


Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: October 31, 2024

SUBJECT: Fiscal Impact Statement – Building Energy Performance Standards
Amendment Act of 2024

REFERENCE: Bill 25-801, Draft Committee Print as provided to the Office of Revenue
Analysis on October 24, 2024

Conclusion

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill.

Background

The District requires all buildings to meet building energy performance standards (BEPS) set by the Department of Energy and Environment (DOEE).¹ Buildings with 25,000 and 10,000 square feet of gross floor area must meet BEPS by 2027 and 2033, respectively. However, owners of buildings that were consuming energy in 2021, during the Covid-19 Public Health Emergency,² are allowed a one-year delay³ to comply with BEPS. Any changes that must be made to a building to comply with the established standards must be made and then monitored by the property owner. DOEE also requires building owners to benchmark their energy performance against Energy Star standards.⁴

¹ CleanEnergy DC Omnibus Amendment Act of 2018, effective March 22, 2019 (D.C. Law 22-257; D.C. Official Code § 8-1772.21).

² Declaration of Public Emergency: Coronavirus (COVID-19), effective March 11, 2020 (Mayor's Order 2020-045).

³ Building Energy Performance Exemptions and Compliance Delays, effective November 5, 2021 (68 DCR 11790; 20 DCMR 3516).

⁴ Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 et seq.).

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The bill shifts the annual reporting date of energy benchmarking and Energy Star statements to DOEE from April 1st to May 1st. The bill approves an additional delay to July 1st for the 2024 reporting period. The bill also delays compliance with energy benchmarking for buildings with 10,000 square feet or greater from January 1, 2024 to January 1, 2025. Currently, building owners must also obtain a third-party verification of their benchmark and Energy Star statements every three years. The bill reestablishes the third-party verification to occur in 2024, 2027, and then every six years thereafter. By April 1, 2025, DOEE must also issue a report evaluating the effectiveness of the third-party verification requirement.⁵

The bill delays the applicability of BEPS for 25,000 and 10,000 square foot buildings from 2027 and 2033 to 2028 and 2034. This maintains the six-year BEPS cycle while accounting for the one-year delay due to the public health emergency that applies to buildings in the current compliance cycle that began on January 1, 2021. The bill delays, by one year, DOEE's requirement to establish and update property types and BEPS for each property type. The bill directs DOEE to update these metrics by January 1, 2028, and every six years thereafter.

The bill maintains the five-year compliance cycle for most buildings that do not meet BEPS, but establishes a six-year compliance cycle for privately-owned buildings that are currently in the compliance cycle for failing to meet BEPS on January 1, 2021.

DOEE provides multiple pathways for building owners to meet BEPS during the five-year compliance cycle. The bill amends the testing and comparison periods for all buildings under the performance pathway. Currently, for all buildings, DOEE evaluates the last two years of the five-year compliance cycle against the buildings' performance for the two years prior to the start of the compliance cycle. The bill changes this to the last year of the compliance cycle as compared to the one year prior to the start of the compliance cycle. Under the prescriptive pathway, a building owner can implement cost-effective energy efficiency measures during the compliance cycle. The bill limits the use of this pathway to the compliance cycle that began on January 1, 2021. The bill establishes a new trajectory pathway for buildings 25,000 square feet or greater and requires compliance on January 1, 2028. The trajectory pathway will allow buildings to meet building-specific performance targets based on a trajectory from a DOEE-established baseline.

The bill authorizes DOEE to establish criteria to exempt a building from a compliance period if that building is experiencing financial distress or had insufficient occupancy levels in either of the two years preceding the compliance period. Currently, these exceptions only qualify a building for an up-to three-year delay in BEPS compliance for a given cycle.⁶

Buildings that fail to meet BEPS during a compliance cycle are subject to an alternative compliance payment. The bill allows a building subject to this penalty to recover all or part of the compliance payment from non-residential tenants within the building.

Development projects that include a substantial improvement to an existing building or structure are required to submit a stormwater management plan to DOEE.⁷ A project qualifies as a substantial improvement if the repair, alteration, addition, or improvement exceeds fifty percent of the

⁵ D.C. Official Code § 6-1451.03.

⁶ D.C. Official Code § 8-1772.21(e)(1).

⁷ Water and Sanitation (21 DCMR § 500 et seq.).

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structure's market value. The bill authorizes DOEE to exclude, from the fifty percent calculation, any interior mechanical or electrical upgrades undertaken to comply with BEPS.

Financial Plan Impact

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. DOEE manages the BEPS program through the setting of standards, receipt of energy benchmark reports, enforcement, and monitoring of compliance efforts. DOEE can absorb the bill's timeline adjustments, amendments to compliance pathways, and changes to the exemption process within the agency's existing budgeted resources. DOEE can also absorb any costs associated with updating stormwater regulations and implementing adjusted calculations.