

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 49 (Chair, Environment and Transportation Committee)(By Request - Departmental - Environment)

Environment and Transportation Education, Energy, and the Environment

Environment - Building Energy Performance Standards - Alterations

This departmental bill makes various changes to provisions related to the building energy performance standards (BEPS) for covered buildings that the Maryland Department of the Environment (MDE) is charged with administering pursuant to the Climate Solutions Now Act (CSNA) (Chapter 38 of 2022). Among other things, the BEPS regulations that MDE must establish pursuant to current law must (1) include additional special provisions, exceptions, and exemptions; (2) establish an alternative compliance pathway (ACP) for the failure to meet energy use intensity (EUI) targets; (3) allow owners to request waivers from ACP fees; and (4) include an annual reporting fee. In addition, among other changes, the bill (1) alters the definition of “covered building”; (2) requires BEPS ACP fee revenue to be deposited into the Strategic Energy Investment Fund (SEIF) for specified uses; (3) prohibits MDE from imposing or collecting ACP fees or penalties until 2032; and (4) authorizes MDE to certify a county BEPS program under specified conditions.

Fiscal Summary

State Effect: Special fund revenues increase by at least \$690,000 in FY 2026 from fees; out-years reflect fee increases due to inflation. The FY 2026 budget as introduced includes \$1.0 million in special funds for MDE contingent upon the enactment of legislation to establish a BEPS annual reporting fee. Thus, special fund expenditures increase by \$1.0 million in FY 2026; out-years reflect anticipated costs to implement the bill’s requirements. State expenditures (multiple funds) increase to pay the annual reporting fee beginning in FY 2026. Other future effects, including effects on SEIF, are described below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	\$690,000	\$703,800	\$717,900	\$732,200	\$746,900
SF Expenditure	\$1,000,000	\$960,800	\$597,000	\$623,700	\$650,200
Exp. (Mult. Funds)	-	-	-	-	-
Net Effect	(-)	(-)	-/(-)	-/(-)	-/(-)

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

Local Effect: For any county that adopts county BEPS pursuant to the bill, county revenues increase, potentially significantly, from the collection of ACP fees/penalties; county expenditures may also increase to develop and enforce county BEPS. Local expenditures increase to pay the annual reporting fee beginning in FY 2026. Future effects are discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment due to the amendments, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law:

Climate Solutions Now Act

In general: CSNA made broad changes to the State’s approach to reducing statewide greenhouse gas (GHG) emissions and addressing climate change. Among other things, CSNA accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Building Energy Performance Standards: To accomplish these goals, among other things, *under current law and the bill*, CSNA requires MDE to develop BEPS for covered buildings that achieve (1) a 20% reduction in net direct GHG emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and (2) net-zero direct GHG emissions by January 1, 2040. To facilitate the development of these BEPS, MDE must require owners of covered buildings to measure and report direct emissions data to the department each year beginning in 2025. The provision requiring MDE to set a standard that achieves net-zero direct GHG emissions for covered buildings terminates December 31, 2029.

Under current law and the bill, “covered building” means a building that (1) has a gross floor area of 35,000 square feet or more, excluding the parking garage, and (2) is a commercial or multifamily residential building in the State or is owned by the State. *Under current law*, the term does not include (1) a building designated as a historic property under federal, State, or local law; (2) a public or nonpublic elementary or secondary school building; (3) a manufacturing building; or (4) an agricultural building. *Under the bill*, those

exclusions are modified; specifically, “covered building” does not include (1) a building designated as a historic property under federal, State, or local law; (2) a public or nonpublic elementary or secondary school building; (3) *a hospital*; (4) *a building in which 50% or more of the building’s gross floor area is used for manufacturing (instead of a manufacturing building)*; or (5) an agricultural building.

Implementing Regulations: CSNA required MDE to adopt regulations to implement BEPS by June 1, 2023. MDE initiated the regulatory promulgation process to implement the required BEPS regulations in December 2023, but ultimately withdrew the regulations in December 2024. MDE finalized a second round of BEPS regulations that took effect December 23, 2024. The regulations establish BEPS and related benchmarking and reporting requirements under COMAR 26.28. However, the regulations do not include EUI standards. Under the regulations, beginning in calendar 2025, owners of covered buildings are required to report benchmarking information for the previous calendar year by June 1.

The fiscal 2025 budget as enacted included language restricting funding for the final development and submission of EUI targets and standards regulations until MDE submits, among other things, a report on EUI costs and alternatives to EUI for meeting GHG targets.

Under current law, among other requirements, the regulations must meet several specified requirements, including that the regulations must include (1) EUI targets by building type and (2) special provisions or exceptions to account for building age, regional differences, the unique needs of particular building or occupancy types (as specified), and the use of district energy systems and biofuels by covered buildings. *Under the bill*, in addition to those special provisions or exceptions, the regulations must include special provisions or exceptions to account for (1) crediting the generation of on-site renewable energy by covered buildings toward their EUI targets; (2) crediting the GHG reduction impact of the on-site use of biomethane; (3) excluding the energy use and GHG emissions related to the production of steam for sterilization in – and the generation of emergency backup power at – specified facilities, laboratories, critical infrastructure, and buildings; and (4) operational needs, including scaling factors to adjust for different operating hours.

Under current law and the bill, the regulations must also consider the needs of covered building owners who (1) are not responsible for the design, modification, fixtures, or equipment of commercial tenants; (2) do not have access or control over building energy systems that are used or controlled by commercial tenants; or (3) own buildings occupied by commercial tenants who are responsible for all maintenance of and repairs to the buildings.

Under the bill, the regulations also must exempt from EUI targets, a covered building that contains an area designed, built, and operated as a permanent sensitive compartmented

information facility and is operated by an agency or contractor of the U.S. General Services Administration, the U.S. Department of Defense, the National Security Agency, the U.S. Department of Homeland Security, any other U.S. intelligence agency, or the State. Additionally, the regulations must exempt an owner of such a covered building from EUI reporting requirements if the tenant or occupant does not provide energy use information to the owner of the covered building due to concerns about the confidentiality of the building's secure area.

Under current law, the regulations must also include an ACP allowing an owner of a covered building to pay a fee for GHG emissions attributable to the building's failure to meet direct GHG emissions reduction targets. *Under the bill*, the regulations must also include an ACP allowing an owner of a covered building to pay a fee of 5 cents per British Thermal Unit (BTU) of energy, adjusted for inflation as specified, for energy use attributable to the building's failure to meet EUI targets. In addition, *under the bill*, the regulations must allow an owner of a covered building to request a one-time waiver (for the entire building) from paying an ACP fee for either the building's failure to meet direct GHG emission reduction targets or EUI targets. The waiver may be requested through not later than 2039 for energy or emissions attributable to continued operation of equipment installed before 2025 for the expected average remaining lifespan of that equipment, as identified by a publicly available database selected by MDE. A waiver request must be submitted at least one year before the requested waiver would take effect and must include specified information, including a plan prepared by a trained energy auditor that details the dates that specific projects will be completed and the EUI and GHG emissions savings that will result from the projects. An owner requesting a waiver must also pay a fee to cover the cost for MDE or its contractor to review the plan.

Further, *under the bill*, the regulations must allow a covered building owner to request a waiver from paying ACP fees for energy use or GHG emissions associated with energy or emissions reduction measures that MDE determines to be "impracticable" or "economically infeasible" (as those terms are defined) by, among other things, submitting – at least one year before the requested waiver would take effect – a specified engineering study prepared by a trained energy auditor. An owner requesting such a waiver must also pay a fee to cover the cost for MDE or its contractor to review the study.

Finally, *under the bill*, the regulations must include an annual reporting fee of \$100 per covered building, adjusted for inflation, to cover the administrative costs of the BEPS program.

Additional Provisions Related to Alternative Compliance Pathway Fees and Penalties for Failure to Meet Building Energy Performance Standards

Fee Amount: Under current law, MDE may not set an ACP fee that is less than the social cost of GHG adopted by MDE or the U.S. Environmental Protection Agency. *The bill* specifies that this minimum amount is \$190 per metric ton of excess carbon dioxide equivalent (CO_{2e}), adjusted for inflation using 2020 as the baseline year for calculating the adjustment. *Current regulations* set the fee at \$230 per metric ton of excess CO_{2e} in 2020 dollars, adjusted for inflation, in 2030. The fee increases each year, as specified in current regulations; by 2040, the fee is \$270 per metric ton of excess CO_{2e} in 2020 dollars, adjusted for inflation. In each calendar year following 2040, the fee rate increases by \$4 per metric ton of CO_{2e} per calendar year in 2020 dollars, adjusted for inflation. *Under the bill*, if a covered building exercises the ACP fee option for both direct GHG emissions targets and EUI targets, MDE must collect only the higher of the two fees.

Determinations and Length of Waivers: Under the bill, A waiver for a covered building owner from paying ACP fees for energy use or GHG emissions associated with energy or emissions reduction measures that MDE determines to be impracticable or economically infeasible remains in effect for five years and may be renewed. When making a determination on such a waiver request, MDE must consider (1) only the higher of the two fees when calculating avoided compliance pathway payments (if a covered building exercises the ACP fee option for both direct GHG emissions targets and EUI targets) and (2) the availability of capital.

Prohibition on Imposition and Collection of Alternative Compliance Fees and Penalties Until 2032: Under the bill, MDE may not impose and collect ACP fees or penalties for failure to achieve BEPS until 2032. This prohibition does not apply to the imposition and collection of penalties for failure to meet any reporting requirements under the BEPS provisions.

Training for Energy Auditors

Under the bill, MDE must (1) offer training to help qualified energy auditors understand the regulations adopted by MDE to implement BEPS, including requirements for alternative compliance plans and engineering studies and (2) include a fee to cover the cost for MDE or its contractor to provide the training. MDE must publish a list of energy auditors who have completed the training. An owner of a covered building that seeks a waiver from paying ACP fees pursuant to the bill must contract with an energy auditor that completed the MDE training to submit an engineering plan or study in conjunction with an ACP waiver request.

Certification of a County Building Energy Performance Standards Program

Under the bill, MDE is authorized to certify a BEPS program adopted by a county and waive the requirement for a covered building to comply with the statewide program when (1) MDE determines, based on a demonstration from the county, that the county has adopted a BEPS program that is at least as stringent as the statewide program and (2) the county annually submits to MDE a complete list of covered buildings, including their EUI, direct GHG emissions, and compliance status with the county BEPS program. A county administering an MDE-certified BEPS program is authorized to take appropriate actions to enforce the county standards, including establishing ACPs for compliance and imposing and collecting ACP fees and penalties in the same amount and manner allowed by MDE, as specified.

A county is not precluded from adopting BEPS for buildings that are not covered buildings under the statewide program.

Affidavit Required for Owners of Covered Buildings Exempt from Energy Use Intensity Targets under the Bill

Under the bill, an owner of a covered building that is exempt from EUI targets must provide an affidavit signed by an officer or principal controlling member, shareholder, or partner of the owner of the covered building that provides the address for each exempted building and a statement confirming that the building meets the standards for exemption. The information submitted to MDE pursuant to this provision is exempt from disclosure in accordance with a provision of the Maryland Public Information Act that requires a custodian to deny inspection of a public record under specified conditions.

Strategic Energy Investment Fund

Under current law and the bill, SEIF, which is administered by the Maryland Energy Administration (MEA), is generally funded through the proceeds from the auction of carbon allowances under the Regional Greenhouse Gas Initiative; SEIF also receives ACP revenues generated under Maryland's renewable energy portfolio standard and will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

Under current law and the bill, among other specified uses, MEA must use SEIF to invest in the promotion, development, and implementation of (1) cost-effective energy efficiency and conservation programs, projects or activities; (2) renewable and clean energy resources; (3) climate change programs directly related to reducing or mitigating the effects of climate change; and (4) demand response programs that are designed to promote changes in electric usage by customers, as specified. SEIF must also be used to provide targeted

programs, projects, activities, and investments to reduce electricity consumption by customers in low-income and moderate-income residential sectors.

Under the bill, MDE must deposit ACP fees collected under the BEPS provisions into SEIF; the bill makes a conforming change to the statute governing SEIF to allow for such ACP payments to be deposited into the fund. ACP payment proceeds deposited into SEIF must be used to provide grants and loans to help owners of covered building comply with the BEPS regulations; however, 10% of the ACP payments deposited into SEIF may be used to administer the grants and loans.

Background: MDE advises that the department plans to adopt EUI standards in regulations following the submission of the required report to the General Assembly and the calculation of EUI standards based on data reported to MDE in 2026. MDE notes that EUI standards are important for promoting efficient electrification to enable Maryland's clean energy transition, minimize electricity grid impacts, and achieve Maryland's goal of net-zero GHG emissions by 2045. MDE anticipates that adding an ACP to meet EUI targets will introduce flexibility that allows building owners to evaluate the cost-effectiveness of various energy efficiency projects and ultimately assist owners with EUI compliance.

MDE advises that it needs additional revenue to cover its administrative costs to implement the BEPS program (including costs to purchase software and hire staff to provide technical support to building owners). The fee revenue generated by the bill assists in covering at least some of those costs.

The Montgomery County Council adopted county BEPS in February 2025. The Montgomery County BEPS cover most commercial and multifamily buildings that are at least 25,000 gross square feet. Covered buildings are grouped by size and type. The grouping dictates when buildings begin benchmarking, their baseline periods, and the interim and final performance standard deadlines. The county has information about the Montgomery County BEPS on its [website](#).

State/Local Fiscal Effect:

Reporting Fee Revenues (and Other Fee Revenues) for the Maryland Department of the Environment

Special fund revenues for the Maryland Clean Air Fund within MDE increase by at least an estimated \$690,000 in fiscal 2026, increasing to a minimum of \$746,900 by fiscal 2030 (due to increases in the fee for inflation, as provided by the bill). This minimum estimate,

which reflects revenue collected by MDE *only due to the annual reporting fee*, is based on the following information and assumptions:

- there are an estimated 8,500 covered buildings in the State, under the bill's changes;
- buildings exempted from the statewide BEPS program due to the establishment of a county BEPS program are also exempt from paying the reporting fee; assuming Montgomery County's BEPS program is certified by MDE under the bill, approximately 1,600 covered buildings under that county program do not pay the annual reporting fee;
- an estimated 6,900 owners of covered buildings pay the \$100 annual reporting fee each year; and
- MDE promulgates the regulations and begins collecting the annual reporting fee at the end of fiscal 2026, when covered buildings owners are required to report their calendar 2025 data (by June 1, 2025).

Special fund revenues increase further from the fees that MDE is required to establish to cover its costs – or the costs of a contractor – to train energy auditors and to review plans and engineering studies submitted with waiver requests. However, a reliable estimate of the timing and amounts of any such fee revenues cannot be made at this time and are not reflected in this analysis. Therefore, special fund revenues from fees collected by MDE under the bill are higher than the revenue estimates provided above.

DLS notes that these effects are only due to the fee provisions as discussed above; the future effects on MDE's special fund revenues due to the bill's changes to ACP provisions are discussed separately below.

Budgeted Funding and Administrative Costs for the Maryland Department of the Environment

Budgeted Funding and Use of Special Funds: The fiscal 2026 budget as introduced includes \$1.0 million in special funds for MDE contingent on the enactment of legislation to establish a BEPS annual reporting fee, which this bill effectuates. Thus, this analysis reflects a special fund expenditure increase of \$1.0 million in fiscal 2026. However, MDE advises that it does not incur administrative costs (to implement the bill's changes *or* the BEPS program in general, as established by CSNA) until fiscal 2027. Therefore, even though MDE is authorized to spend \$1.0 million in fiscal 2026 due to the contingent special fund appropriation, this analysis assumes that the appropriation is not fully expended in fiscal 2026 and that MDE retains some portion of the fiscal 2026 reporting fee revenues, thereby leaving a fund balance that MDE can use to cover its administrative costs in fiscal 2027 (which are estimated to be greater than the fee revenues MDE collects in that year, as discussed below). Beginning in fiscal 2028, estimated special fund revenues

exceed the estimated costs for MDE to implement the bill’s requirements. *Other costs to implement BEPS that are likely not fully covered by the fee revenue generated by the bill are discussed below.*

Administrative Costs to Implement the Bill: As noted above, MDE does not anticipate hiring employees or incurring related operating costs to implement the bill until fiscal 2027. To that end, MDE special fund expenditures increase by \$960,817 in fiscal 2027, which reflects the cost of hiring five regulatory and compliance engineers and one administrator (on July 1, 2026) to (1) review exemption requests; (2) annually review and update forms, review and sample reported data, conduct inspections as necessary, and ensure that benchmarking reports accurately reflect the various exclusions and exemptions under the bill; (3) perform procurement and contracting work for contractual services necessary to implement the bill and oversee contracts to review waiver request plans and studies; (4) offer energy auditor training and publish a list of trained energy auditors; and (5) generally implement the expanded requirements and BEPS provisions under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

The estimate also includes costs to hire a contractor to conduct studies and make modifications to the benchmarking tool to incorporate additional waivers, exemptions, and considerations into BEPS standards. Specifically, MDE needs contractual assistance to (1) conduct a study to identify a standard deduction for steam sterilization in order to exclude the energy use and GHG emissions related to the production of steam sterilization in specified facilities; (2) conduct a study to evaluate how the operational hours of buildings affect their energy use and emissions in order to produce scaling factors for different operating hours; and (3) customize its compliance and covered building tracking and benchmarking tools to track exempted equipment and buildings so that MDE can implement the additional special provisions, exceptions, and exemptions from BEPS requirements established under the bill.

Positions	5.0
Salaries and Fringe Benefits	\$564,880
Contractual Costs	350,000
Other Operating Expenses	<u>45,937</u>
Total MDE 2027 Admin. Expenditures	\$960,817

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Future year estimates do not include additional costs anticipated to be incurred to hire a contractor to review waiver request plans and studies, as the timing and costs associated with that effort are unclear at this time. In any event, as noted above, the bill requires MDE to establish a fee to cover its (or its contractor’s) costs related to reviewing waiver request plans and studies.

Other Ongoing Costs of the Building Energy Performance Standards Program: DLS notes that although the annual reporting fee revenues generated by the bill are anticipated to cover MDE's costs to implement *the bill's changes to BEPS*, the fee revenue will *not* be sufficient to cover the additional anticipated costs MDE expects to incur beginning in fiscal 2027 related to the general implementation of BEPS as established by CSNA.

Specifically, MDE advises that – *in addition* to the positions discussed above that are needed to implement the requirements of *the bill* – it needs to hire six employees (five regulatory and compliance engineers and one Assistant Attorney General) at the start of fiscal 2027 to administer the BEPS program and to establish and maintain an online reporting system for covered buildings, *as required by current law*. Associated administrative expenditures are anticipated to total \$880,332 in fiscal 2027, increasing to \$912,068 by fiscal 2030. The fiscal 2027 estimate reflects salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including costs to establish an online reporting system (\$225,000). Future year estimates reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including costs to maintain the online reporting system. Therefore, because this bill establishes *new* administrative responsibilities for MDE, even with the estimated revenue anticipated to be generated from the annual reporting fees, MDE does not have sufficient available special funds to fully implement the BEPS program.

Future State Fiscal Effects Resulting from the Bill's Changes to the Alternative Compliance Pathway Provisions

Changes to the Timing and Collection of Alternative Compliance Pathway Fees: Pursuant to CSNA and its implementing regulations, under current law BEPS provisions, beginning in calendar 2030, owners of covered buildings may come into compliance with net direct emissions standards by paying an ACP fee for GHG emissions in excess of the standards. The bill makes several changes that affect the timing and amount of ACP fees collected. Notably, under the bill, (1) MDE may not impose or collect any ACP fees until 2032 (fiscal 2033); (2) certain buildings are excluded from the definition of “covered building”; (3) owners of certain covered buildings are able to request waivers from paying ACP fees; (4) additional special provisions, exceptions, and credits are incorporated into BEPS standards; (5) owners of covered buildings are allowed to pay a 5-cent per BTU ACP fee for energy use attributable to the building's failure to meet EUI targets, though certain buildings are exempt from meeting EUI targets (and paying the associated ACP fee if they fail to do so); (6) owners of covered buildings are not required to pay ACP fees for *both* the failure to meet direct GHG emissions reduction targets *and* EUI targets – instead, owners only need to pay the higher of the two fees; and (7) MDE is authorized to certify county BEPS (and owners of covered buildings in a county with a certified county BEPS program will pay any ACP fees to the county and not the State).

Although a reliable estimate of the effect of the bill's changes cannot be made at this time – in part because an estimate of ACP fee revenues anticipated under current law is not available – ACP fee revenues are delayed, likely until fiscal 2033, under the bill; under current law, ACP fee revenues are anticipated to begin accruing in fiscal 2031. In addition, ACP fee revenues collected at that time for failure to meet direct GHG emissions reduction targets are reduced from what they would have been in the absence of the bill (primarily due to the bill's waiver provisions). MDE anticipates, and DLS concurs, that the decrease in ACP fee revenues collected for failure to meet direct GHG emissions reduction targets is likely significant.

In addition, the bill redirects ACP fee revenues from the Maryland Clean Air Fund (in MDE) to SEIF (in MEA). Thus, special fund revenues for the Maryland Clean Air Fund decrease beginning in fiscal 2031.

Strategic Energy Investment Fund – Alternative Compliance Pathway Fee Revenue and Associated Grants and Loans: The amount of special fund revenues collected in the future from ACP fees – and deposited into SEIF under the bill – is unknown. However, ACP fee revenues may be significant once collection begins (likely not before fiscal 2033 under the bill). Thus, SEIF revenues for MEA may increase significantly, likely not before fiscal 2033, from ACP fees paid by owners of covered buildings that fail to meet BEPS standards.

Special fund expenditures increase correspondingly each year for MEA to issue grants and loans to help owners of covered building comply with BEPS regulations, as required by the bill. Any future administrative costs for MEA are presumably covered by the bill's provision that authorizes up to 10% of ACP payments to SEIF to be used for administration.

County Impacts Related to the Establishment of County Building Energy Performance Standards

For any county that adopts county BEPS, county revenues from ACP fees and penalties increase, potentially significantly (assuming the county establishes such fees and penalties). As noted above, due to the deadlines established in statute and regulation, MDE does not anticipate beginning to collect ACP fees (under current law) from covered building owners under BEPS until at least fiscal 2031 (although under the bill, collection of ACP fees under the statewide program is delayed until fiscal 2033). Under the bill, it is not clear whether county ACP fees and penalties may be imposed and collected earlier than under the statewide program. (The bill authorizes a county with a certified county BEPS to impose and collect ACP fees and penalties in the same amount and manner allowed by MDE but does not explicitly address the timing of the imposition of such fees and

penalties.) Ultimately, the collection of any ACP fees and penalties under a county BEPS depends on the specifics of the county BEPS and cannot be predicted in advance.

Any county that adopts its own BEPS likely incurs costs to develop and implement their county BEPS. However, the development and adoption of county BEPS under the bill is voluntary. In addition, in at least some counties, such as Montgomery County, the development of county standards is occurring or may occur even in the absence of the bill.

State/Local/Small Business Effect as Owners of Covered Buildings

Owners of covered buildings could include State agencies, local governments, and small businesses. The bill makes far-reaching changes to the implementation of BEPS for owners of covered buildings, the effects of which cannot be reliably estimated at this time; however, overall, the bill is anticipated to reduce compliance costs. Reduced compliance costs are likely significant for some building owners, particularly those that are no longer subject to BEPS (due to the change in the definition of “covered building”), exempt from EUI targets, and/or able to obtain a waiver from payment of ACP fees. Some of the changes that likely have fiscal implications on owners of covered buildings are described below.

Annual Reporting Fee: State agencies, local governments, and any small businesses that own affected covered buildings are subject to the annual reporting fee that must be established by MDE under the bill. Thus, expenditures for affected entities increase beginning in fiscal 2026 to pay the fee, which is \$100 in fiscal 2026 and increases over time due to inflation.

Changes to the Alternative Compliance Pathway Provisions: Costs to pay any ACP fees (that otherwise would have been paid for failure to meet the direct GHG emissions reduction targets) are delayed under the bill from fiscal 2031 to 2033. In addition, as noted above, for some building owners, ACP fees are waived and/or eliminated.

State agencies, local governments, and small businesses may also be affected by the bill’s requirement for MDE to establish an ACP for EUI targets; as early as fiscal 2033, affected building owners are allowed to pay ACP fees, as applicable, for energy use attributable to their buildings’ failure to meet EUI targets. A reliable estimate of any impact on owners of covered buildings resulting from the ACP for EUI targets is not feasible; however, the changes are anticipated to reduce compliance costs.

In addition, owners of covered buildings are not required to pay ACP fees for *both* the failure to meet direct GHG emissions reduction targets *and* EUI targets – instead they only need to pay the higher of the two fees.

For an owner of a covered building that submits a request for an ACP fee waiver, the owner must contract with a trained energy auditor to complete a plan or engineering study related to the waiver request. MDE is required to establish a fee to cover its (or its contractor's) costs related to reviewing such plans and studies. Accordingly, owners that submit waiver requests must pay those fees, but, if the waivers are granted, they do not have to pay ACP fees for the duration of the waiver.

Grants and Loans to Assist with Building Energy Performance Standards Compliance: The bill requires MEA to use the ACP payment proceeds that are deposited into SEIF to provide grants and loans to help owners of covered buildings comply with the BEPS regulations. As a result, owners of covered buildings benefit from any grants and loans received. Any such effects likely do not occur until at least fiscal 2033, when ACP fees are anticipated to begin accruing under the bill.

County Building Energy Performance Standards: Because the standards established under any county BEPS must be *at least as stringent* as the statewide BEPS, affected building owners in affected counties may be subject to more stringent standards, which could mean higher compliance costs. The implementation of statewide BEPS has begun, and covered building owners across the State have begun planning and, in some cases, making decisions and implementing measures to comply with BEPS. For any affected building owners in counties that adopt county BEPS under the bill, there may be additional costs to update plans or implement different measures to meet the (potentially more stringent) county standards. In addition, it is possible that a county might establish earlier deadlines for compliance (including the payment of ACP fees and penalties), which could lead to higher near-term costs for owners. In addition, county BEPS may apply to more building owners than those included in the definition of “covered building” under BEPS (as altered by the bill).

Additional Small Business Effects

In addition to the effects discussed above that are relevant to small businesses as owners of covered buildings, the bill establishes business opportunities for energy auditors; however, in order to be eligible to conduct work under the bill, any such individuals need to attend the training developed by MDE and pay the fee that MDE establishes for such training. Small businesses may also benefit from potential opportunities to contract with MDE to review the plans and engineering studies submitted with waiver requests.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 256 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Environment) - Education, Energy, and the Environment.

Information Source(s): Anne Arundel, Cecil, Frederick, Montgomery, and Prince George's counties; Baltimore City; City of Frederick; Maryland Association of Counties; Maryland Municipal League; University System of Maryland; Morgan State University; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment - Building Energy Performance Standards - Compliance and Reporting

BILL NUMBER: HB 49

PREPARED BY: Hadley Anthony

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

To the extent that this bill has an economic impact on Maryland's small businesses, it will provide more flexibility to comply with BEPS regulations. This flexibility will lead to cost saving measures that otherwise would not be available without the alternative compliance outlined in this bill.