



Maryland
Hospital Association

**Senate Bill 256 - Environment - Building Energy Performance Standards –
Compliance and Reporting**

Position: *Support with Amendments*

February 13, 2025

Senate Education, Energy and the Environment Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment in support with amendments of Senate Bill 256.

While hospitals support efforts to combat climate change, the unique nature of hospitals—and the potentially deadly consequences of power failure on patient safety—requires special consideration for an exemption from the Climate Solutions Now Act of 2022 (Act). These conditions include care settings like intensive care units, surgical operating rooms, and emergency departments that need continuous and guaranteed access to power; HVAC systems that must meet strict ventilation requirements; and steam generation sufficient to disinfect and sanitize medical equipment.

For example, hospitals are subject to strict ventilation requirements that require intensive energy use. The Centers for Medicare & Medicaid Services (CMS) regulate air pressure, exchange rate, relative humidity, and temperature range in different areas of the hospital. In addition to ensuring patient comfort, temperature, humidity, and other atmospheric variables must be carefully regulated to minimize bacterial and fungal growth. Failure to adhere to these federal standards may jeopardize patient health and subject hospitals to potential civil monetary penalties from CMS.

The Act included a special provision for hospitals. It created a new Section 2-1602(c)(2)(ii)(3) under the Environment Article, which provided that regulations promulgated under the Act shall include special provisions or exceptions to account for the unique needs of health care facilities. Despite good faith conversations with the Department, participation in meetings, and comments submitted on draft regulations, hospitals' concerns over the state of existing technology, cost, return on investment, and ability to meet the goals were not taken into consideration and the regulations were passed without the special exemptions authorized by the Act as passed. Given the exhaustion of these efforts, MHA believes it is the appropriate time and manner to clarify and strengthen the exemptions for hospitals in statute by amending SB 256.

It's important to note that financing for capital projects—such as buying new equipment or retrofitting existing infrastructure to meet net-zero standards—is not part of the annual revenue

adjustments. The current Model does not account for expenses necessary to comply with the proposed BEPS, and hospitals would need new funding sources to help meet the new standards.

Given all the above, hospitals need to be exempted from being a covered building and assured critical equipment for steam and backup generation are exempted as well. Amendments No. 1 and No. 2 below achieve those goals. As an alternative to the first two, we proposed amendment No. 3. For these reasons, we request a favorable with amendments report on SB 256.

For more information, please contact:
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MHA's Proposed Amendments

The following amendments address concerns that MHA previously raised that have not been properly addressed in the Climate Solutions Act of 2022 or the promulgation of regulations that followed its passage:

Amendment No. 1: This amendment achieves MHA's primary goal of exemption. It exempts the health care sector and more specifically hospitals from the definition of a covered building.

MD. Code Ann. Environment §2-1205

(F) In developing and adopting a final plan to reduce statewide greenhouse gas emissions, the Department shall consult with State and local agencies as appropriate.

(G) (1) Unless required by federal law or regulations or existing State law, regulations adopted by State agencies to implement a final plan may not:

- (i) Require greenhouse gas emissions reductions from the State's manufacturing **OR HEALTHCARE** sector; or
 - (ii) Cause a significant increase in costs to the State's manufacturing **OR HEALTHCARE** sector.
- (2) Paragraph (1) of this subsection may not be construed to exempt greenhouse gas emissions sources in the State's manufacturing **OR HEALTHCARE** sector from the obligation to comply with:
- (i) Greenhouse gas emissions monitoring, recordkeeping, and reporting requirements for which the Department had existing authority under § 2–301(a) 7 of this title on or before October 1, 2009; or
 - (ii) Greenhouse gas emissions reductions required of the manufacturing **OR HEALTHCARE** sector as a result of the State's implementation of the Regional Greenhouse Gas Initiative.

(H) A regulation adopted by a State agency for the purpose of reducing greenhouse gas emissions in accordance with this section may not be construed to result in a significant increase in costs to the State's manufacturing **OR HEALTHCARE** sector unless the source would not incur the cost increase but for the new regulation.

MD. Code Ann. Environment §2-1601

(E) (2) “Covered building” does not include:

(I) a building designated as a historic property under federal, state, or local law;

(II) a public or nonpublic elementary or secondary school building;

~~(III) A HOSPITAL;~~

~~(III) (IV) a manufacturing building; or~~

~~(IV) (V) an agricultural building.~~

Amendment No. 2: This amendment exempts specific hospital equipment. For example, hospital medical equipment must be disinfected to prevent infection. While there are several sterilizing methods, steam and heat remain prevalent in hospitals. Energy use to generate steam or increase heat to the requisite temperature necessary to eliminate pathogens must be available to safeguard patient safety.

MD. Code Ann. Environment §2-1602

(E) In calculating the statewide standards developed by the department under this section, an owner of a covered building may not consider greenhouse gas emissions or energy use by a commercial tenant of the covered building that:

(1) is a food service facility as defined in COMAR 10.15.03.02; and

(2) engages in commercial cooking and water heating. **OR**

(3) GENERATES STEAM FOR ESSENTIAL SYSTEMS OF A HEALTHCARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, SCIENTIFIC RESEARCH FACILITY, CRITICAL INFRASTRUCTURE, AND A BUILDING USED IN LIFE SCIENCES; OR

(4) PROVIDES BACKUP GENERATION FOR ESSENTIAL SYSTEMS OF A HEALTHCARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, SCIENTIFIC RESEARCH FACILITY, CRITICAL INFRASTRUCTURE, AND A BUILDING USED IN LIFE SCIENCES

Amendment No. 3: This amendment is being proposed as an alternative to the first two. Hospitals would prefer to be exempted from being a covered building and assured critical equipment for steam and backup generation are exempted as well. However, as an alternative, we propose capping the “Alternative Compliance” fees for nonprofits such as hospitals:

MD. Code Ann. Environment §2-1602

(C)(3) the department may not set an alternative compliance fee that is less than the social cost of greenhouse gases adopted by the department or the U.S. Environmental Protection Agency **EXCEPT THAT ALTERNATIVE COMPLIANCE FEES ASSESSED AGAINST NON-PROFIT ORGANIZATIONS RECOGNIZED UNDER SECTION 501(C)(3) OF THE U.S. INTERNAL REVENUE CODE CANNOT EXCEED 1% OF THE SOCIAL COST OF GREENHOUSE GASES ADOPTED AS ABOVE.**