

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1083 (Delegate Rose)
Health and Government Operations

County Health Officers - Procedures and Oversight

This bill requires each county board of health and the Baltimore City Health Department to establish clear and understandable requirements regarding when, how, and under what circumstances the health officer (or the health officer's staff) may perform an inspection of, issue a citation to, or issue an order to cease the operation of a business or other place of employment in the county. The requirements are subject to the approval of (1) the governing body of the county and (2) a new oversight board that must be established by the governing body under the bill. The oversight board must include at least one owner of a business located in the county. The governing body of each county and Baltimore City must establish a process for a business or place of employment to appeal a decision of the health officer (or the health officer's staff) that affects the business or place of employment. The oversight board must review and make final determinations regarding such appeals.

Fiscal Summary

State Effect: Any operational impact on the Maryland Department of Health (MDH) and the Maryland Department of the Environment (MDE) can be handled with existing budgeted resources, as discussed below. Revenues are not directly affected.

Local Effect: Expenditures for local jurisdictions likely increase beginning in FY 2022 to establish oversight boards and implement policy changes as required under the bill. However, an exact estimate of the operational or fiscal impact on local health departments (LHDs) is unknown at this time, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The oversight board must (1) receive, review, and make final determinations on decisions of the health officer (or the health officer's staff) that have been appealed and (2) review potential misconduct of the health officer (or the health officer's staff). If the oversight board determines misconduct occurred, it may refer the misconduct to the appropriate enforcement entity.

The governing body of each county must establish a process by which a business or other place of employment located in the county may appeal a decision of the health officer (or the health officer's staff) that affects the business or other place of employment to the oversight board. The process must require the oversight board to make a determination on an appeal within three days after the date on which the oversight board received the request for the appeal.

Current Law: In general, unless a governing body of a county establishes a board of health, the governing body is the board of health for the county. A local health officer must enforce (1) State health laws; (2) policies, rules, and regulations established by the Secretary of Health; and (3) rules and regulations adopted by the county board of health. Local health officers may perform any investigation or other duty or function as directed by the Secretary of Health or the county board of health and submit appropriate reports. While performing official duties, a local health officer may enter any place of business or employment.

The Secretary of Health, or an agent or employee, may enter, at any reasonable hour, a place of business or public premises if the entry is necessary to carry out the Secretary's duties. A person who denies or interferes with entry is guilty of a misdemeanor and subject to fine of up to \$100.

LHDs inspect and enforce health and safety regulations across a broad range of health and environmental hazards and for a variety of different business entities. Among other things, LHDs are delegated licensing and inspection authority for food establishments in the State and also inspect septic systems and occasionally conduct drinking water sampling. LHDs also perform delegated environmental health functions relating to wells, liquid waste hauling, and housing protection services. LHDs are also currently tasked with enforcing State and county orders intended to limit the spread of COVID-19. The Maryland Association of County Health Officers advises that there are currently processes in place for inspections of businesses and other places of employment and for the oversight, evaluation, and discipline for any violations. Health officers and the Baltimore City Health Commissioner currently report to MDH and to their respective county leadership.

State Expenditures: MDH is responsible for several regulatory activities that are delegated to LHDs, including licensing, inspection, and enforcement activities for food service facilities and public swimming pools and spas. MDH advises that, under the bill, the department must review and revise regulations to conform existing inspection, citation, order, appeal, and hearing procedures with new requirements established by each local jurisdiction under the bill. These changes can be absorbed within existing budgeted resources. The Department of Legislative Services assumes a similar impact for MDE.

Local Expenditures:

Local Health Departments

Under the bill, each county must establish new requirements regarding when, how, and under what circumstances the health officer (or the health officer's staff) may inspect, issue a citation to, or issue an order to cease the operation of a business or other place of employment. Given the breadth of businesses and other places of employment subject to inspection by LHDs and the fact that LHD staff are fully subscribed with current duties, including COVID-19 response efforts, the bill likely has an operational impact on LHDs and may also have a fiscal impact, which could be significant. Any actual fiscal impact depends on current requirements and policies for inspections, citations, closures, and appeals in each of the 24 local jurisdictions compared with the revised or new requirements adopted under the bill. Developing new requirements for approval by the governing body of a county and a newly established oversight board, implementing any necessary administrative changes, conducting or attending training on new policies, and responding to the new oversight boards (which must make determinations on appeals within three days of receipt), will redirect LHD staff from their current duties and may require additional staff.

Local Governing Bodies

Under the bill, each local governing body must establish an oversight board to receive, review, and make final determinations on appeals of actions taken by a health officer (or a health officer's staff) and refer any potential misconduct to the appropriate enforcement entity. Thus, local expenditures increase, at least minimally, beginning in fiscal 2022 to establish oversight boards. As noted above, each oversight board must make determinations on appeals within three days of receipt.

Small Business Effect: Small businesses may benefit from the requirements that each board of health and the Baltimore City Health Department must establish under the bill (depending on how such requirements compare with current practice) and gain a new process by which to appeal the decision of a health officer or the health officer's staff.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 920 (Senator Ready) - Finance.

Information Source(s): Maryland Association of County Health Officers; Harford and Montgomery counties; Maryland Department of Health; Department of Legislative Services

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