

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 92 (Senator Lam)
Education, Energy, and the Environment

Department of General Services – Energy–Conserving Standards (Maryland Sustainable Buildings Act of 2023)

This bill requires the Department of General Services (DGS) to (1) establish standards for State buildings to conserve energy and minimize adverse impacts on birds, as specified and (2) update the standards every five years. The Secretary of General Services must adopt regulations to carry out the bill.

Fiscal Summary

State Effect: The bill’s effect on construction and maintenance costs (all funds) cannot be reliably estimated, as discussed below; however, State utility costs may decrease over time. Revenues are not affected.

Local Effect: No material impact, although some local buildings financed with more than 50% State funds may be subject to the standards.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to buildings that are:

- acquired through any means by the State for use by a State agency or department;
- constructed or renovated by or for the State for occupancy by a State agency or department; or

- acquired, constructed, or renovated for which more than 50% of the money for the acquisition, construction, or renovation came from State funds.

The bill does not apply to (1) a public work contract valued at less than \$500,000; (2) a public work contract for which 50% or less of the funds used are State funds; or (3) a project for which funding is provided in the capital budget as a grant to a nonprofit organization.

The standards developed by DGS must be consistent with the U.S. Green Building Council's Pilot Credit 55 under the Leadership in Energy and Environmental Design (LEED) certification program and with the American Bird Conservancy's bird-friendly design recommendations; however, they may not include a requirement for bird collision monitoring. DGS must consider the physical and mental health of building occupants when developing or updating the standards. The Maryland Green Building Council (MGBC) must include the standards in any requirements that it establishes for participation in a higher performance building program in the State.

Except where full operation of building lighting is documented as necessary, including for public safety or other purposes, the standards must specify that interior and exterior lighting must be appropriately shielded and minimized from midnight to dawn during specified times of the year. Affected State buildings must meet the standards to the extent practicable and within budgetary constraints. DGS must reduce the lighting of existing State buildings to the extent practicable, and within budgetary constraints, by using automatic control technologies such as timers, photosensors, infrared detectors, and motion detectors.

Current Law: There are no provisions in State law to minimize the adverse impacts of State buildings on birds.

However, Chapter 124 of 2008 requires most new or renovated State buildings to be constructed as high-performance buildings, subject to waiver processes established by the Department of Budget and Management (DBM) and DGS.

Chapter 124 defines a high-performance building as one that:

- meets or exceeds the LEED criteria for a silver rating; or
- achieves a comparable numeric rating according to a nationally recognized, accepted, and appropriate standard approved by DBM and DGS. Based on a unanimous recommendation from MGBC, in 2017, DGS and DBM approved the use of the Green Globes rating system developed by the Green Building Initiative as an alternative to LEED silver.

Only new or renovated State buildings that are at least 7,500 square feet and are built or renovated entirely with State funds are subject to the high-performance requirement. Additionally, building renovations must include the replacement of heating, ventilation, air conditioning, electrical, and plumbing systems and must retain the building shell. Unoccupied buildings are exempt from the high-performance mandate, including warehouses, garages, maintenance facilities, transmitter buildings, and pumping stations. Under the bill, the standards developed by DGS must apply to high-performance buildings in the State.

State Expenditures:

Glass in State Buildings

DGS manages about two-thirds of State-owned buildings, with the University System of Maryland, the Maryland Department of Transportation, and other independent entities responsible for the remaining buildings. DGS constructs, substantially alters, or acquires between one and three buildings each year. Given the specificity of the LEED and American Bird Conservancy bird-safe building standards, DGS can likely implement the bill's standard-setting requirements with existing resources.

The effect of those standards on building construction and maintenance costs is less clear. The standards likely require replacing transparent structural glass with other materials that enhance energy efficiency and reduce adverse effects on birds. Replacing glass with other materials (concrete, etc.) likely has little to no effect on construction costs (except for reducing the market value of the building) and may reduce life-cycle costs (depending on building design and other environmental factors). However, replacing transparent glass with frosted or etched glass (to reduce bird collisions) can add substantially to the construction cost of a building. Similarly, adding netting, shutters, or other mitigating features can also add to construction and maintenance costs. Thus, reducing the amount of transparent glass allowed on a building's exterior may have minimal or substantial effects on construction costs, depending on how it is done. Similarly, it likely has positive effects on life-cycle costs but can also reduce the use of natural light and diminish the market value of a building.

Lighting in State Buildings

DGS has previously advised that the bill's requirement to lower lighting levels in State buildings applies to about 4,000 current State buildings, only about 23 of which, by its estimation, have the automatic control technologies mentioned in the bill. As DGS is supposed to reduce the lighting "to the extent practicable and within budgetary constraints," a reliable estimate of the cost of this provision is not feasible. If DGS determines it can only reduce lighting in buildings that currently have the technology, there is no fiscal effect (except potential reductions in State utility bills). However, if DGS determines that many more

buildings require the technology, the cost of installing it in a large number of buildings could be significant; some projects to install lighting controls in more State buildings are already underway.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 43 of 2022; HB 236 of 2021; and HB 192 and SB 299 of 2020.

Designated Cross File: HB 6 (Delegate Hill) - Health and Government Operations and Appropriations.

Information Source(s): Department of General Services; Department of Legislative Services

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