

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 769 (Delegate J. Long, *et al.*)
Environment and Transportation

Public Safety - Fire Dampers, Smoke Dampers, Combination Fire Smoke
Dampers, and Smoke Control Systems

This bill requires that each installed fire damper, smoke damper, combination fire smoke damper, or smoke control system (1) meet specified engineering practices and applicable standards and (2) be approved by the State Fire Marshal. Owners of buildings equipped with such dampers and systems must have the dampers inspected and tested, as specified, and must maintain inspection and testing reports. The State Fire Prevention Commission (SFPC) must adopt regulations governing the inspection and testing, as specified. The bill authorizes the State Fire Marshal to enforce the bill's provisions.

Fiscal Summary

State Effect: General fund expenditures increase by \$344,000 in FY 2024 for the State Fire Marshal alone, with ongoing costs ranging from \$271,600 in FY 2025 to \$312,200 in FY 2028. State expenditures (multiple fund types) for various State agencies – as building owners – increase *significantly* – potentially by more than \$100.0 million in FY 2024, with significant costs in future years. The bill's penalty provisions are not anticipated to materially affect State finances.

Local Effect: Local government expenditures increase significantly for local jurisdictions – as building owners – to meet the inspection and testing requirements. The bill's penalty provisions are not anticipated to materially affect local finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Each fire damper, smoke damper, combination fire smoke damper, or smoke control system installed must (1) be installed in accordance with accepted engineering practices that meet standards for the installation of fire dampers, smoke dampers, combination fire smoke dampers, or smoke control systems; (2) meet applicable National Fire Protection Association (NFPA) standards; and (3) be approved by the State Fire Marshal.

The owner of a building that is equipped with fire and smoke control systems must have the dampers inspected and tested as follows: (1) for a building with dampers installed before October 1, 2023, within 12 months after October 1, 2023; (2) for a building with dampers installed on or after October 1, 2023, within 12 months after initial installation; and (3) following the initial inspection and testing, at least every four years for a building other than a hospital, and at least every six years for a hospital.

The owner of a building that is equipped with a smoke control system must have the smoke control system inspected and tested in accordance with time periods established in standards adopted by NFPA.

A building engineer or another individual knowledgeable about the building system must be available in person or by phone during the inspection and testing required under the bill in order to provide building and systems access information. The owner of a building that is equipped with fire dampers, smoke dampers, combination fire smoke dampers, or a smoke control system must maintain full inspection and testing reports on the premises and make any report available upon request to the State Fire Marshal.

The inspection of dampers must be performed by an individual licensed to provide heating, ventilation, air-conditioning, and refrigeration services who has a current, valid fire and smoke damper technician certification that is accredited, as specified.

The inspection and testing of a smoke control system must be performed by (1) a fire protection engineer; (2) a mechanical engineer; or (3) a certified air balancer that possesses a valid smoke control system technician certification that is accredited as specified.

A person may not knowingly violate the bill's provisions. A violator is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding \$1,000, or both.

Current Law: The State Fire Marshal must enforce all laws of the State relating to, among other things, the prevention of fire and the installation and maintenance of all kinds of

equipment intended to control, detect, or extinguish fire. The State Fire Marshal must also enforce regulations adopted by SFPC.

SFPC within the Department of State Police (DSP) must adopt comprehensive regulations as a State Fire Prevention Code. The commission adopted by reference, subject to some exceptions noted in the regulations, the NFPA 1 Fire Code (2018 Edition), the NFPA 101 Life Safety Code (2018 Edition), and some requirements of the International Building Code as the State Fire Prevention Code. The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State, and enforcement is the responsibility of the State Fire Marshal, a legally designated fire official of a county or municipal corporation of the State, or other persons legally appointed by the State Fire Marshal (as specified under the Public Safety Article).

State Fiscal Effect:

State Fire Marshal Administrative Expenditures

DSP advises that the State Fire Marshal cannot absorb any additional duties with existing resources and that, in order to implement the bill, it needs to hire 10 fire safety inspectors, in addition to purchasing a vehicle for each inspector, at a total cost of approximately \$879,500 in fiscal 2024, with ongoing costs ranging from \$679,000 in fiscal 2025 to \$800,600 in fiscal 2028. DSP’s estimate largely assumes that not only will the State Fire Marshal approve plans and enforce the bill, but also, that it will conduct some portion of the inspections required by the bill.

The Department of Legislative Services (DLS) disagrees. While the bill requires the State Fire Marshal to approve plans and authorizes the State Fire Marshal to enforce the bill, it does not require the State Fire Marshal to conduct the inspections required by the bill; rather, the bill puts that duty on building owners. DLS acknowledges, however, that the State Fire Marshal needs additional staff for enforcement. Therefore, general fund expenditures increase by an estimated \$343,781 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring four fire safety inspectors to enforce the bill. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of four vehicles), and ongoing operating expenses.

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| Positions | 4.0 |
| Salaries and Fringe Benefits | \$204,145 |
| One-Time Vehicle Purchases | 110,000 |
| Operating Expenses | <u>29,636</u> |
| Total FY 2024 DSP Admin. Expenditures | \$343,781 |

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

To the extent four additional inspectors prove insufficient to enforce the bill, the State Fire Marshal may request additional resources through the annual budget process.

It is assumed SFPC can develop and implement the required regulations with existing resources.

Expenditures for State Agencies as Building Owners

Several State agencies – as owners of buildings – report the potential for significant costs to meet the bill’s inspection and testing requirements, as discussed below. While DLS is unable to independently verify these estimates at this time, it acknowledges that costs for State agencies as building owners increase significantly in fiscal 2024 and in future years to conduct the required inspections and testing.

Department of General Services: The Department of General Services (DGS) advises that to hire contractors for the initial inspection of the estimated 1,400 buildings with fire and smoke control systems that it manages, State expenditures (multiple fund types) increase by approximately \$104.0 million in fiscal 2024; DGS also anticipates significant costs in future years. DGS further advises that general fund expenditures increase by approximately \$393,000 in fiscal 2024, increasing to \$545,600 by fiscal 2028, to hire three project engineers and one procurement officer to handle the additional workload resulting from the bill.

Maryland Department of Transportation and Maryland Transportation Authority: The Maryland Department of Transportation advises that Transportation Trust Fund expenditures increase significantly – by approximately \$1.0 million in fiscal 2024 and by an average of nearly \$750,000 annually in future years – for its various modal units to hire contractors or contractual employees to conduct the required inspections and testing; for example, the estimated costs for the State Highway Administration alone total approximately \$500,000 in fiscal 2024 for initial inspections and testing, with significant costs in future years.

The Maryland Transportation Authority advises that nonbudgeted expenditures increase to conduct the required inspections and testing.

University System of Maryland and other Public Institutions of Higher Education: The University System of Maryland (USM) advises that many of its buildings across all campuses have fire and smoke control systems, and that costs increase significantly to have those systems inspected and tested in accordance with the bill. For example, USM advises

that the cost for the University of Maryland, College Park Campus alone is anticipated to be approximately \$250,000 annually in affected years. The Maryland Independent College and University Association also advises that participating institutions have fire and smoke control systems; however, an estimate of the cost to inspect those systems is not readily available. St. Mary's College of Maryland advises it anticipates approximately \$10,000 in costs for the initial inspection of their existing fire and smoke control systems.

Penalty Provisions

The bill's penalty provisions do not materially affect State finances or operations.

Local Fiscal Effect: Similar to the effect on State agencies, local government expenditures increase, likely significantly, to hire licensed inspectors to conduct the required inspections with respect to buildings owned by local governments.

As discussed above, it is assumed that the State Fire Marshal, and not local jurisdictions, enforces the bill's provisions.

The bill's penalty provisions do not materially affect local finances.

Small Business Effect: Any small business that owns a building with an installed fire and smoke control system experiences costs to meet the bill's inspection requirements. Small businesses providing services for the installation and maintenance of fire and smoke systems, or small businesses providing inspection and testing services for those systems, could experience additional business as a result of the bill.

Additional Information

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

Designated Cross File: SB 614 (Senator Brooks, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Caroline and Prince George's counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; St. Mary's College of Maryland; Maryland Independent College and University Association; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Maryland Department of Labor; Department of State Police; Maryland Department of

Transportation; Baltimore City Public Schools; Montgomery County Public Schools;
Department of Legislative Services

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Analysis by: Thomas S. Elder

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