

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 210 (Delegate Acevero)

Environment and Transportation and
 Economic Matters

Maryland Building Performance Standards – Fossil Fuel Use and Electric-Ready Standards

This bill requires the Maryland Department of Labor (MDL) by January 1, 2025, to adopt, as part of the Maryland Building Performance Standards (MBPS), (1) a requirement that new buildings meet all energy demands of the building without the use of fossil fuels and (2) an electric-ready standard for new buildings that receive a waiver from that requirement, as specified.

Fiscal Summary

State Effect: General fund expenditures increase by \$167,600 in FY 2025 and by \$194,100 in FY 2026 for MDL to hire temporary contractual staff. Special fund expenditures increase by \$500,000 in FY 2025 only for one-time consultant costs for the Public Service Commission (PSC); special fund revenues increase correspondingly from assessments imposed on public service companies. No effect on total capital spending, which is established annually through the capital budget process, but to the extent that project costs increase – potentially significantly – to comply with the updated MBPS, fewer projects likely are funded each year, as discussed below. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$500,000	\$0	\$0	\$0	\$0
GF Expenditure	\$167,600	\$194,100	\$0	\$0	\$0
SF Expenditure	\$500,000	\$0	\$0	\$0	\$0
Net Effect	(\$167,600)	(\$194,100)	\$0	\$0	\$0

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

Local Effect: Potential significant increase in local expenditures, as discussed below. Local revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Requirements for New Buildings

The requirement that new buildings meet all energy demands without the use of fossil fuels must be met (1) by October 1, 2026, for a building that will be less than seven stories tall and for which a building permit application is received by a local jurisdiction and (2) by October 1, 2030, for a building that will be seven stories or more stories tall and for which a building permit application is received by a local jurisdiction.

Waivers

A local jurisdiction may grant a waiver from the requirement that new buildings meet all energy demands without the use of fossil fuels for (1) emergency back-up power systems for new buildings and (2) new buildings specifically designated for occupancy by a commercial food establishment, laboratory, laundromat, hospital, or crematorium. A waiver granted under the bill must be limited to building systems and areas that cannot feasibly use energy generated from a source other than fossil fuels. Financial considerations are not a sufficient basis for determining feasibility. A building that is granted a waiver must (1) seek to minimize emissions from its fossil fuel use; (2) maximize health, safety, and fire protection; and (3) be required to comply with the electric-ready standards adopted pursuant to the bill.

To ensure a waiver granted is still necessary, the waiver must be reviewed by MDL each time MBPS are modified and by the local jurisdiction that granted the waiver each time the local jurisdiction modifies its local amendments to MBPS.

Reporting

By December 1, 2025, MDL, in conjunction with the Maryland Energy Administration (MEA), PSC, and the Department of Housing and Community Development (DHCD), must report to the Governor and the General Assembly on any policy changes needed to ensure that the bill's provisions do not diminish the availability of affordable housing or the affordability of electricity in all-electric buildings, including changes to (1) electricity rates and tariff structures; (2) laws; (3) policies; (4) regulations; and (5) subsidy programs.

Current Law:

Maryland Building Performance Standards

MDL currently incorporates by reference the International Building Code (2021 Edition), including the International Energy Conservation Code (IECC) (2021 Edition), with modifications, as MBPS. In general, the standards apply to all buildings and structures within the State for which a building permit application is received by a local government. Chapter 38 of 2022 (the Climate Solutions Now Act) required MDL to adopt IECC (2018 Edition) by January 1, 2023, and to adopt each subsequent version of IECC within 18 months after it is issued.

Each local jurisdiction must implement and enforce the most current version of MPBS and any local amendments to MPBS. In addition, any modification to MBPS adopted by the State after December 31, 2009, must be implemented and enforced by a local jurisdiction no later than 12 months after the modifications are adopted by the State.

Energy Conservation Building Standards

The Energy Conservation Building Standards under Title 7, Subtitle 4 of the Public Utilities Article generally require a builder of any building that is constructed after July 1, 1982, to certify under oath that the building is in compliance with the latest edition of the Energy Code. If a builder fails to comply with the energy conservation standards required for certification, the builder is liable to the first purchaser who either occupies or rents the building for an amount up to \$2,000 and for the cost of bringing the building into compliance with the energy conservation standards.

EmPOWER Maryland

In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in per capita electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018 through 2020 and 2021 through 2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company's 2016 sales. That legislation also required PSC to conduct a related study by July 1, 2022. The Climate Solutions Now Act further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter. The Act also specified that the core objective of the reductions must include development and implementation of a portfolio of mutually reinforcing goals, including greenhouse gas (GHG) emissions reduction, energy savings, net customer benefits, and reaching underserved customers. The Act included related administrative requirements in uncodified language.

Maryland Greenhouse Gas Emissions Reduction Targets and the Climate Solutions Now Act

The Climate Solutions Now Act made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045. The Act also established new and altered existing energy conservation requirements for buildings and increased and extended the EmPOWER Maryland program, as described above.

The Climate Solutions Now Act also requires MDL's Building Codes Administration to (1) develop recommendations for an all-electric building code for the State, including exemptions for particular industries (including life sciences, as specified), local conditions, and sectors deemed critical infrastructure vital to the interest of national security, as specified; (2) develop recommendations for the fastest and most cost-efficient methods to decarbonize buildings and other sectors in the State; (3) assess the availability of technology and equipment that will be needed to construct all-electric buildings in the State; (4) assess the impact of building electrification on workforce shortages; (5) develop recommendations regarding efficient cost-effectiveness measures for the electrification of new and existing buildings; (6) by January 1, 2023, report to PSC on the projected annual and peak summer and winter gas and electric loading impacts of electrification, as specified; and (7) consider recommendations for the inclusion of renewable, low-carbon biofuels, including biodiesel, during the State's transition to an all-electric building code, including an analysis of the impact on electric and gas rates, market availability, and environmental impact. By January 1, 2023, the Building Codes Administration was required to make an interim report of its findings to the Legislative Policy Committee. A final report of its findings and recommendations was due by December 1, 2023.

MDL submitted one report to satisfy the reporting requirement to PSC and the interim reporting requirement to the Legislative Policy Committee. That report can be read [here](#). MDL advises it received an extension of the deadline to submit its final report until February 1, 2024; as of the writing of this fiscal and policy note, the final report had not yet been submitted.

State Fiscal Effect:

Maryland Department of Labor

MDL does not have the technical expertise to develop the report on policy changes needed to ensure the bill’s provisions do not diminish the availability of affordable housing or the affordability of electricity in all-electric buildings. It also requires contractual support to develop the new requirement and standard.

Therefore, general expenditures increase by \$167,592 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective. This estimate reflects the cost of hiring two contractual employees (one administrative officer and one assistant Attorney General) to review codes, develop the amendments to MBPS, coordinate public hearings, and prepare the required report. It includes salaries, fringe benefits, one-time start-up costs, rent for additional office space, and ongoing operating expenses, including rent.

Contractual Positions	2.0
Salaries and Fringe Benefits	\$147,140
Operating Expenses	<u>20,452</u>
Total FY 2025 MDL Expenditures	\$167,592

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.

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the contractual positions at the end of fiscal 2026.

Public Service Commission

PSC advises that it must hire expert consultants to collect the data necessary to assist MDL with creating the required report. Specifically, the bill requires an assessment of the policy changes on electric rates and tariff structures. PSC advises that this requires an updated electrification study. Accordingly, special fund expenditures for PSC increase by \$500,000 only in fiscal 2025 to hire a consultant to conduct the study. Even though the report must be submitted by December 1, 2025, it is assumed that the consultant completes the necessary data collection during fiscal 2025 and that PSC subsequently provides assistance to MDL during fiscal 2026 using existing resources.

Special fund revenues increase correspondingly from assessments imposed on public service companies to recoup costs incurred by PSC, as authorized under current law.

State Building Construction

The Department of General Services (DGS) advises that it can comply with the bill's requirements for new State buildings with existing resources. DGS further advises that, as a result of Chapter 38, it created a policy that new buildings and major renovations be designed and constructed to meet the energy demands of the buildings without the use of fossil fuels. However, this policy does not apply to institutions of higher education and potentially, other buildings that receive State construction funding. In addition, [Maryland's Climate Pollution Reduction Plan](#), which was developed to implement Chapter 38 and published in December 2023, includes provisions relating to all-electric new construction and other emission reduction measures for State-owned buildings.

However, the extent to which *all* new State buildings will be required to meet the energy demands of the buildings without the use of fossil fuels in the absence of the bill – and when that would otherwise happen – is unclear. Accordingly, the bill could result in an increase in project costs for State-funded building construction to comply with the new MBPS standards. However, State building construction is funded primarily through the capital budget, which is determined annually by the Governor and General Assembly through the capital budget process subject to debt affordability limits. As total spending is fixed each year, the bill has no effect on total spending in the capital budget; any increase in individual project costs – which could be significant – means that fewer projects receive funding.

Other Agencies

DHCD and MEA advise they can assist MDL with preparing the required report with existing resources.

Local Expenditures: The bill's requirements that new buildings meet all energy demands without the use of fossil fuels may result in a significant increase in costs for local governments. Specifically, beginning in fiscal 2025, local expenditures may increase to (1) meet the updated MBPS for the construction of new local government buildings; (2) enforce the updated MBPS for new buildings in the local jurisdiction; (3) grant waivers; and (4) and review past waivers each time local amendments to MBPS are made.

Small Business Effect: Any small businesses involved in the provision, installation, and maintenance of heating, cooling, and electrical systems for buildings are significantly affected by the bill's changes to MBPS for new buildings. In addition, any small businesses involved in the construction of new buildings (*e.g.*, architects, engineers, and general contractors) must comply with the new standards.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1134 of 2023.

Designated Cross File: None.

Information Source(s): Baltimore City; Howard and Prince George's counties; City of Annapolis; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Interagency Commission on School Construction; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Public Service Commission; Department of Legislative Services

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