

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 988 (Delegate Hartman, *et al.*)

Environment and Transportation and
 Economic Matters

Environment - Building Energy Performance Standards - Repeal

This bill repeals provisions adopted under the Climate Solutions Now Act (CSNA) (Chapter 38 of 2022) that require the Maryland Department of the Environment (MDE) to develop building energy performance standards (BEPS) for covered buildings in the State that achieve (1) a 20% reduction in net direct greenhouse gas (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. The bill repeals all related provisions under Title 2, Subtitle 16 of the Environment Article, including requirements for MDE to certify a county BEPS program under specified circumstances; it also makes conforming changes under the Housing and Community Development Article.

Fiscal Summary

State Effect: Special fund revenues for the Maryland Clean Air Fund decrease by \$900,000 annually beginning in FY 2027 from foregone reporting fees and significantly further beginning as early as FY 2031 from foregone alternative compliance pathway (ACP) fees. There is no anticipated net effect on MDE special fund expenditures (with existing, ongoing staff costs no longer supported by the fee revenues likely instead supported by funding from the Strategic Energy Investment Fund (SEIF), as discussed below). State expenditures (multiple funds) likely decrease, potentially significantly, in the near term, as discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
SF Revenue	(\$900,000)	(\$900,000)	(\$900,000)	(\$900,000)	(-)
Exp. (Mult.)	(-)	(-)	(-)	(-)	(-)
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: Local expenditures decrease, potentially significantly, for at least some jurisdictions, beginning in FY 2027. Local revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law:

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 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.

“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). The term 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.

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 energy use intensity targets by

building type, as specified; (2) include specified special provisions, exceptions, and exemptions from BEPS requirements; (3) include an ACP 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.

Owners of covered buildings began reporting benchmarking information in June 2025. Beginning in 2030, owners of covered buildings are required to meet the first level of interim standards, which includes reduced direct emissions based on building type. By 2035, owners covered buildings must meet the second level of interim standards, which includes additional reduced direct emissions based on building type. By 2040, owners of covered buildings will be required to meet the final net-zero direct GHG emissions standard.

Certification of a County Building Energy Performance Standards Program

Chapter 844 of 2025 required MDE to certify a BEPS program adopted by a county administering a BEPS program by March 1, 2025, and waive the requirement for covered buildings in the county to comply with the statewide program. A county administering an MDE-certified BEPS program is authorized to take appropriate actions to enforce the county standards, including establishing ACPs for compliance and imposing and collecting ACP fees and penalties up to the same amount and in the same manner allowed by MDE, as specified.

A county that is administering an MDE-certified BEPS program is not precluded from adopting BEPS for buildings that are not covered buildings under the statewide program or modifying an adopted BEPS program. Montgomery County is currently implementing a county BEPS program under this statutory authorization.

State/Local/Small Business Effect:

Maryland Department of the Environment

Decrease in Maryland Clean Air Fund Revenues: Special fund revenues for the Maryland Clean Air Fund within MDE decrease by approximately \$900,000 annually beginning in fiscal 2027 from the repeal of the annual reporting fee for owners of covered buildings in the State. This fee, established in regulation, is \$100, and there are approximately 9,000 covered buildings in the State that must pay the fee each year by June 1. MDE notes

that although the bill does not take effect until October 1, 2026, (which falls after the next round of annual fees are scheduled to be collected), its ability to effectively collect the annual fees in fiscal 2026 (due by June 1, 2026) may be hindered by the upcoming termination of the program. For purposes of this analysis, it is assumed that MDE is still able to collect those fees.

Additionally, as noted above, pursuant to CSNA and its implementing regulations, under BEPS, beginning in calendar 2030, owners of covered buildings may come into compliance with net direct emissions standards by paying an ACP fee for GHG emissions in excess of the standards. Thus, special fund revenues for the Maryland Clean Air Fund decrease further from foregone ACP fees. Any such impact occurs as early as fiscal 2031, when, under current law, ACP fee revenue is anticipated to begin accruing. Although a precise estimate of foregone ACP fee revenue cannot be made at this time, it is likely significant given the number of potentially affected covered buildings in the State.

Administrative Impacts and Need for Additional Funding from the Strategic Energy Investment Fund: Although the bill repeals BEPS, the statutory GHG emissions reduction goals, deadlines, and requirements under CSNA remain. MDE notes that in the State, the building sector is the second-largest source of GHG emissions after transportation. Thus, repealing BEPS requires MDE to conduct significant new work to identify, plan, and implement alternative methods of GHG emissions reductions for the State in order to meet the State's climate goals. Thus, MDE plans to redirect existing staff assigned to the BEPS program to other duties within the department to handle those activities.

In recent years, MDE's Air and Radiation Administration (ARA), which implements the BEPS program, has been funded primarily with special funds from SEIF (which is administered by the Maryland Energy Administration) and the Maryland Clean Air Fund. In fact, the Budget Reconciliation and Financing Act of 2025 (Chapter 604) altered the required uses of SEIF to include paying costs associated with ARA. Due to the loss of Maryland Clean Air Fund revenues from foregone fees under the bill, ARA likely needs additional SEIF funding to backfill for the loss of fee revenues in order to cover ongoing ARA staff costs. Accordingly, there is no net effect on MDE special fund expenditures, as the decrease in spending from the Maryland Clean Air Fund is offset by a corresponding increase in spending from SEIF.

State/Local/Small Business Effect as Owners of Covered Buildings

The bill likely results in a significant decrease in costs for at least some owners of covered buildings in the near term that are no longer required to meet BEPS, pay the \$100 annual reporting fee, or collect and report benchmarking information annually. Beginning in fiscal 2031, owners of covered buildings will also no longer be subject to any ACP fees for buildings that do not meet BEPS for direct building emissions. Affected owners of covered

buildings could include State agencies, local governments, and small businesses. The near-term cost savings may be significant for some affected building owners, particularly with respect to covered buildings that would have otherwise required costly retrofits in order to meet BEPS beginning in calendar 2030. However, in the long term, affected entities will forego any cost savings that otherwise would have been realized from implementing energy efficiency measures under BEPS.

With respect to covered buildings owned by the State, to the extent any costs that otherwise would have been incurred to implement BEPS would have been funded through the capital budget, there is no effect on total capital spending, which is established annually by the Governor and the General Assembly through the capital budget process. However, any decrease in costs for State capital projects due to the repeal of BEPS results in an increase in available funding for other State capital projects.

Montgomery County

Montgomery County notes that it does not anticipate an operational or fiscal impact as a result of the bill. The county plans to continue its county BEPS program even in the absence of the State program.

Additional Comments: The Department of Legislative Services notes that owners of covered buildings, including State agencies, local governments, and small businesses, may have already begun to invest in upgrades in anticipation of the BEPS requirements.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Cecil, Frederick, Montgomery, and Somerset counties; City of Frederick; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Morgan State University; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Office of People's Counsel; Public Service Commission; Washington Suburban Sanitary Commission; Department of Legislative Services

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