

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 870 (Delegates Korman and Boaf)
 Environment and Transportation

Maryland Building Performance Standards - Energy Conservation Requirements (Large Buildings for Tomorrow Act)

This bill requires the Maryland Department of Labor (MD Labor) by October 1, 2028, to adopt, as part of the Maryland Building Performance Standards (MBPS), regulations establishing energy conservation requirements for the new construction of “covered buildings” subject to the Building Energy Performance Standards (BEPS) adopted by the Maryland Department of the Environment (MDE). A local jurisdiction may adopt requirements more stringent than the bill’s requirements, and a covered building in any local jurisdiction that has done so must meet the more stringent requirements.

Fiscal Summary

State Effect: General fund expenditures increase by \$264,700 in FY 2027; future years reflect annualization, inflation, and ongoing costs. No effect on total capital spending, which is established annually through the capital budget process, but any increase in individual project costs – which could be significant – means that fewer projects receive funding in a given year. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	264,700	300,500	218,200	128,200	133,400
Net Effect	(\$264,700)	(\$300,500)	(\$218,200)	(\$128,200)	(\$133,400)

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

Local Effect: Potential significant increase in local expenditures for capital projects and enforcement activities, 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:

Definitions

“Energy conservation measure” means a physical installation in a building or a connection to a district energy system that enhances the building’s energy efficiency or minimizes the building’s energy use or greenhouse gas emissions at the lowest practicable cost. “Fuel type” means the combination of energy sources planned for a use in a building, including electricity and mixed fuel.

Maryland Building Performance Standards – Covered Buildings

The bill applies only prospectively to *new construction* for which a complete commercial or residential service request is made to the local utility or a development application or building permit application is filed with a local government after the bill’s effective date.

By October 1, 2028, as part of MBPS, MD Labor must adopt regulations establishing energy conservation requirements for covered buildings. In developing the regulations, MD Labor must:

- adopt provisions that require (1) predicted annual net direct greenhouse gas emissions of zero and (2) predicted annual site energy use intensity (EUI) performance targets, as determined by MDE;
- for the purposes of MBPS authorizing compliance via the attainment of energy efficiency credits or achievement of performance thresholds, calculate and adopt credits and performance thresholds in a manner that compares site EUI 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;
- in consultation with MDE, adopt provisions that allow an owner of a covered building to request a waiver from implementing an energy conservation measure that is necessary to comply with the bill’s requirements if the measure cannot be reasonably implemented, including due to lack of existing technology; and
- make best efforts to align regulations impacting the new construction with regulations adopted by MDE regarding existing buildings.

Credits or performance thresholds may not be calculated in a manner that authorizes buildings of a certain fuel type to comply with MBPS while achieving a lower energy efficiency on average than buildings of a different fuel type.

If the version of the International Energy Conservation Code (IECC) 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 under MDE's BEPS regulations for calendar 2040, the building must be required to meet the more stringent requirements. However, this requirement may not be construed to require a building to meet any requirements that are more stringent than the requirements under MDE's BEPS regulations.

Current Law:

Definitions

“Covered building” means a building that (1) is a commercial or multifamily residential building in the State, or is owned by the State, and (2) has a gross floor area of 35,000 square feet or more, excluding the parking garage area. “Covered building” does not include (1) a building designated as a historic property under federal, State, or local law; (2) a public or nonpublic elementary or secondary school building; (3) a hospital; (4) a manufacturing building; or (5) an agricultural building.

“District energy” means thermal energy generated at one or more central facilities that produce hot water, steam, or chilled water that then flows through a network of insulated underground pipes to provide hot water, space heating, air conditioning, or chilled water to nearby buildings.

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 and public schools must be constructed or renovated as high-performance buildings.

Climate Solutions Now Act – In General

CSNA made broad changes to the State's approach to reducing statewide greenhouse gas (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 MDE to develop 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.

Implementing Regulations

CSNA also required MDE to adopt regulations to implement BEPS by June 1, 2023. The regulations must meet several specified requirements. As altered by Chapter 844 of 2025, among other things, the regulations must (1) include EUI targets by building type, as specified; (2) include specified special provisions, exceptions, and exemptions from BEPS requirements; (3) include an alternative compliance pathway allowing an owner of a covered building to pay a fee for GHG emissions attributable to the building's failure to meet direct GHG emissions reduction targets; (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force; and (5) include an annual reporting fee of \$100 per covered building, adjusted for inflation, to cover the administrative costs of the BEPS program. MDE adopted regulations that went into effect December 23, 2024, that establish BEPS and related benchmarking and reporting requirements.

Beginning in 2030, covered buildings are required to meet the first level of interim standards, which includes reduced direct emissions based on building type. By 2035, covered buildings must meet the second level of interim standards, which includes additional reduced direct emissions based on building type. By 2040, covered buildings will be required to meet the final net-zero direct GHG emissions standard.

Of note, the regulations do not include site EUI standards, which are required under statute. The fiscal 2025 budget as enacted included language restricting funding for the final development and submission of regulations that address site EUI targets and standards until MDE submits, among other things, a report on site EUI costs and alternatives to site EUI for meeting GHG targets. The required report components were incorporated into a larger report required under Chapter 844. MDE anticipates that the report will be submitted by December 31, 2026, and that the other related requirements will be completed in 2027.

State Fiscal Effect:

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 EUI changes from energy efficiency measures to a Maryland-specific average baseline model, as specified. As a result, MD Labor advises that four full-time positions are needed to implement the bill and to oversee the adoption of subsequent updates to MBPS every three years. The Department of Legislative Services (DLS) agrees in part and notes 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. Nevertheless, DLS acknowledges that updating MBPS to account for additional energy conservation requirements does result in compounding complexity, necessitating some ongoing support.

Thus, general fund expenditures for MD Labor increase by \$264,721 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring one full-time engineer and three temporary contractual employees (two engineers and one attorney) to perform research, evaluations, and adopt the necessary updates to MBPS. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including rent.

Full-time Position	1.0
Temporary Contractual Positions	3.0
Salaries and Fringe Benefits	\$219,248
Operating Expenses	<u>45,473</u>
Total FY 2027 State Expenditures	\$264,721

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) the termination of the contractual employees midway through fiscal 2029, following the completion of the necessary updates 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 adopt provisions that allow an owner of a covered building to request a waiver from implementing an energy conservation measure, as specified, but it does not indicate who awards such waivers. If the provisions adopted by MD Labor require it to process waiver requests, MD Labor may require additional staff to do so, which it can request through the budget process once the provisions are adopted. Alternatively, the provisions may require local governments, which are responsible for enforcing compliance with MBPS, to process waiver requests, in which case local governments may require additional staff, as discussed below.

MDE advises it can assist MD Labor with making the necessary changes to MBPS using existing resources.

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.

However, MDE advises that the bill establishes an accelerated timeline compared to what is required under CSNA. Accordingly, the bill could result in an increase in project costs for affected State-funded building construction projects. 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 Fiscal Effect: “Covered buildings” includes all State buildings, but it also includes commercial and multifamily residential buildings owned by local governments. Therefore, beginning in fiscal 2027, local expenditures increase (1) to meet the updated MBPS for the construction of locally owned commercial buildings; (2) for additional staff to enforce the updated MBPS requirements in local jurisdictions; and (3) potentially, to grant waivers (as discussed above). A reliable estimate of the increase in local expenditures is not feasible, as it depends on the number of future building construction projects and other unknown variables; however, the increase in local expenditures may be 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. In addition, any small business

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 within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 804 and HB 973 of 2025 and SB 1023 and HB 1279 of 2024.

Designated Cross File: None.

Information Source(s): Baltimore City; Prince George's County; City of Annapolis; Baltimore City Community College; University System of Maryland; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Department of Juvenile Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Maryland Stadium Authority; Department of Legislative Services

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