

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 7 (Delegate Healey)

Ways and Means and Environment and
 Transportation

**Environment - Public and Nonpublic Schools - Inspections for Mold Hazards and
 Mold or Moisture Problems**

This bill requires the Maryland Department of the Environment (MDE), in consultation with the Maryland State Department of Education (MSDE), the Department of General Services (DGS), and Maryland Occupational Safety and Health (MOSH), to adopt regulations to require periodic inspections of occupied schools in the State for the presence of a “mold hazard” or a “mold or moisture problem,” as specified. The bill outlines steps that must be taken if mold issues are identified. Waivers from the required inspections may be granted under specified circumstances. Before adopting the required regulations, MDE must gather specified information and convene a stakeholder group. The bill also establishes reporting requirements. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by \$1.1 million in FY 2020. Future years reflect ongoing costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,091,800	646,600	542,800	611,300	630,400
Net Effect	(\$1,091,800)	(\$646,600)	(\$542,800)	(\$611,300)	(\$630,400)

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

Local Effect: Local school system expenditures increase, likely significantly, beginning in FY 2021. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Relevant Definitions

“Mold” means a form of multicellular fungi that lives on plant or animal matter or in indoor environments. “Mold hazard” means a concentration of mold or mold spores within the interior of a public or nonpublic school facility that exceeds a limit established by MDE pursuant to the bill. “Mold or moisture problem” includes any problem or concern in a public or nonpublic school facility regarding mold growth, airborne mold spores, humidity levels, condensation, leaks, water damage, musty or moldy odors, or adverse human health effects associated with mold exposure, as specified.

“Technical guidance” means the most recent technical guidance issued by the U.S. Environmental Protection Agency (EPA) for mold remediation in schools.

Required Stakeholder Group and the Content of the Required Regulations

MDE must establish a stakeholder group, consisting of specified representatives, to provide advice and make recommendations regarding the development of the required regulations. Before adopting the regulations, MDE must gather information about the inspection processes, protocols, and efforts undertaken by each local school system and nonpublic school to address mold or moisture problems, including whether a school system or nonpublic school has (1) knowledge of any mold or moisture problems present in a school facility and (2) a plan for inspection, and if appropriate, mold remediation.

The regulations adopted pursuant to the bill must (1) establish exposure limits for indoor concentrations of mold and mold spores that are protective of public health and safety; (2) establish procedures for inspecting, identifying, and evaluating the interior of school buildings for mold hazards and mold or moisture problems that are at least as stringent as EPA technical guidance; (3) establish mold remediation standards that are at least as stringent as EPA technical guidance; (4) phase in implementation of the required inspections, beginning with schools known to have mold hazards or mold or moisture problems present; (5) require inspections of schools known to have mold hazards or mold or moisture problems present to be conducted by July 1, 2021; (6) establish the frequency for the required inspections; (7) address best practices and cost-effective inspections; (8) require MDE-approved entities to analyze the samples and information retrieved from inspections; and (9) require MDE to develop and maintain records detailing inspection results, the status of each school with regard to the presence of mold hazards and mold or moisture problems, and remedial measures taken or planned for each mold hazard or mold or moisture problem detected.

Actions to Be Taken if Mold Hazards or Mold and Moisture Problems Are Present

If the analysis of the inspection data indicates the presence of a mold hazard or a mold or moisture problem, the following steps must be taken: (1) the entity conducting the analysis must report the results to MDE, the school inspected and appropriate local school system, MSDE, and the appropriate local health department; (2) the school must take appropriate remedial actions in accordance with the regulations adopted under the bill; (3) an MDE-approved entity must conduct a follow-up inspection; and (4) notice of the presence of a mold hazard must be provided to parents and guardians of students and faculty and staff employed at the school. Notice must also be posted on the school's website.

Complaints and Waivers Related to Inspections

MDE must develop and maintain a system for receiving and addressing public complaints concerning inspection practices, unaddressed mold hazards and mold or moisture problems, and incomplete remediation. The bill establishes conditions under which MDE, in consultation with MSDE, may grant a waiver from the required inspection to a local school system or to an individual or nonpublic school if certain conditions are met.

Annual Report

By December 1, 2021, and annually thereafter, MDE and MSDE must jointly report to the Governor and the General Assembly on the findings of the inspections required by the bill. The report must include the name and address of each school that was found to have a mold hazard present and any remedial measures taken or planned for each mold hazard detected.

Current Law/Background:

Public and Nonpublic Schools in Maryland

According to MSDE, as of September 30, 2018, there were 1,428 public and 1,310 nonpublic schools in the State.

The Interagency Commission on School Construction and the Maintenance of Public School Buildings

The Interagency Commission on School Construction (IAC) is an independent commission within MSDE. Among other things, IAC is charged with establishing sufficiency standards, or a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State. IAC is in the process of conducting an initial statewide facilities assessment using these

sufficiency standards, which was statutorily required to be completed by July 1, 2019, but has been delayed. The fiscal and policy note for Chapter 14 of 2018 estimated that the one-time cost of this facilities assessment by a third-party vendor would be \$3.5 million.

IAC must also conduct periodic inspections of school buildings and report on their condition. Each local school system must develop and adopt preventative maintenance schedules for their public schools that are based on industry standards. IAC's sample inspection forms include 35 items, including air conditioning; ventilation equipment; steam distribution; heating, ventilation, and air-conditioning (HVAC) controls; plumbing fixtures/equipment; and restrooms. Although mold is not a specific inspection item, mold is one of the conditions upon which IAC comments and rates schools.

U.S. Environmental Protection Agency Technical Guidance

EPA has a host of programs and an extensive list of resources to help states assist school systems in creating comprehensive, sustainable strategies that promote healthy learning places for students. Among other things, these resources include information on [mold and indoor air quality in schools](#) and a guide to [mold remediation in schools and commercial buildings](#). EPA advises that there are no federal standards or threshold limit values for mold or mold spores, which means that sampling cannot be used to check a building's compliance with federal mold standards. However, surface sampling may be useful to determine if an area has been adequately cleaned or remediated. Similarly, MDE does not have any exposure limit standards for indoor concentrations of mold or mold spores.

Centers for Disease Control and Prevention Facts about Mold and Dampness

According to the [Centers for Disease Control and Prevention](#) (CDC), molds are common in buildings and homes. Mold will grow in places with a lot of moisture, such as around leaks in roofs, windows, or pipes, or where there has been flooding. Mold grows well on paper products, cardboard, ceiling tiles, and wood products. Large mold infestations can usually be seen or smelled. Some people are sensitive to molds. For these people, exposure to molds can lead to symptoms such as stuffy nose, wheezing, and red or itchy eyes or skin. CDC's primary recommendation for preventing mold is to control humidity levels, ideally to between 30% and 50%.

State Expenditures: General fund expenditures for MDE increase by approximately \$1.1 million in fiscal 2021, and by \$646,585 in fiscal 2022, which accounts for the bill's July 1, 2020 effective date and the staggered hiring of new employees as the required inspection program is implemented. The fiscal 2021 estimate reflects the cost of hiring one program manager, two administrative specialists, and one industrial hygienist to (1) gather information on the current inspection processes and procedures; (2) develop exposure limits for indoor mold concentrations; and (3) develop and promulgate

regulations. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenditures, and contractual costs to build a tracking database and develop exposure limits for indoor concentrations of mold and mold spores. The fiscal 2022 estimate reflects the cost of hiring one environmental compliance specialist supervisor and three environmental compliance specialists to (1) conduct compliance and enforcement activities; (2) conduct oversight of inspector and inspection contracts; and (3) track and maintain school compliance records. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of vehicles, cell phones, and specialized testing equipment), and ongoing operating expenditures.

The information and assumptions used in calculating the estimate are stated below:

- there are almost 3,000 public and nonpublic school buildings in the State, and MDE is responsible for tracking and maintaining records on school compliance;
- MDE does not currently have any certification process for mold inspectors or any standards for the analysis of mold inspection results, and there are no federal standards for exposure limits for indoor concentrations of mold and mold spores;
- MDE must enforce the standards established pursuant to the bill to ensure that school systems and nonpublic schools conduct the required inspections and remediate any found mold hazards or mold or moisture problems;
- there are approximately 1,000 types of mold in the United States, and individual sensitivities can complicate a decision on whether there is a mold hazard present in a building, which makes development of threshold levels for corrective action difficult; and
- the number and types of positions that MDE estimates are needed for the bill are based on experience with the department’s asbestos program and a program that oversees water lead testing and remediation in schools in the State.

	<u>FY 2021</u>	<u>FY 2022</u>
New Positions	4	4
Salaries and Fringe Benefits	\$268,411	\$514,979
Contractual Costs for Database	500,000	–
Contractual Costs for Mold Standards	300,000	–
Vehicle Purchase/Operations	–	84,366
Other Operating Expenses	<u>23,400</u>	<u>47,240</u>
Total State Expenditures	\$1,091,811	\$646,585

Future year expenditures reflect salaries with annual increases and employee turnover and ongoing operating expenses, including annual contractual costs to maintain the tracking database beginning in fiscal 2024.

MDE assumes, and the Department of Legislative Services concurs, that, under the bill, schools are responsible for paying for the required inspections. To the extent that MDE is responsible for paying for the inspections, general fund expenditures increase further, likely significantly.

Maryland State Department of Education, Department of General Services, and Maryland Occupational Safety and Health

MOSH routinely responds to inquiries and complaints regarding mold and has experience with industrial hygiene issues, including mold. Thus, MOSH can likely consult with MDE to develop the required regulations using existing budgeted staff and resources.

MSDE can participate in the required stakeholder group and consult and coordinate with MDE on the required inspection program, including the issuance of waivers and the required annual report, using existing budgeted staff and resources.

DGS can consult with MDE to develop the required regulations using existing budgeted staff and resources.

Local Expenditures: This estimate assumes that local school systems are responsible for costs to conduct the required inspections (unless granted a waiver) and to remediate any mold hazards or mold or moisture problems found during the inspections. Given that the inspection standards will be established through regulation (including the frequency with which inspections must occur and the threshold standards for indoor mold and mold spore concentrations) and any remediation costs depend on the conditions found in schools, a reliable estimate of the total costs to local school systems cannot be made. However, inspection and remediation costs are potentially significant. Examples from specified local school systems are as follows:

- Harford County Public Schools (HCPS) anticipates that costs to conduct inspections and send notifications to students and staff could be significant. HCPS notes that the bill likely requires the purchase of additional indoor air quality meters and dehumidifiers and could require renovations to school HVAC systems as well as the purchase or rental of high efficiency particulate air filters.
- Montgomery County Public Schools (MCPS) advises that the county already performs mold remediation and survey work as necessary, but the bill creates new requirements that necessitate additional staff. Specifically, MCPS estimates that county expenditures increase by almost \$600,000 in fiscal 2021, and by approximately \$530,000 in the out-years, to hire three mechanical systems technicians to conduct mold remediation and survey work and for contractual costs in the first year for remediation work that is beyond the county's internal abilities.

- The Montgomery County Department of Health and Human Services (DHHS) conducts nonpublic school inspections annually but anticipates that it likely needs to hire additional staff as a result of the bill. Specifically, DHHS estimates that county expenditures increase by \$113,044 in fiscal 2021, and by \$108,244 annually thereafter, to hire one environmental health specialist.
- Baltimore City Public Schools anticipates that costs increase, likely significantly, to hire additional staff to implement the bill's requirements.

Small Business Effect: Certified industrial hygienists, other related professions, and environmental remediation companies may experience an increase in the demand for their services. Small private laboratories may also realize more business.

Additional Comments: Nonpublic schools also incur potentially significant additional costs to conduct inspections (unless granted a waiver) and complete any required remediation.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Harford and Montgomery counties; Maryland State Department of Education; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Maryland Department of Health; Maryland Department of Labor; Baltimore City Public Schools; Montgomery County Public Schools; U.S. Centers for Disease Control and Prevention; U.S. Environmental Protection Agency; Department of Legislative Services

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