

**LEGISLATIVE FISCAL ESTIMATE**  
[Third Reprint]  
**ASSEMBLY, No. 5160**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: DECEMBER 23, 2021

**SUMMARY**

- Synopsis:** Establishes minimum energy and water efficiency standards for certain products sold, offered for sale, or leased in the State.
- Type of Impact:** Annual State expenditure and revenue increase from the General Fund; annual local expenditure increase.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, Board of Public Utilities, local governments

**Office of Legislative Services Estimate**

| <b>Fiscal Impact</b>              | <b><u>Year 1</u></b> | <b><u>Year 2</u></b> | <b><u>Year 3</u></b> |
|-----------------------------------|----------------------|----------------------|----------------------|
| <b>State Expenditure Increase</b> |                      | Indeterminate        |                      |
| <b>Local Expenditure Increase</b> |                      | Indeterminate        |                      |
| <b>State Revenue Increase</b>     |                      | Indeterminate        |                      |

- The Office of Legislative Services (OLS) determines that this bill will result in a marginal one-time expenditure increase to the State as the Department of Environmental Protection (DEP) is required to adopt rules and regulations to implement the provisions of the bill. Furthermore, the DEP, in conjunction with the Department of Community Affairs and the Board of Public Utilities, is required to conduct a study to evaluate whether to add additional products to those regulated pursuant to the bill, and whether to adopt more stringent energy standards or water conservation standards. The OLS assumes that these requirements can be subsumed within existing staff duties.
- The OLS notes that there may be an additional marginal annual expenditure increase by the DEP for periodically inspecting distributors or retailers of new products regulated under this bill; investigating complaints received concerning violations; and pursuing injunctive relief and issuing violations. The OLS assumes that these responsibilities can be subsumed within normal staff duties.
- The OLS notes that there may be an additional marginal annual expenditure increase by local governments for the requirement that the local subcode official ensure that certain products identified in the bill for which the installation is subject to the State Uniform Construction

Code, contain a mark, label, or tag denoting that the product meets or exceeds the efficiency standards established in the bill.

- The OLS notes that there may be a marginal State revenue increase from the civil penalties established pursuant to the bill.

## **BILL DESCRIPTION**

This bill sets specific, up-to-date efficiency standards for selected residential and commercial products. These energy and water efficiency standards are based on various sources including ENERGY STAR and WaterSense specifications and standards developed and adopted by the California Energy Commission. Beginning one year after the date of enactment, the bill prohibits the sale, offer for sale, or lease of a new product regulated under the bill unless the product includes a mark, label, or tag denoting that the product meets the efficiency standards established in the bill.

The DEP is authorized to adopt rules and regulations to implement the provisions of the bill. A manufacturer of a product regulated under this bill is required to annually certify to the DEP that the product is in compliance with the provisions of the bill and identify that each product offered for sale in the State is in compliance with the provisions of the bill by means of a mark, label, or tag on the product and packaging at the time of sale. A manufacturer may use an existing mark, label, or tag to satisfy the requirement, provided that it clearly expresses that the product meets the applicable efficiency standard. With prior notice, the DEP may periodically inspect distributors or retailers of new products regulated under the bill in order to determine compliance with the provisions of the bill. Beginning one year after the date of enactment, upon final inspection of the installation of any appliance or product subject to the State Uniform Construction Code, the appropriate subcode official would be required to ensure that the certain products identified in the bill contain a mark, label or tag denoting that the product meets the efficiency standards established in the bill.

The DEP is required investigate complaints received concerning violations of the bill. A manufacturer, distributor, retailer, or person who violates the provisions of the bill will be issued a warning for a first violation and will be subject to a civil penalty of up to \$1,000 for each subsequent offense. Third and subsequent violations will be subject to a civil penalty of not more than \$5,000 for each offense. Each violation will constitute a separate offense, and each day that such violation continues will constitute a separate offense. The department may also institute an action in Superior Court for injunctive relief for a violation of the bill and the court may prohibit the person from selling or offering for sale the non-compliant product in the State.

If a product regulated pursuant to the bill is found not to be in compliance with the minimum efficiency standards established in the bill, the DEP is required to issue a violation to the manufacturer of such product, which will subject the manufacturer to a civil penalty equal to twice the cost of product purchase and testing. The department will be required to make information available to the public on products found not to be in compliance with the standards. All monies collected by the department may be retained and used for the costs of administering and enforcing the bill.

No later than three years after the date of enactment of the bill, the DEP, in consultation with the Board of Public Utilities and the Department of Community Affairs, is required to conduct a study to evaluate whether to add additional products to those regulated pursuant to the bill, and whether to adopt more stringent energy standards or water conservation standards. The DEP is

required to submit a written report thereon to the Governor and to the Legislature with recommendations for legislative action.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill will result in a marginal one-time expenditure increase from the General Fund, as the DEP is required to adopt rules and regulations to implement the provisions of the bill. Further, no later than three years after the date of enactment of the bill, the DEP is required to conduct a study to evaluate whether to add additional products to those regulated pursuant to the bill, and whether to adopt more stringent energy standards or water conservation standards. The OLS assumes that these requirements can be subsumed within existing staff duties.

The OLS notes that there may be an additional marginal annual expenditure increase from the General Fund, representing costs incurred by the DEP for: periodically inspecting distributors or retailers of new products regulated under this bill in order to determine compliance with the provisions of the bill; investigating complaints received concerning violations of the bill's provisions; issuing a violation to the manufacturer if a product regulated pursuant to the bill is found not to be in compliance with the minimum efficiency standards established under the bill, pursuing injunctive relief to prohibit the sale or offer for sale of non-compliant products; and making such information regarding the violation available to the public. The OLS assumes that these responsibilities can be subsumed within normal staff duties.

The OLS notes that there may be an additional marginal annual expenditure increase by local governments for the requirement that the local subcode official ensure that certain products identified in the bill for which the installation is subject to the State Uniform Construction Code, contain a mark, label, or tag denoting that the product meets or exceeds the efficiency standards established in the bill.

The OLS also notes that there may be a marginal annual State revenue increase from the civil penalties established pursuant to the bill.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).