

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 625

(Senator Frosh, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

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Maryland Building Performance Standards - Energy Conservation and  
Efficiency

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This bill requires the Department of Housing and Community Development (DHCD) to adopt the International Energy Conservation Code (IECC) and to consider changes to the International Building Code (IBC) to enhance energy conservation and efficiency before adopting a subsequent version of the Maryland Building Performance Standard (MBPS). DHCD may adopt energy conservation requirements that are more stringent than in the IECC. Local governments must implement and enforce the most current MBPS and any modifications thereto, within six months of State adoption. The bill also authorizes a local jurisdiction to adopt a local amendment to MBPS as long as the amendment does not weaken any energy conservation and efficiency provisions in MBPS.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Local government expenditures may increase beginning in FY 2010 for the cost of training code inspection and enforcement personnel or to hire additional personnel. Revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful impact on small businesses within the housing construction industry. According to DHCD, increased construction costs may limit the ability for developers to build affordable housing.

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## Analysis

**Current Law:** DHCD is required to adopt as the MBPS the most recent version of the IBC, along with applicable modifications authorized in Title 12 of the Public Safety Article. Within 12 months of the release of each new version of the IBC, DHCD is required to review the new version and consider modifications. During this process, DHCD is required to accept and consider comments and hold a public hearing on any proposed modification. DHCD is prohibited from adopting any modification that is more stringent than the IBC.

**Background:** The IBC and IECC are products of the International Code Council. The International Code Council was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. The IBC has been adopted by all 50 states as well as thousands of local jurisdictions.

### *Efficiency in Building Codes*

Maryland has adopted several energy efficiency and conservation related building code standards deemed important to reducing greenhouse gas emissions and lowering the cost of energy. The IECC residential building code is compliant with the federal Energy Conservation and Production Act (ECPA), and has been adopted in 36 states, including Maryland. The American Society of Heating, Refrigerating and Air-Conditioning Engineers, a commercial building code, is compliant with ECPA and has also been adopted in 36 states, including Maryland. These codes generally regulate the leakage of heat through windows and wall materials, as well as the energy efficiency of heating and cooling equipment. In addition, in implementing the Regional Greenhouse Gas Initiative (RGGI), the Maryland Department of the Environment is authorized to provide credits to members of the regulated community who undertake certain projects, including the creation of buildings meeting certain energy efficiency standards.

### *Efficiency and Performance Standards for State Buildings*

Chapter 124 of 2008 required most new or renovated State buildings and new school buildings to be constructed as high-performance buildings, subject to waiver processes established by the departments of Budget and Management (DBM) and General Services (DGS) and the Board of Public Works (BPW). In fiscal 2010 through 2014, the State funds 50% of the local share of increased school construction costs associated with high-performance buildings.

To date, only three State-funded buildings have been built as high-performance buildings. According to the Green Building Council, the Hammerman Beach Services building at Gunpowder Falls State Park cost about 3.4% more than a nonhigh-performance building

would have cost, but is expected to generate 20% savings on energy costs and 40% reduction in water consumption over its lifespan. Goodpaster Hall on the campus of St. Mary's College is estimated to have had a 1.6% cost premium, but is expected to generate 30% savings on energy costs and 40% reduction in water consumption over its lifespan. The University of Maryland at Shady Grove building, which achieved a LEED gold rating, is estimated to have had a 2.4% cost premium, but should generate 30% savings in energy costs and a 40% reduction in water consumption over its lifespan.

**State Expenditures:** DGS advises that its current professional services manual already references the IECC and therefore the bill should have no fiscal impact on the department. Additionally, Chapter 124 of 2008 requires certain State and school buildings to be constructed to certain energy efficient specifications. To the extent that the capital cost of housing construction increases, fewer dwelling units will be able to be funded with currently budgeted DHCD special and federal funds. In future years, the State may realize significant reductions in energy expenditures from new buildings with higher energy conservation standards.

The Maryland Energy Administration advises that it may be tasked with training local code officials to implement the bill, but that this can be handled with existing resources.

**Local Expenditures:** Local housing code enforcement authorities will administer the bill's implementation and enforcement provisions by conducting building inspections and by certifying that builders are in compliance with all mandatory building code standards. In some jurisdictions this may be handled with existing resources. However, some jurisdictions may be required to expend additional funds related to inspection and enforcement training or for the cost of hiring additional personnel.

**Small Business Effect:** According to 2005 data from the U.S. Census Bureau, 88.9% of construction firms in Maryland had fewer than 20 employees and 98.1% had fewer than 100 employees. Legislative Services advises that this bill alters commercial and residential construction practices and may significantly increase the cost of procuring construction materials and otherwise increase the cost of doing business. These costs may be offset partially or fully by passing costs onto customers. According to DHCD, increased construction costs may limit the ability for developers to build affordable housing in Maryland.

**Additional Comments:** Provisions in the American Recovery and Reinvestment Act of 2009 condition receipt of federal funds from State Energy Program grants on adoption of the 2009 version of the IECC and other building code standards, as well as compliance with other building efficiency provisions by 2017.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Green Building Council, Garrett and Montgomery counties, Department of General Services, Department of Housing and Community Development, Maryland Energy Administration, Department of Legislative Services

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Analysis by: Evan M. Isaacson

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510