SB 175

Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 175 (Senator Middleton, *et al.*)
Finance Economic Matters

Community Energy and Economic Development Grant Program

This bill establishes a Community Energy and Economic Development Grant Program to provide grants to nonprofit organizations and local jurisdictions that operate community energy programs promoting energy efficiency, renewable energy, and increased market competition for electricity products. The bill also creates a Community Energy and Economic Development Grant Fund within the Maryland Energy Administration (MEA) that primarily consists of funds transferred from the Environmental Trust Fund (ETF) and the Renewable Energy Fund. The bill also extends the termination date of the environmental surcharge by 10 years to June 30, 2020.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: Special fund (ETF) revenues could increase in FY 2007 and 2008 due to the bill's requirement that the environmental surcharge be set at the maximum, though it cannot be accurately estimated by how much. Special fund (ETF) expenditures, under one scenario, could increase by $1.82 million or more in FY 2007 and could possibly increase to a lesser extent in FY 2008. MEA special fund revenues and expenditures would increase correspondingly in FY 2007 and 2008. MEA expenditures would include the costs associated with a program manager for the new program and the costs to audit the new fund. Special fund (ETF) revenues and expenditures for ETF would continue beyond FY 2010.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	-	-	-	-	-
SF Expenditure	61,900	94,400	88,600	93,100	107,900
Net Effect	($61,900)	($94,400)	($88,600)	($93,100)	($107,900)

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

Local Effect: Local jurisdictions could receive grants under the new program. However, local jurisdictions that choose to apply for and receive grants for a community energy program would also incur additional expenditures due to the requirement of at least a 20% matching contribution from the local jurisdiction.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: MEA will manage, supervise, and administer the program and must adopt regulations to ensure that grants are provided only to projects that carry out the purpose of the program. MEA also must attach specific terms to any grant it considers necessary to ensure the purpose of the program is fulfilled. In administering the program, MEA must recognize the importance to the State of assisting residents of moderate income and minority business enterprises.

Grant Eligibility and Applications

The bill establishes various provisions regarding grant eligibility. The nonprofit organization or local jurisdiction must submit an application to MEA containing a description of the program; its projected cost; the amount of energy and corresponding costs, if any, proposed to be saved over a defined period of time; a description of the applicant's contribution; and any other information MEA considers necessary.

Grant Limit/Local Jurisdiction Matching Contribution/Reporting

A grant award may not exceed $1 million for the duration of the grant. Any local jurisdiction receiving a grant must make a matching contribution equaling at least 20% the amount of the grant.

In making grants, MEA must consider an allocation of grant assistance among proposed community energy programs based on projected energy cost savings or projected increases in renewable energy use or production, as well as the geographic distribution of grant assistance.

MEA may require a grant recipient to document the costs of the program, the amount of energy and corresponding costs saved, and any other information MEA considers necessary.

Funding

The bill establishes a Community Energy and Economic Development Grant Fund within MEA. The fund consists of money transferred from ETF, money directed to the fund in connection with any proceedings before the Public Service Commission (PSC), money transferred from the Renewable Energy Fund, investment earnings, and any money from any other source accepted for the benefit of the fund. No more than 10% of the funds placed in the fund may be used for administrative expenses.

Expenditures from the fund must be made in accordance with the State budget. The fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management and must be audited by the Legislative Auditor.

Transfers from ETF

A provision allowing funds from ETF to be distributed to MEA for studies relating to the conservation or production of electric energy is extended to also apply to programs relating to renewable energy and energy efficiency. The bill clarifies that the funds are to be used for costs and expenses to implement the studies or programs. A limit on fiscal support to MEA from the fund of $250,000 per fiscal year is altered to apply to the administrative costs and expenses of studies and programs relating to conservation or production of energy.

In addition, in fiscal 2007 and 2008, fiscal support to MEA must be an amount for the Community Energy and Economic Development Grant Program equal to the balance in the fund that exceeds the current fiscal year's appropriation to the Department of Natural Resources (DNR) from the fund plus 10% of the revenues collected from the environmental surcharge during the previous fiscal year.

Environmental Surcharge

The environmental surcharge that generates revenue for ETF is required to be set at the maximum limit of 0.15 mill per kilowatt hour for fiscal 2007 and 2008, and the termination date of the surcharge is extended through fiscal 2020.

The bill changes certain references to the Power Plant Research Program (PPRP), which is funded by the surcharge, to be the Power Plant Assessment Program.

Report to General Assembly

MEA must report to the General Assembly by January 1, 2009 on the implementation of the program.

Current Law: An environmental surcharge per kilowatt hour of electricity distributed in the State by an electric company is collected by the Comptroller and placed in the ETF. PSC sets the surcharge based on the PPRP budget prepared by the Secretary of Natural Resources, but the surcharge may not exceed 0.15 mill (one-thousandth of $1) per kilowatt hour or $1,000 per month for a single customer and has a sunset date of June 30, 2010. The surcharge is currently set at 0.1315 mill per kilowatt hour. PSC is required to authorize electric companies to add the full amount of the surcharge to retail customers' bills.

MEA is entitled to receive administrative and fiscal support from ETF for studies relating to the conservation or production of electric energy. Fiscal support to MEA from ETF may not exceed $250,000 in any fiscal year.

Background: MEA is an independent unit of State government created, in part, to promote the conservation and efficient use of energy and to evaluate and coordinate energy-related policies and activities among State and local agencies. MEA currently administers several financial assistance programs, including: (1) the Solar Energy Grant Program, which provides grants to individuals, local governments, and businesses for a portion of the costs of acquiring and installing photovoltaic property and solar water heating property; (2) the Community Energy Loan Program, which provides loans to nonprofit organizations or local jurisdictions for projects in buildings in order to promote energy conservation and improve energy efficiency; (3) the State Agency Loan Program, which provides loans to State agencies for energy conservation improvements; and (4) the recently established Energy Efficiency and Economic Development Loan Program, which was created to provide loans to businesses to promote energy conservation, energy efficiency, energy-related economic development, and stability in business, commercial, and industrial sectors.

Environmental Trust Fund

The Environmental Trust Fund primarily supports the Department of Natural Resources' PPRP. The program conducts research on the impacts of electricity generation and distribution on the State's natural resources, evaluates long-range plans for meeting the State's electricity demand, and works in concert with PSC and other agencies in reviewing applications to build or modify power plants and transmission lines and evaluate their potential impact on the State's natural resources. Money from ETF is also used for administrative costs and other programs under DNR, as well as for studies conducted by MEA relating to the conservation and production of electric energy.

Exhibit 1 provides revenue and expenditure information for ETF from fiscal 2002 to 2007.

Exhibit 1
Environmental Trust Fund
Fiscal 2002 – 2007
($ in Millions)

	2002 Actual	2003 Actual	2004 Actual	2005 Actual	2006[d] Working	2007[d] Appropriation
Beginning Balance	$3.0	$2.0	$1.1	$1.5	$3.0	3.1
Misc. Adjustment[a]	0.0	-0.7	0.0	0.0	0.0	0.0
Annual Revenue	8.4	9.0	9.0	10.0	8.8[b]	8.9
Total Available	**$11.4**	**$10.3**	**$10.1**	**$11.5**	**$11.8**	**$12.0**
Expenditures						
Department of Natural Resources						
Power Plant Research Program	6.0	6.0	5.8	5.8	5.7	5.7
Admin. Costs/Other Programs[c]	3.1	2.9	2.5	2.6	2.7	3.6
Maryland Energy Administration	0.3	0.3	0.3	0.1	0.3	0.3
Total Expenditures	**$9.4**	**$9.2**	**$8.6**	**$8.5**	**$8.7**	**$9.6**
Balance Ending of Fiscal Year	$2.0	$1.1	$1.5	$3.0	$3.1	$2.4

[a]Adjustment to correct for overpayment made by PEPCO in error.

[b]Environmental surcharge was lowered to 0.1315 mill/kWh.

[c]Includes funds for the Office of the Secretary, Resource Assessment Service, and Watershed Services.

[d]Fiscal 2006 and 2007 revenues and expenditures are based on the estimated revenues and appropriations included in the fiscal 2006 and 2007 budgets.

Note: Approximately $250,000 in ETF revenue is transferred annually to the Maryland Energy Administration.

Source: Department of Natural Resources

Maryland Renewable Energy Fund

The Maryland Renewable Energy Fund is intended to be used to make loans and grants for the creation of renewable energy sources in the State and receives compliance fees from electricity suppliers that do not meet the Renewable Energy Portfolio Standard (RPS). The RPS, aimed at establishing a market for renewable energy in Maryland, is implemented by PSC and applies to all retail electricity sales in the State by electricity suppliers, subject to certain exceptions, including retail sales to residential customers currently under a rate cap. An electricity supplier is required to include a specified amount of renewable energy as part of its portfolio of generating fuels for its retail sales, and must pay a specified amount per kilowatt hour for any shortfall from the RPS, which is distributed to the Renewable Energy Fund. Each electricity supplier must submit a report to PSC on June 1 of each year, either accompanied by the required amount of renewable energy credits to meet the RPS or demonstrating the amount of electricity sales by which the supplier failed to meet the standard.

Revenue is not expected to be generated in fiscal 2007 from RPS compliance fees. Because renewable energy credits, which electricity suppliers may use to meet the RPS, are sufficiently inexpensive relative to compliance fees, PSC expects electricity suppliers to meet the RPS. PSC was not able to predict whether fees would be generated in the future.

State Fiscal Effect:

Environmental Surcharge

Special fund (ETF) revenues could increase due to the bill's requirement that the environmental surcharge be set at 0.15 mill/kWh in fiscal 2007 and 2008. In the event the surcharge would be set lower than 0.15 mill/kWh, in the absence of the bill, in fiscal 2007 and 2008, the mandated 0.15 mill/kWh surcharge would result in a revenue increase over the two fiscal years. It is possible, however, that the surcharge would need to be set at 0.15 mill/kWh anyway, in order to sufficiently fund the PPRP budget, in which case there would be no fiscal impact due to the 0.15 mill/kWh requirement. DNR advises that it cannot accurately predict where the surcharge will need to be set in fiscal 2007 and 2008.

For illustrative purposes only, in fiscal 2006, the revenue that will be generated from the surcharge is estimated to be $8.8 million, with the surcharge set at 0.1315 mill/kWh. Assuming other variables that might affect the revenue generated from the surcharge would remain constant and the estimated revenue generated in fiscal 2006 proved to be accurate, if the surcharge had instead been set at 0.15 mill/kWh, the amount of revenue generated in fiscal 2006 would be approximately $10 million, a $1.2 million difference.

ETF Transfer

The bill requires that in fiscal 2007 and 2008 an amount equal to the balance in ETF that exceeds the total of the current fiscal year's appropriation to DNR from the fund and 10% of the revenues collected from the environmental surcharge during the previous fiscal year, be distributed to the Community Energy and Economic Development Grant Fund. It appears that, under the bill, money would not be distributed to the fund in fiscal 2007. Using, as an example, the estimated fund balance at the beginning of fiscal 2007 ($3.1 million), the fiscal 2007 appropriation to DNR ($9.3 million), and 10% of the estimated revenues for fiscal 2006 ($880,000), the balance in the fund at the beginning of fiscal 2007 ($3.1 million) would not exceed the total of the fiscal 2007 appropriation and 10% of the prior year's revenues, which would be roughly $10.2 million.

However, it appears that the *intent* of the bill is to ensure that funding remains available in ETF for the appropriation to DNR each fiscal year for PPRP and other programs and that a minimum balance remains in ETF (an amount equal to 10% of the prior year's revenues). Assuming the fiscal 2007 appropriation and 10% of the estimated fiscal 2006 revenues are *instead subtracted* from the total amount of funding estimated to be available in fiscal 2007 ($12 million) to determine the amount transferred to the Community Energy and Economic Development Grant Fund, a special fund expenditure from ETF of $1.82 million would occur.

If the same calculation were made in fiscal 2008, assuming, for illustrative purposes, that the fiscal 2008 appropriation and estimated revenues would be approximately the same as the appropriation and estimated revenues in fiscal 2007, money would not be available to be distributed to the Community Energy and Economic Development Grant Fund due to a significant portion of the balance having been depleted by the $1.82 million distribution in the prior year. The total amount of funding available in fiscal 2008 would be $9.48 million, assuming a beginning of the fiscal year balance of $580,000 and estimated revenues of $8.9 million. If the fiscal 2008 appropriation were $9.3 million and 10% of the prior year's revenue were $890,000, the total of those amounts, $10.19 million would be higher than the $9.48 million available, resulting in no money being available for distribution to the fund. Instead, because the total expenditures would be $9.6 million in fiscal 2008, including the amount distributed to MEA, ETF would end up with a slightly negative balance at the end of fiscal 2008. **Exhibit 2** illustrates this discussion.

In the event additional revenue accrues to ETF due to the bill's requirement that the environmental surcharge be set at 0.15 mill/kWh in fiscal 2007 and 2008, the distribution to the Community Energy and Economic Development Grant Fund in fiscal 2007 would increase correspondingly. Sufficient additional revenue in fiscal 2008 could also result in a distribution to the fund in fiscal 2008. In the above illustration, $710,000 of additional revenue would need to accrue to ETF in fiscal 2008 before any money would be distributed to the Community Energy and Economic Development Grant Fund.

Exhibit 2
Environmental Trust Fund
Fiscal 2005 – 20080
(*Illustration*)
($ in Millions)

	2005 Actual	2006 Working	2007 Illustration	2008 Illustration
Revenues				
Beginning Balance	$1.5	$3.0	$3.1	$0.6
Annual Revenue	10.0	8.8	8.9	8.9
Total Available	**$11.5**	**$11.8**	**12.0**	**9.5**
Expenditures				
CEEDGF* Distribution			**$1.8**	**$0**
Department of Natural Resources				
Power Plant Research Program	$5.8	$5.7	$5.7	$5.7
Admin. Costs/Other Programs	2.6	2.7	3.6	3.6
Maryland Energy Administration	0.1	0.3	0.3	0.3
Total Expenditures	**$8.5**	**$8.7**	**$11.4**	**$9.6**
Balance End of Fiscal Year	$3.0	$3.1	$0.6	($0.1)

*Community Energy and Economic Development Grant Fund

Renewable Energy Fund and Proceedings Before PSC

The Renewable Energy Fund currently does not have a balance. As discussed above, compliance fees are not expected to accrue to the fund in fiscal 2007 and collection of compliance fees in future years is uncertain. Therefore, budget appropriations from the Renewable Energy Fund to the Community Energy and Economic Development Fund appear to be an uncertain source of funding. It also appears that money directed to the Community Energy and Economic Development Grant Fund in connection with proceedings before PSC will not be a predictable or consistent source of funding. Therefore, for purposes of this analysis, it is assumed that funding will not be available from this source.

Administrative Costs

MEA administrative expenditures would increase in fiscal 2007 by $61,935 and annually thereafter accounting for 4.6% annual salary increases, 3% employee turnover, and 1% increases in ongoing operating expenses. This estimate reflects the cost of hiring one program manager dedicated to nonprofit and local government outreach. It includes expenses for mailing, educational material development and printing, vehicle operation, and office supplies. These costs would be included in annual expenditures from the Community Energy and Economic Development Grant Fund.

The fund would incur an administrative expense of approximately $10,000 or less in fiscal 2008 for the cost of a legislative audit. The audit would be performed once every three years in concert with the audit of MEA.

Additional Comments: An increase in the environmental surcharge from 0.1315 mill/kWh to 0.15 mill/kWh would represent roughly a 0.02% increase in the average retail electricity price in Maryland based on the average price of 7.83 cents/kWh for all sectors (residential, commercial, industrial, and transportation) in Maryland in 2005. *Source: Electric Power Monthly*, Energy Information Administration, U.S. Department of Energy (data through October 2005).

Additional Information

Prior Introductions: None.

Cross File: HB 476 (Delegate Taylor, *et al.*) – Economic Matters.

Information Source(s): Montgomery County, Prince George's County, Department of Natural Resources, Anne Arundel County, Maryland Energy Administration, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2006
ncs/ljm Revised - Senate Third Reader - April 4, 2006

Analysis by: Scott D. Kennedy

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