

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 319

(Senator McCray)

Judicial Proceedings

Rules and Executive Nominations

Public Safety - Maryland Swimming Pool and Spa Standards - Adoption

This bill requires the Maryland Department of Labor (MDL) to adopt by regulation the International Swimming Pool and Spa Code (ISPSA), after review and consultation with the Maryland Department of Health (MDH) and with appropriate modifications, as specified. The standards adopted apply to each swimming pool or spa in the State for which an application for a permit is received by a local jurisdiction on or after June 1, 2023, as specified. The bill establishes other related responsibilities for MDL and each local jurisdiction, including that MDL maintain an informational database with specified information about the pool and spa standards and electrical code standards used in the State. MDL must provide local jurisdictions with the hardware and software necessary to access the database.

Fiscal Summary

State Effect: General fund expenditures increase by \$115,900 in FY 2023. Future years reflect annualization, inflation, and termination of one-time costs, with all costs terminating in FY 2027. MDH can consult with MDL using existing budgeted resources. Costs for State agencies that maintain spas and pools may increase minimally to meet the standards. Revenues are not materially affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	115,900	52,400	54,100	55,800	0
Net Effect	(\$115,900)	(\$52,400)	(\$54,100)	(\$55,800)	\$0

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

Local Effect: Local government expenditures and revenues increase likely minimally and correspondingly, as they implement and enforce the new standards. Costs for local governments that maintain spas and pools may increase minimally to meet the standards.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Adoption of International Swimming Pool and Spa Code

MDL must adopt by regulation ISPSC as the Maryland Swimming Pool and Spa Standards. MDL must also adopt each subsequent version of the standards within 18 months after they are issued. Before adopting each version of the standards, MDL must, among other things, review specified portions of ISPSC to determine whether modifications should be made, consider specified changes to enhance energy conservation and energy efficiency, and follow specified procedures to receive public input.

Database Establishment and Additional Maryland Department of Labor Responsibilities

MDL must maintain a central automated database that includes, among other things, ISPSC standards and any local modifications to the standards and the electrical code standards used in the State. MDL must (1) make the information available to a local jurisdiction, State unit, or other interested party; (2) provide each local jurisdiction with the technology necessary to enable the local jurisdiction to access the information in the database; and (3) coordinate with specified entities in compiling the information.

MDL may charge a fee for information provided from the database but not for information provided to another State agency or local jurisdiction. Moreover, MDL may not charge a fee to a local jurisdiction for the ongoing maintenance of the database.

MDL must notify each local jurisdiction when there is a change to ISPSC and the impact the change will have on the local modifications to the standards. MDL may provide training for local swimming pool and spa officials on the standards and certify the participation of those officials in the training. On request, MDL must provide a local jurisdiction with technical assistance to implement and enforce the standards. MDL must consult with MDH on the implementation of the standards in relation to the regulation of the operation and maintenance of swimming pools and spas.

Local Responsibilities

Each local jurisdiction must implement and enforce the most current version of the standards. Generally, this responsibility rests with each county, but the bill establishes procedures that allow a municipal corporation to implement and enforce the standards instead. A local jurisdiction must ensure that its standards include specified administrative functions, including the issuance of permits and inspection of the work authorized by the permits.

A jurisdiction may modify the standards for that local jurisdiction; however, any such local modification may not weaken energy conservation and efficiency provisions contained in the standards. Any modification to the standards adopted by the State on or after December 31, 2022, must be implemented and enforced by a local jurisdiction within 12 months.

A local jurisdiction is expressly authorized to charge fees to cover the cost of implementation and enforcement of the standards and any local modifications therein.

Applicability and Limitations

The bill does not alter or abrogate the authority of the State Fire Prevention Commission to enforce the electrical code or the Public Service Commission to enforce the energy code. Further, the bill does not alter or abrogate specified authority of MDH related to the enforcement of standards for the design and construction (including additions, alterations, or repairs) of public swimming pools or the regulation of swimming pools and spas. Finally, the bill does not alter or abrogate any zoning power or related authority of a county or municipal corporation. The bill does not allow or encourage the State to initiate or assume an independent role in the administration and enforcement of the standards for a swimming pool or spa that is not owned or operated by the State. The bill does not apply to a swimming pool or spa built and operational before June 1, 2023, unless there is construction or renovation that results in a substantial and material structural change on or after June 1, 2023.

Current Law: Generally, a person may not operate a *public* pool or spa without an annual operating permit issued by the Secretary of Health. The Secretary (or the Secretary's designee) may enter public or private property to inspect and investigate pool conditions at a reasonable time. Local health departments conduct pool inspections.

ISPSC is a model code maintained by the International Code Council that regulates the minimum requirements for the design, construction, alteration, repair, and maintenance of swimming pools, spas, hot tubs, and aquatic facilities.

State law requires each electrical installation in the State to conform to either the National Electrical Code or the electrical code and amendments adopted by the county in which the electrical installation is done.

State Expenditures: General fund expenditures increase by \$115,908 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the cost of hiring one contractual administrator through fiscal 2026 to coordinate with local jurisdictions and other entities, assist with the development and adoption of the Swimming Pool and Spa Standards, and assist local governments and homeowners with questions and

concerns as the State begins to operate under the new standards. The estimate includes \$65,000 in fiscal 2023 only for legal services to help with the development and adoption of the regulatory standards. It also includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$39,380
Legal Services	65,000
Operating Expenses	<u>11,528</u>
Total FY 2023 State Expenditures	\$115,908

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses, and the termination of one-time costs, including legal services. MDL anticipates that, after fiscal 2026, the challenges and difficulties that accompany new regulatory standards will be greatly reduced and, as a result, MDL could absorb the duties established by the bill into its normal processes and the administrator would no longer be needed.

Local Fiscal Effect: Some local jurisdictions, such as Montgomery County, advise that their spa and swimming pool standards already mirror or closely resemble those required under ISPSC. For other local governments, expenditures increase, likely minimally, to implement and enforce the required pool and spa standards. However, any such costs may be recouped by fees that are authorized to be charged to cover their costs of implementation and enforcement.

The Maryland Association of County Health Officers does not anticipate that the bill has any material fiscal impact on local health departments, and that any operational impact (which would be related to inspections of pools) is absorbable within existing staff and resources.

Small Business Effect: Small businesses that install pools or spas are subject to enhanced regulatory processes and are likely to experience increased costs through additional time spent on projects and materials to implement new safeguards under the bill’s standards.

Additional Information

Prior Introductions: SB 254 of 2021, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 109, passed in the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: HB 303 (Delegate Stein, *et al.*) - Environment and Transportation.

Information Source(s): Harford, Montgomery, and Talbot counties; Maryland Association of County Health Officers; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Maryland State Department of Education; University System of Maryland; Maryland Department of Labor; Department of Natural Resources; Department of State Police; Public Service Commission; International Code Council; Department of Legislative Services

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