



February 6, 2026

The Honorable Brian J. Feldman, Chair
Senate Education, Energy, and the Environment Committee
2 West Senate Office Building
Annapolis, Maryland 21401

Unfavorable: SB 264 – Drinking Water Regulation – ASHRAE 188

Dear Chair, Korman and Committee Members:

The NAIOP Maryland Chapters represent approximately 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing to request your unfavorable report on SB 264 which would require the Maryland Department of Health and the Maryland Department of Environment to adopt regulations for detecting and controlling Legionella bacteria in public water systems and the plumbing systems of public and private buildings.

NAIOP members draw on multiple resources from the CDC, OSHA, EPA, MDE, state and local health departments, as well as building and mechanical codes to safely operate buildings. Our members take seriously their responsibility for the health and safety of tenants and visitors to our buildings. Nevertheless, we are concerned that the breadth and prescriptive nature of SB 264 will lead to over-regulation of low-risk buildings and therefore oppose the bill as introduced.

The Legionella bacteria can cause a severe type of pneumonia called Legionnaires' Disease in persons at risk. Those at risk include people who are at least 50 years old or those with underlying medical conditions such as chronic lung disease or immunosuppression. Most people experience minimal to no impacts from exposure to Legionella bacteria.

Legionella bacteria is found at low levels in source water like reservoirs and often lives in the biofilm of pipes throughout water distribution systems. According the CDC and EPA, detection of Legionella bacteria does not reliability predict disease risk.

The Safe Water Drinking Act (SWDA) is the primary federal law regulating drinking water quality. The EPA regulates 90 pathogens through the SWDA but has decided not to include Legionella in the monitoring rules for public water systems. EPA concluded that the expense of the monitoring was not warranted given the limited utility of the data.

Only small number of states currently require use of ASHRAE 188. Most (Michigan, Ohio, Illinois, Washington, and Virginia) are sector-specific focusing on at risk populations in healthcare facilities nursing homes and schools. New York and New Jersey take a broader approach, but SB 264 requires stricter adherence to ASHRAE 188, covers more building types, and requires higher disinfectant levels in drinking water, making it the most expansive law of its kind in the country.

Neither EPA nor MDE generally regulate the water quality of “premise plumbing” in buildings. SB 264 would mandate that covered buildings develop Legionella Water Management Plans consistent with ASHRAE Standard 188. The bill also requires that MDE issue a report within a year making recommendations on regulation of other pathogens and on whether to increase the disinfectant levels prescribed in the bill. MDE has previously objected to the proposed disinfectant levels citing public health concerns.

ASHRAE 188 would apply to tens of thousands of commercial and multifamily buildings. The Water Management Plans require establishing control levels, monitoring at multiple locations, conducting validation testing for Legionella and documenting the results. Tens of thousands of commercial and multifamily buildings would maintain this regime in perpetuity.

We see few ways to demonstrate a plan is effective and in compliance without adopting costly perpetual testing regime for Legionella. In the fiscal notes for prior year bills, MDE noted that EPA does not have an approved testing methodology for Legionella and warned of a lack of qualified in-state testing laboratories.

Additionally, the bill requires written notice to all commercial and residential customers in an area before commencing common construction activities such as water service line connections or meter placement. MDE is further required to adopt regulations for water quality monitoring during these construction activities.

While we appreciate the intent behind SB 264, the scope of the bill presents significant practical, financial, and regulatory concerns that warrant reconsideration.

For these reasons, NAIOP respectfully requests your unfavorable report on SB 264.

Sincerely,



Tom Ballentine, Vice President for Policy

NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Education, Energy, and the Environment Committee Members

Nick Manis – Manis, Canning Assoc.