

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 61

(Senator Lam)

Judicial Proceedings

Health and Government Operations

Public Buildings – Changing Facilities – Requirements

This bill generally requires a changing facility suitable for providing personal care for an adult to be installed in at least one public restroom within a public building constructed on or after October 1, 2022. The requirement also applies to a public restroom (in an existing public building) that is built or substantially renovated on or after that date. Exceptions are established. Specified State and local governmental entities must report the location of all changing facilities to 2-1-1 Maryland, Inc., which must maintain a list on its website of all the reported locations. The bill makes conforming changes to existing provisions related to the installation of diaper-changing facilities for children in public buildings.

Fiscal Summary

State Effect: No direct effect on total expenditures under the State’s capital budget or Transportation Trust Fund, which are determined annually by the Governor and General Assembly through the budget process. However, the bill potentially increases the cost of each new and substantially renovated building by between \$5,000 and \$150,000 to accommodate the installation of at least one changing facility. Thus, fewer capital projects may be funded in any given year, beginning in FY 2023. No effect on revenues.

Local Effect: The cost of each local capital project may increase by between \$5,000 and \$150,000 to accommodate installation of at least one changing facility. Thus, fewer local capital projects may be funded with available capital funding beginning in FY 2023. No effect on local revenues. **The bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary/Current Law: The bill repeals the existing definition of a “diaper-changing facility” and instead defines a “changing facility” to mean a table or other device suitable for changing the diaper of a child younger than age four *and* providing personal care for an adult.

Chapter 523 of 2019 requires the installation of diaper-changing facilities only for children younger than age four; this bill generally applies the requirements of Chapter 523 for the installation of diaper-changing facilities for young children to the installation of changing facilities for children and adults. Chapter 523 includes the following definitions and requirements which are retained under this bill and applied to the installation of all changing facilities:

- “Substantial renovation” means a construction or renovation project with an estimated cost of at least \$30,000.
- A “public restroom” is a sanitary facility available to the general public that contains at least one toilet or urinal.
- A “public building” is any building, structure, or improved area that is owned by the State or a local government or constructed for lease by the State or local government. It includes (1) a public mass transit accommodation such as a terminal or station that is supported by public funds and (2) an improvement of a public area used for gathering or amusement, including a public park or recreation center. It does not include schools.
- If restrooms in a public building affected by the bill are divided by gender, a diaper-changing facility (under current law) or a changing facility (under the bill) must be installed in at least one men’s public restroom and one women’s public restroom.
- A diaper-changing facility (under current law) or a changing facility (under the bill) is not required to be installed if a building inspector who has jurisdiction over a public building determines that their installation is not practicable or would result in a failure to comply with applicable building standards governing access by individuals with disabilities.
- The Department of General Services (DGS), the University System of Maryland, and the Maryland Department of Transportation are responsible for enforcing the diaper-changing facility requirement (under current law) and the changing facility requirement (under the bill) in buildings under their respective control if any State capital nonschool funds are used or if construction is on State-owned land. Local governments must enforce the requirements if construction is not on State-owned land, local funds are used, and no State funds are used (except for school construction).

Chapter 523 does not include a requirement for 2-1-1 Maryland to maintain a list of diaper-changing facilities in public buildings; this bill establishes that requirement for all changing facilities.

2-1-1 Maryland

The three-digit number 2-1-1 is established in statute as the primary information and referral telephone number for health and human services in the State. 2-1-1 Maryland is a private, nonprofit organization that maintains an information and referral service network that is available to Maryland residents via telephone and Internet. 2-1-1 Maryland offers 24/7 guidance in accessing health, crisis, and social services. The Health and Human Services Referral Board within the Maryland Department of Health provides oversight and guidance to the 2-1-1 Maryland system.

State/Local Expenditures: The bill does not require retrofitting existing restrooms in public buildings with changing facilities, unless the restrooms or the buildings in which they are located are undergoing substantial renovations (of \$30,000 or more, as defined by the bill). Nor does the bill provide specifications for the types of changing facilities to be included in new or renovated buildings, and there are no federal standards on which to rely. This means that the cost of installing facilities in new and substantially renovated public buildings can vary tremendously depending on the type of facility installed and the dimensions of the space available. Changing facilities are suitable for changing the diapers of small children as well, so their installation complies with the requirements of Chapter 523.

Based on information provided by DGS, the Department of Natural Resources, other State agencies, and various local governments for both this bill and an earlier version of the same bill, the cost of installing a single changing facility for adults can vary from about \$5,000 (the cost of purchasing and installing one of the lower-cost models) to about \$150,000 if the available space is not suitable and must be redesigned and/or expanded to accommodate the facility. The latter cost includes architectural and engineering plans, upgrading walls to sustain a weight of 400 pounds, possible electrical upgrades to support the electrical motors of more expensive models, and expanding the available square footage to allow proper maneuvering around the facility. Costs are greater for public buildings with restrooms divided by gender, which must have a facility installed in at least one men's public restroom and one women's public restroom. However, in some cases, the location of plumbing, electrical, and other structural design elements of the building may make installation impractical, in which case the bill provides an exemption.

For State buildings, it is assumed that capital funds are used to install facilities in new and redesigned buildings. As the capital budget is a fixed amount each year based on the capital budget process, any increase in the cost of individual capital projects may result in fewer

projects being funded in a given year, depending on the cost to install the changing facilities. In some cases, the cost of installing the facilities may be absorbed within the overall cost of construction, but in other cases, installing the facilities may significantly increase the cost of construction or renovation. The same is true for local public buildings which are also generally constructed with local capital funds.

Additional Information

Prior Introductions: HB 10 of 2020 passed the House as amended and was assigned to the Senate Judicial Proceedings Committee, but no further action was taken on the bill. Its cross file, SB 44, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: HB 321 (Delegate Ebersole) - Health and Government Operations.

Information Source(s): Department of General Services; Department of Natural Resources; Secretary of State; Board of Public Works; University System of Maryland; Kent and Worcester counties, City of Laurel; Maryland Municipal League; Maryland Association of Counties; Grainger; PatientSafetyUSA.com; Department of Legislative Services

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