

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 26
 Finance

(Senator Kramer)

Appropriations

**Labor and Employment - Occupational Safety and Health - Revisions (Davis
 Martinez Public Employee Safety and Health Act)**

This bill establishes a Public Employees’ Safety and Health (PESH) Unit in the Division of Labor and Industry within the Maryland Department of Labor (MD Labor) and requires the Commissioner of Labor and Industry to head the unit. The bill expands the existing Maryland Occupational Safety and Health (MOSH) program by establishing penalties for public bodies and elected officials and enhancing notice and reporting requirements associated with public bodies, among other requirements and specifications.

Fiscal Summary

State Effect: Special fund and general fund expenditures increase by \$69,400 and \$106,700, respectively, for staffing in FY 2026; future years reflect annualization. State expenditures (all funds) increase for compliance. Special fund revenues increase, likely by more than \$75,000 in FY 2026 and by more than \$100,000 annually thereafter.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	-	-	-	-	-
GF Expenditure	\$106,700	\$128,700	\$134,300	\$140,300	\$146,300
SF Expenditure	\$69,400	\$81,300	\$84,800	\$88,500	\$92,200
GF/SF/NB/HE Exp.	-	-	-	-	-
Net Effect	(\$176,000)	(\$210,000)	(\$219,200)	(\$228,800)	(\$238,500)

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

Local Effect: Expenditures for local governments may increase beginning in FY 2026 from penalties and for compliance. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the purpose of MOSH to include standards that address workplace violence and making public bodies' workplaces safer and more healthful, as defined by the bill. Therefore, the Commissioner of Labor and Industry must include standards for protecting employees of public bodies from workplace violence as part of the MOSH standards. The Commissioner of Labor and Industry, in consultation with the MOSH Advisory Board, must adopt, by October 1, 2026, regulations to include these standards. Prior to adopting regulations, the commissioner must review and consider specified recommendations and hold meetings with stakeholders as specified. With respect to public bodies, the MOSH Advisory Board must give specific consideration to the workplace conditions and safety and health concerns of employees and recommend higher standards, if warranted.

In addition to a self-inspection required under current law, there must be an inspection program developed, conducted, and maintained by PESH that otherwise complies with specified inspection requirements under current law.

By July 1 each year, the Commissioner of Labor and Industry must publish online a written report with specified information on safety and health in public bodies.

The bill does not limit or preclude the commissioner or the commissioner's authorized representative from inspecting a public body in accordance with any other provision under MOSH.

Requirements of Public Bodies

Each public body must annually send each employee a copy of the report issued by the Commissioner of Labor and Industry and any citations issued by the commissioner to the public body in the immediately preceding year. The bill specifies notice requirements when PESH issues citations to public bodies. The commissioner must require by regulation that each public body keep an accurate record of, among other things, the incidence of workplace injuries or illnesses.

Attorney General

The Attorney General must provide notice to all affected employees of the public body, any employee representatives, the Governor, the President of the Senate, and the Speaker of the House of Delegates if the Commissioner of Labor and Industry requests that the Attorney General proceed in a State or federal court or before any other federal unit to enforce workplace safety requirements for public bodies.

The Attorney General must prioritize and expedite review of an application if the Commissioner of Labor and Industry or an authorized representative applies for an administrative search warrant.

Penalties

Public bodies are no longer exempt from existing MOSH penalties. The bill specifies civil penalties for noncompliance for public bodies, which increase after specified days of noncompliance. The revenues from the civil penalties assessed against a public body must be distributed to a special fund to be used only for the Maryland Apprenticeship and Training Program (MATP).

A person who holds political office in the State, whether elected or appointed, or any other position of profit or trust in the government of or in the administration of the business of the State or any county, municipality, or other political subdivision that violates specified provisions of the bill related to making false statements is guilty of a misdemeanor and on conviction is subject to a fine of up to \$20,000 and/or imprisonment not exceeding one year, in addition to existing penalties for making false statements.

Current Law: The Division of Labor and Industry within MD Labor administers the MOSH program. The requirements of the MOSH program are codified by the MOSH Act. In general, these requirements parallel the safety standards established by the federal Occupational Safety and Health Administration (OSHA) within the U.S. Department of Labor. OSHA specifies that states may elect to assume the responsibility for development and management of a state occupational safety and health program as long as the standards under the state program are “at least as effective as” OSHA standards.

Employers (which include public bodies) must provide each employee with a place of employment that is safe and healthful and free from each recognized hazard that is causing or likely to cause death or serious physical harm to the employee.

The MOSH Act applies to public bodies, but the penalty provisions of MOSH do not apply to a public body. The MOSH Act defines a “public body” as a governmental unit, a public or quasi-public corporation of the State, a school district in the State or any unit of the district, or a special district in the State or any unit of the district. Specifically regarding public bodies, the Commissioner of Labor and Industry must provide for and maintain a comprehensive and effective program on occupational safety and health for public employees. The program must be generally consistent with the MOSH Act and require each public body to:

- provide conditions and places of employment that are safe and healthful;
- develop, conduct, and maintain in each unit of the public body a program of self-inspection that the commissioner approves;
- keep and make available any record that the commissioner requires for the development of information about occupational accidents, illnesses, and injuries, to allow proper evaluation and necessary corrective action; and
- submit each report that the commissioner requires.

The Commissioner of Labor and Industry must monitor the self-inspection program of each public body.

The MOSH Act defines a “place of employment” as a place in or about which an employee is allowed to work.

State Revenues: The bill subjects the public sector to civil penalties, so MATP special fund revenues increase beginning in fiscal 2026. Under its authority to monitor self-inspection programs by public bodies, MOSH currently completes between 83 and 100 inspections or investigations in the public sector per year, resulting in an average of approximately 200 citations to public-sector employers annually. If similar levels of violations continue to occur under the bill, MD Labor estimates receiving \$30,000 to \$40,000 in penalties per year, noting this estimate reflects a reduction in penalties that occur during an informal settlement once hazards are abated.

MATP special fund revenues increase further from new penalties established by the bill. If a public body does not post citations at or near where each alleged violation occurred, the public body may be subject to a civil penalty of \$500 per day, increasing to \$1,000 per day after 30 days, for each day that the public body is not in compliance. Additionally, if a public body does not pay a civil penalty in full within 75 days, the Commissioner of Labor and Industry may increase the penalty by up to five times the initial penalty amount. While the actual revenue effect is unknown, MATP special fund revenues could increase by more than \$100,000 annually (\$75,000 in fiscal 2026, which reflects the bill’s October 1, 2025 effective date).

State Expenditures: MOSH already has authority under current law to inspect workplaces of public bodies. MOSH currently investigates and issues violations of the general duty clause in investigations where an employer could have reasonably predicted employee exposure to workplace violence and did not take common industry practice/reasonable steps to protect an employee. Thus, MOSH can develop workplace violence standards for public bodies and investigate workplace violence in public bodies with existing resources.

However, under the bill, MOSH must comply with notice and reporting requirements and assess penalties on public bodies. The cost of administering the MOSH program is covered through an appropriation from the Workers' Compensation Commission and MOSH may accept federal OSHA grant awards. Thus, special fund expenditures increase by \$69,385 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring an administrative officer to carry out administrative functions related to penalty issuance. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$59,788
Operating Expenses	<u>9,597</u>
Total MD Labor FY 2026 State Expenditures	\$69,385

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Office of the Attorney General

Under current law, MOSH can cite public-sector employers, but they rarely request a contested case hearing because there is no financial penalty. Under the bill, the Office of the Attorney General (OAG) expects a greater volume of employers contesting citations, which it cannot handle with existing resources. Thus, general fund expenditures increase by \$106,659 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring an assistant Attorney General to assist with contested case hearings. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$99,290
Operating Expenses	<u>7,369</u>
Total OAG FY 2026 State Expenditures	\$106,659

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Judiciary

Although the bill creates new civil and misdemeanor violations, which could increase the workload of the courts, the Judiciary does not anticipate that the bill will have a significant fiscal or operational impact on the courts.

State Agencies

Public bodies must annually send to each of their employees a copy of the annual PESH report published online by the commissioner and any citations issued by the commissioner to the public body in the preceding year. Additionally, public bodies must send a copy of any citation received to all affected employees in addition to the existing requirement to post the citation conspicuously at or near each place where the citation alleges a violation occurred. Thus, State expenditures (all funds) may increase beginning in fiscal 2026 to comply with these notice as well as recordkeeping requirements, and may increase further due to public bodies being subject to civil penalties under MOSH.

Local Expenditures: Expenditures for local governments may increase to comply with the bill's notice and recordkeeping requirements and may increase further to the extent that local governments fail to comply with MOSH requirements and are subject to civil penalties.

Additional Comments: This analysis assumes no material effect on assessments for workers' compensation.

Davis Martinez was a parole and probation agent employed by the Department of Public Safety and Correctional Services who was allegedly killed by a client during a home visit in Chevy Chase in 2024.

Additional Information

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

Designated Cross File: HB 176 (Delegate Solomon) - Appropriations.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; Maryland Association of Counties; Maryland Municipal League; Town of Bel Air; Office of the Attorney General; Judiciary (Administrative Office of the Courts); University System of Maryland; Morgan State University; Department of Budget and Management; Maryland Department of Labor; Maryland Department of Transportation; Maryland Department of Public Safety and Correctional Services; Maryland Environmental Service; Department of Legislative Services

Fiscal Note History:
km/mcr

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