) update guidance to public employers as new ventilation and relevant building technologies become available; (3) establish reasonable deadlines, as specified; and

(4) provide consultation services on indoor air quality to public employers through the Maryland Occupational Safety and Health (MOSH) Division.

Current Law: For purposes of Labor and Employment law, “public body” means a governmental unit (meaning State, local, and municipal governments, and any political subdivision therein), a public or quasi-public corporation of the State, a school district in the State or any unit of the district, or a special district in the State or any unit of the district.

Maryland Occupational Safety and Health

The Division of Labor and Industry within MDL administers the MOSH program. The requirements of the MOSH program are codified by the MOSH Act. In general, these requirements parallel the safety standards established by the federal Occupational Safety and Health Administration (OSHA) within the U.S. Department of Labor. OSHA specifies that states may elect to assume the responsibility for development and management of a state occupational safety and health program as long as the standards under the state program are “at least as effective as” OSHA standards.

Employers must provide each employee with employment and a place of employment that is safe and healthful and free from each recognized hazard that is causing or likely to cause death or serious physical harm to the employee.

Employers must keep their employees informed of their protections and duties under the MOSH program by posting notice where notices to employees normally are posted or using other appropriate means. The commissioner may require an employer to keep records of work-related deaths, illness, and injury (other than minor injuries). An employer must report to the commissioner an employment accident within eight hours after it occurs if the accident results in an employee’s death or the hospitalization of at least three employees. An employer or other person may not discharge or discriminate against an employee because the employee filed a complaint, brings an action or causes an action to be brought, testifies, or exercises a right relating to the MOSH program, or the employee filed a complaint or exercises a right relating to essential worker rights. An employee who believes that an employer or other person has retaliated against the employee may submit a complaint to the commissioner, and the commissioner may investigate it.

State Fiscal Effect:

Maryland Department of Labor Expenditures

MOSH currently regulates and enforces air quality standards and threshold limits for known hazardous indoor air contaminants and pollutants including, among others, carbon monoxide, carbon dioxide, radon, formaldehyde, and asbestos. However, there are

no established exposure limits for comfort or biological contamination, including mold, set by OSHA or recommended by the National Institute of Occupational Safety and Health. As such, the air quality standard that MDL must adopt and enforce under the bill reflects a substantial expansion of MOSH’s responsibilities that cannot be absorbed with its existing staff and resources. MOSH anticipates a significant number of questions from State and local agencies, particular in the first few years as agencies work to comply with the standard, requiring a great deal of technical assistance. Moreover, based on its experience with air-quality complaints during the COVID-19 pandemic, MOSH anticipates thousands of complaints each year which will require investigation and judgement.

The cost of administering the MOSH program is covered through an appropriation from the Workers’ Compensation Commission. Thus, special fund expenditures for MDL increase by \$1.8 million in fiscal 2026, which assumes that (1) the new staff begin working on July 1, 2025, to ensure they are trained and prepared once the air-quality standard goes into effect and (2) the air-quality standard is fully implemented on October 1, 2025. To the extent that the air-quality standard is adopted sooner, staffing costs begin sooner as well. The estimate reflects the cost of hiring 14 MOSH compliance hygienists, two supervisors, one assistant Attorney General, and one administrative staff. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also includes office space for the additional staff, costs for MOSH-issued cellphones, and substantial travel costs since the compliance officers’ duties involve on-site investigation and technical assistance.

Positions	18
Salaries and Fringe Benefits	\$1,532,263
Equipment (including air quality meters)	<u>178,902</u>
Other Operating Expenses	<u>100,059</u>
FY 2026 MDL Staff Expenditures	\$1,811,224

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

State Agency Building Air Quality Costs

Expenditures for all State agencies increase significantly to implement the standards developed by MDL and conduct annual air-quality assessments in the manner required by the bill. While a precise estimate depends on the ultimate disposition of the air quality standard and how it compares to each agency’s current building setup and practices, the cost throughout State government is likely to total hundreds of millions of dollars annually.

A preliminary analysis developed by the Department of General Services (DGS), which manages and supports more than 1,400 State-owned facilities, estimates first-year costs

totaling \$962.0 million and estimates costs of \$390.0 million annually thereafter for its facilities. These facilities contain about 26 million square feet of space, and DGS assumes \$37 per square foot to do the initial assessments and remediation and \$15 per square foot to do additional assessments and required maintenance each year.

Other affected agencies who rent private space (like the Maryland Insurance Administration) or manage their own space (like the Maryland Department of Transportation (MDOT)) are likely to experience similar costs based on the square footage of their facilities. For example, MDOT (which manages much less space than does DGS) anticipates initial costs exceeding \$2.0 million and ongoing costs totaling hundreds of thousands of dollars per year.

Workers' Compensation Commission

To the extent that current revenues for the Workers Compensation Commission (WCC) are insufficient to cover the substantial administrative costs described above, WCC may need to increase employer assessments to cover the costs, resulting in a special fund revenue increase for WCC and additional expenditures for the State, local governments, and small businesses as employers. If needed, those increases would approximate the cost of MDL implementing the bill and would not have a material effect on WCC net special fund revenues.

Local Expenditures: Similar to the effect discussed above for State agencies, local government expenditures increase significantly to implement the standards developed by MDL and receive annual air-quality assessments in the manner required by the bill for their facilities and schools.

Small Business Effect: Small businesses that provide HVAC services, conduct indoor air quality assessments, and perform related services are likely to experience a significant increase in business under the bill as State and local governments contract out to ensure the bill's air quality standard is met and to receive the required annual air-quality assessments.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 355 (Senator Beidle) - Finance.

Information Source(s): Department of General Services; Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); Maryland State

Department of Education; Morgan State University; St. Mary's College of Maryland; Public School Construction Program; Department of Health; Maryland Department of Labor; Maryland Energy Administration; Montgomery and Somerset counties; Maryland Association of Counties; cities of Frederick and Havre de Grace; Maryland Municipal League; American Society of Heating, Refrigerating and Air-Conditioning Engineers; Department of Legislative Services

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