

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 761 (Delegate Krebs, *et al.*)
Health and Government Operations

County Boards of Health and Baltimore City Health Department - Procedures
and Appeals Process

This bill requires each county board of health and the Baltimore City Health Department (BCHD) 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, issue a citation, or issue an order to cease operation. Each county board of health and BCHD must establish a process by which a person may appeal a decision of the health officer (or the health officer's staff), as specified. An appeal determination must be made within a reasonable amount of time based on the severity of the violation or order. Both the requirements and the appeals process required under the bill must be published on the county board of health or BCHD website.

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 2023 to 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 established requirements must require that any citation or order to cease operation reference the specific law or policy that was violated and a summary of the options for appealing the citation or order, including the appeals process.

The appeals process must include a means to appeal (1) a citation or order issued by the health officer's staff to the health officer and (2) a citation or order issued by or an appeal decision made by the health officer to the applicable county board of health or BCHD.

In the event of a conflicting decision or policy of a county board of health or BCHD and the applicable county's health officer, the Baltimore City Commissioner of Health, or the staff of either on a matter within the jurisdiction of the county board of health or BCHD, the decision or policy of the county board of health or BCHD must control.

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 a 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 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 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. Under the bill, MDH 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 board of health 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, or issue an order to cease operations. 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, establishing a process of appeals, implementing any necessary administrative changes, conducting or attending training on new policies, and making determinations on requests for appeals (which must be made within a reasonable time of receipt) will redirect LHD staff from their current duties and may require additional staff.

Small Business Effect: Small businesses may benefit from the requirements that each board of health and BCHD 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: SB 920 of 2021, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 1083, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Designated Cross File: SB 330 (Senator Ready) - Finance.

Information Source(s): Caroline and Prince George’s counties; Maryland Association of Counties; Maryland Association of County Health Officers; Maryland Department of Health; Department of Legislative Services

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Analysis by: Amber R. Gundlach

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