

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 422

(Chair, Environmental Matters Committee)(By Request -
Departmental - Environment)

Environmental Matters

**Department of the Environment - Lead Paint Renovation Training - Regulatory
Authority**

This departmental bill expands the Lead Poisoning Prevention Program at the Maryland Department of the Environment (MDE) in order to qualify for a delegation of authority from the U.S. Environmental Protection Agency (EPA) to implement new federal regulatory standards governing the performance of renovations in a “target building.” MDE is required to establish reasonable accreditation fees for those involved with renovations or renovation training; fees are paid into the existing Lead Accreditation Fund, which is modified by the bill to allow MDE to use the fund for activities related to renovation.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Special fund expenditures by MDE increase by an indeterminate amount, but likely more than \$100,000 annually, beginning in FY 2011 to expand the Lead Poisoning Prevention Program assuming MDE is delegated authority from EPA. Special fund revenues from additional accreditation fees increase correspondingly. Federal fund revenues may increase in FY 2011, but only if EPA provides a grant to partially offset MDE’s costs.

Local Effect: The bill does not materially affect local operations or finances. The criminal penalty provisions applicable to the bill are not expected to significantly affect local expenditures.

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill authorizes MDE to adopt regulations governing the performance of renovations in a “targeted building” (a residential, industrial, commercial, or public building constructed before 1978). “Renovation” means the modification of an existing structure, or portion of a structure, that results in the disturbance of a painted surface, and includes several specified activities.

The regulations may include (1) accreditation or training of persons who perform renovations and those who train others to perform renovations; (2) safe work practice standards for renovations in target buildings as well as post-renovation clearance testing; (3) the establishment of accreditation and training fees; (4) requirements for reporting, recordkeeping, and distribution of educational materials; and (5) exemptions for specific types of renovation activities or target buildings.

Current Law: Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older rental properties. The program also provides for limited compensation to children who are poisoned by lead.

By December 31, 1995, the owner of an affected property must have registered that property with MDE. An affected property is one that is built before 1950 or owned by a person electing to comply with the reduction of lead risk in housing subtitle of the Environment Article. An owner who first acquires affected property after December 31, 1995, must register the property within 30 days of acquisition. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments.

MDE is required to set reasonable fees for the accreditation of those who provide lead paint abatement services sufficient to cover its administrative costs. Such fees are paid into the Lead Accreditation Fund, along with specified fines and penalties. MDE is authorized to seek other funding sources for credit to the fund. MDE is directed to use the fund for activities related to processing, monitoring, and regulating the accreditation of lead paint abatement services and for program development.

Various administrative, civil, and criminal penalties apply to violations of the provisions governing lead paint abatement accreditation.

Background: Currently, only those who perform lead paint abatement services for the express purpose of reducing or eliminating lead paint hazards are required to be accredited by MDE. New federal regulations published in April 2008 that take effect in April 2010 will affect a wider array of workers and contractors who work in a broader scope of activities. EPA regulations will require proper training and accreditation of any worker who disturbs painted surfaces in housing built before 1978 and in child-occupied facilities. According to MDE, EPA has signaled its intention to further expand its regulation of renovation activities to encompass commercial, industrial, and other types of pre-1978 buildings. Accordingly, this bill provides broad authority to MDE to regulate these additional activities in order to avoid the need for future legislation.

MDE is seeking a delegation of authority by EPA to implement the new regulations. According to MDE, Maryland is considered a national leader in lead poisoning prevention, and delegated authority to implement the new federal regulations would be consistent with its ongoing efforts in this area.

According to the federal Centers for Disease Control and Prevention (CDC), adverse health effects exist in children at blood lead levels less than 10 micrograms per deciliter. No treatments are known to lower the blood lead levels for children with lead levels less than 10 micrograms per deciliter. Measuring blood levels below the 10 micrograms per deciliter threshold is difficult. Therefore, although CDC warns there are no safe blood lead levels, the 10 micrograms per deciliter threshold is the standard measure at which statistics are reported.

According to the most recent data available, the number of children with elevated blood lead levels has been decreasing at both the State and national level. At the State level, out of the 106,452 children 0 to 72 months of age tested for lead in 2008, 713 (0.7%) were found to have blood lead levels greater than 10 micrograms per deciliter. This compares with 23.9% in 1993, the first year in which this data was tracked, and is the sixteenth straight year in which the rate has dropped. According to MDE, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland.

State Fiscal Effect: MDE advises that expenditures will increase by an indeterminate amount annually to implement the program if delegated authority from EPA. While MDE has not provided more precise information, Legislative Services advises that the cost is likely significantly greater than \$100,000 annually. This assumption is based in part on previous estimates of personnel costs for MDE inspection and enforcement programs. It is also based on a statement from MDE that the potential \$75,000 grant

from EPA in fiscal 2011 to implement the program would only be a “small amount of initial funding.”

Because current law, which is expanded under the bill to include renovation, requires MDE to set reasonable accreditation fees to offset its costs, it is assumed that special fund revenues from accreditation fees increase correspondingly. The existing penalty provisions applicable to the bill are not expected to significantly affect State finances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Centers for Disease Control and Prevention; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2010
ncs/lgc

Analysis by: Evan M. Isaacson

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of the Environment – Lead Paint Renovation Training –
Regulatory Authority

BILL NUMBER: HB 422

PREPARED BY: Maryland Department of the Environment

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

The proposed legislation will have no impact on small business in Maryland.