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HB831

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VIA EMAIL

Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
6 Bladen St., Annapolis, MD 21401

Re: **Opposition to HB 831**

Dear Chairman Barve:

On behalf of NAIOP, MBIA and JVW Investments (an affiliate of SunMed Growers and Tidal Creek Growers) I am writing to request an unfavorable report on House Bill 831.

All of these organizations favor the adoption of reasonable strategies and responsible, technically sound regulations designed to reduce greenhouse gases on schedules and using methods that minimize economic disruption and result in an orderly energy transition for buildings and tenants. Unfortunately, House Bill 831 calls for measures that go too far, too fast and will cause significant harm to an important sector of our economy; a sector which is already under great stress. The Bill also fails to exempt structures that cannot feasibly transition to all-electric heat including greenhouses such as those operated and currently under development by SunMed Growers and Tidal Creek Growers.

All-Electric Building Code

HB 831 calls for building codes to ban new fossil fuel hookups for heating and hot water by January 1, 2024. This is simply too fast. Many projects that have been in development for lengthy periods as they navigated a way through zoning approvals or pandemic supply problems will be disrupted. If the Committee decides to adjust building codes, then the change should allow more time for the transition and a grandfathering provision for projects that are in the pipeline.

Many large commercial and multi-family buildings, in particular, face unique challenges. Many of these large structures may be unable to make the transition to all-electric heating without the development of new technologies and engineering improvements. The adoption of new building codes needs to allow time for those advancements to occur.

Any transition should also have a less strenuous test for waivers. The bill calls for a test that weighs the lifetime cost of fossil fuel plus a lifetime “social cost” of at least \$51 per ton of carbon against the cost of constructing a building that solely uses electricity for heating and hot water. That “social cost” is variable depending on EPA’s estimates. During the Obama Administration, the EPA proposed a “social cost” of as much as \$125 – which would more than double the tax imposed by HB 831 – and the Biden Administration has indicated that it may return to that valuation. Few, if any, buildings will pass this test, but buildings vary greatly in size and purpose.

The waiver provision fails to recognize differences in the technical feasibility of converting to all-electric regardless of the size and function of the building. It is much easier, for example, to heat a single-family home with a heat pump than to heat a large commercial warehouse with the same technology. The cost effectiveness waiver, or the underlying building code, should recognize the differences among building types. To put it simply, more flexibility is needed in drafting building codes to allow waivers.

Any ban on new hookups should include a later deadline, a grandfathering exception, and more flexibility in the provisions of building codes and waivers.

Carbon Tax for Existing Buildings

The bill calls for a large carbon tax on existing buildings without providing any incentives or tax credits to help offset the enormous cost of compliance.

When the Maryland Commission on Climate Change developed their Building Transition Plan, the Commission stressed the need for new incentives such as grants or tax credits to help offset the cost of retrofitting existing buildings and reduce the payback periods. This is essential because the cost of the HVAC equipment, building and grid upgrades needed to reach the net-zero goal of the bill’s “high electrification” scenario was modeled at between \$7,000,000,000 and \$14,000,000,000. Seven to fourteen billion (with a b) dollars, without offsetting incentives and credits, would devastate the commercial and multi-family residential building sectors.

The Maryland Commission on Climate Change recognized that substantial financial incentives would be needed to retrofit existing buildings, yet HB 831 does not guarantee any incentives. Even buildings such as senior citizen retirement homes, hospitals and schools would not receive any assistance. Instead, the Building Energy Transition Implementation Task Force is expected to make recommendations for incentives that may, or may not, be adopted in the future. The Bill does not even dedicate the fees collected to grants assisting building owners in meeting the requirements.

Instead of providing assistance, HB 831, utilizes an entirely punitive approach where an escalating tax punishes any building which fail to reduce emissions in the next eight years and then increases the tax five years after that and a second increase five years after the first increase. The thin reed of a possible recommendation for incentives during some future session is inadequate. *The building tax should not be adopted without a simultaneous adoption of a system of incentives.*

The tax requires every covered building to reduce emissions by 20% compared to 2025 regardless of where the building's emissions started. This has the adverse impact of requiring buildings that start with low emissions to make more expensive changes than buildings that start with high emissions. An all-electric building will have difficulty achieving a 20% or 40% reduction from existing levels where an older building with oil boilers, for example, may be able to spend less.

Effective Date

In addition to a lack of offsetting incentives, the Bill sets an implementation date earlier than recommended by the Building Subgroup of the Maryland Climate Change Commission. That group recommended that an effective date of 2027. The Group had recognized that as part of any move to all-electric buildings, the PSC would need to develop a Utility Transition Plan which would include electric system enhancements, additional demand management during winter peaks, and ratepayer protections. Most importantly, the Commission called for any Building Transition to include studies to identify "locations where the grid is not sufficient to serve new construction of multi-story, all-electric commercial buildings with electric vehicle charging and a method to determine the cost and timetable for necessary upgrades." Obviously if parts of the grid cannot sustain new all-electric buildings, then it may not sustain the wholesale retrofitting of existing buildings. *The bill should allow time for the PSC to complete those studies before forcing all new buildings to connect to the grid.*

HB 831 adopts a tax system that charges ahead with building mandates without these additional provisions that would assist building owners with the cost of retrofitting and without the necessary studies to assure that the electricity grid would support the transition.

Agricultural Exemption

In addition to large commercial and multifamily buildings, large agricultural operations will also be unable to comply with the requirements. For example, greenhouses (including those under development by Tidal Creek Growers for its bedding plant and garden center business and SunMed Growers for the medical cannabis business) cannot be reliably heated by heat pumps. Greenhouses, of course, are roofed by glass which make them unsuitable for electric heat or readiness for installation of roof solar energy systems.

Many agricultural operations are located in sparsely populated areas that lack available robust electrical grid infrastructure for their energy requirements and such operations are served by natural gas and propane. Such operations include mushroom farms, indoor vegetable grow spaces, poultry barns, grain drying silos, etc., all of which require reliable uninterrupted heat sources, and where a power failure could mean the loss of entire businesses.

Maryland has long recognized and actively supported the special needs and requirements of the State's agriculture industry and it should continue to do so. An agricultural exemption should be provided for both the new construction and retrofit provisions of HB 831. *At a minimum,*

HB831 should not be passed unless an explicit agricultural exception is added to the bill. I have attached language that would enact such an exception.

Sincerely,

Michael C. Powell

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MCP/MCP

AMENDMENTS TO HOUSE BILL 831
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 7, after “Code”, insert **“EXCEPT AS PROVIDED IN SUBSECTION (C)(3) OF THIS SECTION.”**;

On page 2, after line 12, insert:

(3) “BUILDING” AND “COVERED BUILDING” DOES NOT INCLUDE ANY STRUCTURE USED PRIMARILY TO CULTIVATE, MANUFACTURE, PROCESS OR PRODUCE AGRICULTURAL CROPS, RAW MATERIALS, PRODUCTS, OR COMMODITIES, INCLUDING, WITHOUT LIMITATION, GREENHOUSES AND OTHER AGRICULTURAL CULTIVATION, PROCESSING OR SUPPORT STRUCTURES.

AMENDMENT NO. 2

On page 8, in line 10, after “(II)”, insert **“AND SUBPARAGRAPH (II)”**;

On page 8, in line 20, before “(II)”, insert

(II) ANY STANDARDS ADOPTED PURSUANT TO THIS PARAGRAPH SHALL SPECIFICALLY EXCLUDE ANY STRUCTURE USED PRIMARILY TO CULTIVATE, MANUFACTURE, PROCESS OR PRODUCE AGRICULTURAL CROPS, RAW MATERIALS, PRODUCTS, OR COMMODITIES, INCLUDING, WITHOUT LIMITATION, GREENHOUSES AND OTHER AGRICULTURAL CULTIVATION, PROCESSING OR SUPPORT STRUCTURES.

On page 8, in line 20, and page 9, in line 9, strike existing “(II)” and “(III)”, respectively, and substitute **“(III)”** and **“(IV)”**, respectively.