



February 23, 2026

The Honorable Marc Korman, Chair  
House Environment and Transportation Committee  
House Office Building, Room 250  
6 Bladen St., Annapolis, MD 21401

### **Unfavorable – HB 870 – MD Building Energy Performance Standards – New Construction**

Dear, Chair Korman and Committee Members:

The NAIOP Maryland Chapters, representing more than seven hundred companies involved in all aspects of commercial, industrial, and mixed-use real estate, respectfully recommends your unfavorable report on HB 870.

#### **HB 870's Major Provisions**

HB 870 requires that, **(1)** beginning in October of 2026, construction of most commercial and multifamily buildings 35,000 square feet or larger must achieve net zero direct greenhouse gas emissions and **(2)** meet Energy Use Intensity (EUI) targets established by the Maryland Department of Environment. (MDE) **(3)** Design decisions for newly constructed buildings must be calculated using the energy modeling methods specified in the bill rather than those in the International Energy Conservation Code. (IECC) **(4)** Local governments are authorized to adopt requirements for buildings that are more stringent than those required in the bill.

#### **NAIOP's Position is Based on the Following Considerations:**

- **Even without HB 870, most new large buildings will be electric** because they are already required to comply with progressively lower direct emissions limits under BEPS. Fossil-fuel systems will only be chosen for specialized uses such as biotech, manufacturing, healthcare, food service or to serve as secondary heating systems to reduce peak energy demand charges. Because HB 870 does not clearly carry forward existing BEPS exemptions, or allow new buildings to pay alternative compliance fees, these facilities may be unable to build using the fuel types best suited to their function.
- **MDE is authorized to set EUI limits, influencing both building design and occupant electricity use.** The bill codifies the framework for MDE to regulate electricity use in covered commercial and multifamily buildings. MDE is given broad authority to set EUI limits based on any criteria and without consideration of technical feasibility or cost. New BEPS covered buildings must be designed to meet these electricity use limits. MDE has repeatedly indicated a desire to also assess fees for electricity use above EUI limits.
- **The bill precedes the HB 49 (2005) study due December 2026.** The General Assembly will not have the benefit of critical cost, feasibility, and implementation findings related to emissions and EUI before imposing these standards. This study is also importantly making recommendations on waivers. We are hopeful that this study and the results of the first two rounds of energy benchmarking will help to inform a technically feasible, cost-effective, and managed energy transition for large buildings.
- **Maryland Codes Administration recommendations are not reflected.** Their report, ordered through the Climate Solutions Now Act, urged a phased approach to electrification of the building sector,

beginning with small buildings, allowing time for innovation, and ensuring grid capacity before requiring full electrification.

- **Required modeling method favors electric systems regardless of utility cost or total energy use.** The IECC performance path requires that compliance and system selections be based on a fuel-sensitive comparison of the technical performance and annual utility costs of a proposed building to the standard reference design. The HB 870 approach replaces the energy modeling used in the IECC with a modeling method that uses an electric-only baseline building. The results will not capture differences in energy use and costs between systems using different fuel types. This is particularly impactful for large buildings because peak electric rates can have a significant impact on commercial heating systems and operating costs.
- **The bill reopens the door to a patchwork of local energy mandates.** HB 49 (2005) intentionally avoided this outcome by preventing new local BEPS programs aside from Montgomery County's program which predated the state BEPS.
- **Grid reliability and electric capacity concerns make a prohibition on fossil fuels in large buildings premature.** With PJM warning of capacity shortages and rising electricity prices, limiting access to existing energy sources creates operational and financial risk for future buildings and their occupants.

**For these reasons, NAIOP respectfully requests your unfavorable report on HB 870.**

Sincerely,



Tom Ballentine, Vice President for Policy  
NAIOP Maryland Chapters - *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members  
Nick Manis – Manis, Canning Assoc.