

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 804 (Senator Brooks, *et al.*)
 Education, Energy, and the Environment

Maryland Building Performance Standards - Fossil Fuel Use, Energy Conservation, and Electric- and Solar-Ready Standards (Better Buildings Act of 2025)

This bill requires the Maryland Department of Labor (MD Labor) by October 1, 2025, to adopt, as part of the Maryland Building Performance Standards (MBPS), (1) a requirement that new buildings and significant improvements meet all laundry, water, and space heating demands of the building without the use of fossil fuels; (2) an electric-ready standard for new buildings and significant improvements that receive a waiver under the bill from that requirement, as specified; (3) a requirement that new buildings or significant improvements be solar-ready under certain conditions; and (4) regulations establishing energy conservation requirements for “covered buildings.” Local jurisdictions may adopt requirements more stringent than the bill’s requirements.

Fiscal Summary

State Effect: General fund expenditures increase by \$161,000 in FY 2026 and by \$93,300 in FY 2027 for contractual staff. 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 bill, fewer projects are likely funded each year, as discussed below. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	161,000	93,300	0	0	0
Net Effect	(\$161,000)	(\$93,300)	\$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 and capital project costs, as discussed below. Local revenues are not directly affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: A “significant improvement” means any repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50% of the replacement cost of the structure before the improvement or repair started. It does not include the improvement of a building required to correct specified code violations or specified alterations to historic structures.

Fossil Fuel Use and Electric- and Solar-ready Requirements

By October 1, 2025, as part of MBPS, MD Labor must adopt:

- a requirement that new buildings and significant improvements meet all laundry, water, and space heating demands of the building without the use of fossil fuels;
- an electric-ready standard for new buildings and significant improvements that receive a waiver from that requirement (discussed below); and
- a requirement that new buildings or significant improvements be solar-ready (as defined by the bill) if (1) the building will have 20,000 square feet or more of continuous roof space, excluding the parking area and (2) will be 20 stories or less in height above grade plane.

Waivers: A local jurisdiction may grant a waiver from the requirement for a building to meet all laundry, water, and space heating demands without the use of fossil fuels for (1) emergency back-up power systems for new buildings and significant improvements and (2) new buildings, significant improvements, and additions specifically designated for occupancy by a commercial food establishment, laboratory, laundromat, hospital, or crematorium. A waiver granted under this provision 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 or significant improvement 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 under the bill. To ensure a waiver granted under the bill is still necessary, the waiver must be reviewed (1) each time MBPS are modified by MD Labor and (2) by the local jurisdiction that granted the waiver each time the local jurisdiction modifies its local amendments to MBPS in accordance with current law.

Regulations adopted under these provisions may authorize a local jurisdiction to waive the solar-ready requirements for a building on a specific finding that (1) incident solar radiation at the building site is less than 75% of incident solar radiation at an open site or (2) shadow studies indicate that 25% of a building's roof area will be in shadow.

Local Authority: These provisions may not be construed to prohibit a local jurisdiction from prohibiting the use of fossil fuels in buildings or significant improvements or adopting energy conservation and solar energy requirements for buildings or significant improvements that are more stringent than the requirements established by MD Labor under the bill.

Energy Conservation Requirements for "Covered Buildings"

"Covered building" means a commercial or residential building with a gross floor area of less than 35,000 square feet, excluding the parking garage area. "Energy efficiency" means percentage energy use reduction with reference to the 2006 International Energy Conservation Code (IECC), as calculated for Maryland climate zones and published by the U.S. Department of Energy (DOE) Building Energy Codes Program as of October 1, 2025, exclusive of (1) renewable energy and electric vehicle charging provided at the building's premises; (2) unconditioned floor area; and (3) parking.

For new construction only, MD Labor must adopt, as part of MBPS, regulations establishing energy conservation requirements for covered buildings. In developing the regulations, MD Labor must (1) estimate energy efficiency outcomes of the standards (and to do so, MD Labor may seek advice from DOE, its contractors, or similarly qualified parties) and (2) subject to specified restrictions, calculate and adopt credits and performance thresholds in a manner that compares site energy use intensity changes from energy efficiency measures to a Maryland-specific baseline model that does not vary according to fuel type of the proposed building for relevant building types.

The regulations must require *new residential buildings* less than four stories above grade plane to achieve, on average, energy efficiency equal to or greater than:

- 35% for building permit applications received from March 1, 2027, through February 28, 2030, both inclusive;
- 50% for building permit applications received from March 1, 2030, through February 28, 2033, both inclusive; and
- 65% for building permit applications received on or after March 1, 2033.

In addition, the regulations must require *all buildings*, regardless of fuel type, to achieve, on average, energy efficiency equal to or greater than:

- 45% for building permit applications received from March 1, 2027, through February 28, 2030, both inclusive;
- 55% for building permit applications received from March 1, 2030, through February 28, 2033, both inclusive; and
- 65% for building permit applications received on or after March 1, 2033.

A local jurisdiction may adopt energy conservation requirements for buildings that are more stringent than the requirements established by MD Labor under these provisions.

If the local jurisdiction where a covered building will be located has adopted energy conservation requirements more stringent than these requirements, the building must be required to meet the more stringent requirements. In addition, if the version of MBPS in effect at the time of a building permit application is received requires the building to meet energy conservation requirements that are more stringent than the requirements established under these provisions, the building must be required to meet the more stringent standards.

Current Law:

Maryland Building Performance Standards

MD Labor currently incorporates by reference the International Building Code (2021 Edition), including 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. The Climate Solutions Now Act (CSNA) (Chapter 38 of 2022) required MD Labor 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.

High-performance Buildings

Chapter 124 of 2008 requires most new or renovated State buildings to be constructed as high-performance buildings, subject to waiver processes established by the Department of Budget and Management (DBM) and the Department of General Services (DGS).

Chapter 124 defines a high-performance building as one that:

- meets or exceeds the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) certification criteria for a silver rating;
- achieves a comparable numeric rating according to a nationally recognized, accepted, and appropriate standard approved by DBM and DGS; or
- complies with a nationally recognized and accepted green building code, guideline, or standard reviewed and recommended by Maryland Green Building Council (MGBC) and approved by DBM and DGS.

Based on a unanimous recommendation from MGBC, in 2017, DGS and DBM approved the use of the Green Globes rating system developed by the Green Building Initiative as an alternative to LEED silver.

Only new or renovated State buildings that are at least 7,500 square feet and are built or renovated entirely with State funds are subject to the high-performance requirement. Additionally, building renovations must include the replacement of heating, ventilation, air conditioning, electrical, and plumbing systems and must retain the building shell. Unoccupied buildings are exempt from the high-performance mandate, including warehouses, garages, maintenance facilities, transmitter buildings, and pumping stations. Also, community college capital projects must be constructed or renovated as high-performance buildings.

EmPOWER Maryland

Beginning January 1, 2025, and by January 1 every three years thereafter starting in 2027, the Department of Housing and Community Development must procure or provide to low-income individuals energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services that are on a trajectory to achieve greenhouse gas (GHG) reductions of at least 0.9% of a 2016 baseline after 2027, determined as specified. The requirement applies to the 2025-2033 time period. The reductions count toward the overall GHG emissions reduction targets under the EmPOWER Maryland Program.

Climate Solutions Now Act

In general: CSNA made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, CSNA 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.

Building Energy Performance Standards: To accomplish these goals, among other things, CSNA requires the Maryland Department of the Environment (MDE) to develop the Building Energy Performance Standards (BEPS) for covered buildings that achieve (1) a 20% reduction in net direct GHG emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and (2) net-zero direct GHG emissions by January 1, 2040. To facilitate the development of these BEPS, MDE must require covered building owners to measure and report direct emissions data to the department each year beginning in 2025. The provision requiring MDE to set a standard that achieves net-zero direct GHG emissions for covered buildings terminates December 31, 2029.

MDE was required to adopt regulations to implement BEPS by June 1, 2023. The regulations must meet several specified requirements. Among other things, the regulations must (1) include energy use intensity targets by building type, as specified; (2) provide maximum flexibility to the owners of covered buildings; (3) include an alternative compliance pathway allowing the owner to pay a fee for GHG emissions attributable to the building's failure to meet direct GHG emissions reduction targets; and (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force.

MDE initiated the regulatory promulgation process to implement the required BEPS regulations in December 2023, but ultimately withdrew the regulations in December 2024. MDE finalized a second round of BEPS regulations that took effect December 23, 2024. The regulations establish BEPS and related benchmarking and reporting requirements under COMAR 26.28. Under the regulations, beginning in calendar 2025, covered building owners are required to report benchmarking information for the previous calendar year by June 1.

All-electric Building Code: CSNA also requires MD Labor'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 the Public Service Commission (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 (LPC). MD Labor was required to submit a final report of its findings and recommendations by December 1, 2023. MD Labor submitted [one report](#) to satisfy the reporting requirement to PSC and the interim reporting requirement to LPC in January 2023. MD Labor's [final report](#) was submitted in February 2024.

State Expenditures:

Maryland Department of Labor

MD Labor advises that it does not have the technical expertise to develop the new requirements for MBPS, particularly with respect to the bill's requirements relating to estimating energy efficiency outcomes and calculating and adopting credits and performance thresholds to compare site energy use intensity changes from energy efficiency measures to a Maryland-specific average baseline model, as specified. As a result, MD Labor advises that two contractual full-time positions are needed through fiscal 2033 to implement the bill and to oversee the adoption of subsequent updates to MBPS every three years. However, the Department of Legislative Services (DLS) advises that the additional workload resulting from the bill is most burdensome in the first few years as MD Labor adopts the new requirements for MBPS, and that future updates will likely require only minor adjustments. Moreover, pursuant to current law, MD Labor must already adopt subsequent updates to MBPS every three years. Accordingly, while DLS agrees that contractual employees are needed, they are likely only needed through mid-fiscal 2027.

Thus, general fund expenditures for MD Labor increase by \$161,027 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring (1) one contractual regulatory and compliance engineer to perform research and evaluations and assist with the technical aspects of adopting the regulations and (2) one assistant Attorney General to support the regulatory process, hold public hearings, and seek stakeholder input. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including rent.

Contractual Positions	2.0
Salaries and Fringe Benefits	\$141,834
Operating Expenses	<u>19,193</u>
Total FY 2026 MDL Expenditures	\$161,027

DLS advises that the bill requires the adoption of the updated MBPS by October 1, 2025 – the same date as the effective date of the bill. As a result, MD Labor will be unable to meet the submission deadline. Therefore, for the purposes of this analysis, it is assumed that MD Labor completes the required changes to MBPS by October 1, 2026 – one year from the effective date of the bill. Accordingly, fiscal 2027 expenditures – which total \$93,316 – reflect (1) full salaries with annual increases and employee turnover; (2) ongoing operating expenses, adjusted for inflation; and (3) the termination of the contractual employees in mid-fiscal 2027, following the completion of the necessary changes to MBPS.

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.

The bill requires MD Labor to base its energy efficiency requirements on DOE publications and methods. MD Labor advises that DOE currently reports on estimated energy efficiency outcomes at no charge. However, should DOE in the future no longer provide this service at no charge, MD Labor anticipates procuring contractual services at an estimated cost of \$45,000 to establish a baseline energy efficiency outcome analysis, as required under the bill. To the extent MD Labor must use contractual services to establish the baseline analysis, general fund expenditures increase further.

State Building Construction

[Maryland’s Climate Pollution Reduction Plan](#), which was developed to implement CSNA and published in December 2023, includes provisions relating to all-electric new construction and other emission reduction measures for State-owned buildings. DGS advises that, as a result of CSNA, it created a policy that all 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, DGS advises that its policy does not include solar-ready provisions, so any affected State buildings must comply with the bill’s solar-ready requirements. With respect to the bill’s energy conservation requirements, MDE advises that BEPS provides energy use intensity requirements for buildings with 35,000 square feet of floor space *or more* and, therefore, does not affect buildings with less than 35,000 square feet of floor space, as this bill does.

Accordingly, the bill could result in an increase in project costs for affected State-funded building construction projects to comply with the new MBPS standards and requirements to the extent they are not already covered under DGS's existing policy. However, the bill has no effect on total spending under the capital budget, which is determined annually by the Governor and General Assembly through the capital budget process and subject to debt affordability limits. As total capital spending is fixed each year, any increase in individual project costs – which could be significant – means that fewer projects receive funding in a given year.

Local Expenditures: The bill's requirements that new buildings and buildings undergoing significant improvement (1) meet all energy demands without the use of fossil fuels (or meet electric-ready standards, as specified); (2) be solar-ready; and (3) satisfy energy conservation requirements may result in a significant increase in costs for local governments. Specifically, beginning in fiscal 2026, local expenditures may increase to (1) meet the updated MBPS for the construction of new local government buildings or local government buildings undergoing significant improvement; (2) enforce the updated MBPS requirements in the local jurisdiction; (3) grant waivers; and (4) review past waivers each time amendments to MBPS are made. A reliable estimate of the increase in local expenditures is not feasible; however, the increase in local expenditures is likely significant.

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 or buildings undergoing significant improvement. In addition, any small businesses involved in construction (*e.g.*, architects, engineers, and general contractors) must comply with the new standards and requirements. Small businesses involved in energy conservation work may benefit from an increase in the demand for their services.

Additional Information

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

Designated Cross File: HB 973 (Delegate Boafu, *et al.*) - Environment and Transportation.

Information Source(s): Allegany, Harford, Montgomery, Talbot, and Wicomico counties; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services;

Department of Housing and Community Development; Department of Juvenile Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services.

Fiscal Note History: First Reader - February 26, 2025
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