

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 959

(Senators Garagiola and Brinkley)

Budget and Taxation

Ways and Means

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Bio-Heating Oil - Income Tax Credit

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This bill extends the bio-heating oil income tax credit to June 30, 2018. The bill also specifies that in order to claim the credit, the bio-heating oil must meet specified federal standards.

The bill takes effect June 1, 2011.

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Fiscal Summary

**State Effect:** General fund revenues will decrease beginning in FY 2014 due to extension of the tax credit. To the extent that any credits are claimed against the corporate income tax, Transportation Trust Fund (TTF) and Higher Education Investment Fund revenues will decrease beginning in FY 2014. No effect on expenditures.

**Local Effect:** To the extent that any credits are claimed against the corporate income tax, local highway user revenues will decrease beginning in FY 2014. Expenditures are not affected.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill extends the bio-heating oil income tax credit to June 30, 2018. The bill also alters the definition of bio-heating oil to a heating oil that contains at least 5% biodiesel and is (1) derived from the U.S. Environmental Protection Agency approved feedstocks; or (2) accepted under 42 U.S.C. 7545(O) as per the U.S. EPA

Renewable Fuel Standard 2 and the accompanying regulations under 40 C.F.R. Part 80 for diesel fuel replacement.

**Current Law:** A tax credit against the State income tax is available for individuals or corporations who purchase bio-heating oil for use in space or water heating. To qualify, the bio-heating oil must contain at least 5% biodiesel. The amount of the credit is equal to 3 cents per gallon purchased, not to exceed \$500 or the tax liability in that year. The bill specifies an application and certification process and requires the Maryland Energy Administration (MEA) to conduct a campaign to promote the use of bio-heating oil. Beginning on January 1, 2009, MEA is required to provide the Comptroller's Office a list of all taxpayers in the prior tax year that have been issued an initial credit certificate and specify for each taxpayer the maximum amount of credit that can be claimed.

The credit can be taken in tax year 2008 through 2012 and terminates June 30, 2013.

### **Background:**

#### *Bio-heating Oil Tax Credit*

Chapter 140 of 2008 established the bio-heating oil tax credit. In calendar 2008 through 2010, MEA certified approximately 50 applicants for the tax credit. These applicants, in total, purchased about 25,000 gallons of biodiesel and claimed under \$1,000 in credits. The Comptroller's Office advises that a minimal amount of credits have been claimed in tax year 2008 and 2009.

#### *Government Renewable Energy Programs*

The federal government and state and local governments operate a multitude of programs intended to encourage the establishment of a viable renewable energy industry that could eventually meet the nation's energy needs in a cost-effective manner while simultaneously reducing some of the harmful impacts created by fossil fuel energy production. In recent years, there has been increasing focus in the tax code on energy conservation and renewable energy production standards. While the federal Joint Committee on Taxation notes that economists generally agree that the most efficient means of addressing pollution would be a direct tax on the pollution-causing activities, the more indirect approach of targeting tax credits for certain technologies has been utilized. Considerable debate exists over the efficacy of these programs in reducing greenhouse gas emissions and helping reduce dependence on fossil fuels as well as concerns over its costs (for example, the federal biofuel tax credits reduced federal receipts by \$6.0 billion in federal fiscal 2009) and potential unintended consequences.

The State operates several programs that promote renewable energy production and energy efficiency and conservation including:

- *Renewable Portfolio Standards:* These standards require that renewable energy must comprise specified minimum percentages of Maryland's total electricity supply in each year;
- *Maryland Strategic Energy Investment Fund:* These revenues, generated from the proceeds from the sale of carbon dioxide allowances under the Regional Greenhouse Gas Initiative, provide a majority of funding for State renewable energy projects;
- *Maryland Energy Administration (MEA) Clean Energy Programs:* MEA is currently charged under State law with administering a number of programs aimed at encouraging energy efficiency and renewable energy projects in the State;
- *Maryland Clean Energy Center (MCEC):* MCEC was established to generally promote and assist the development of the clean energy industry in the State and promote the deployment of clean energy technology in the State;
- *EmPOWER Maryland:* The EmPOWER Maryland Energy Efficiency Act of 2008 (Chapter 131) requires electric companies to procure and provide customers with energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years;
- *Environmental Trust Fund (ETF):* ETF was established by Chapter 31 of 1971 to fund electric power plant site evaluation and acquisition and research on environmental and land use consideration associated with power plants; and
- *Clean Energy Incentive Tax Credit:* This tax credit provides up to \$25 million in tax credits for the production of qualified renewable energy resources.

In addition, several counties provide property tax incentives for renewable energy and energy efficiency, including green building property in Carroll County, high-performance building property in Montgomery County, and solar and geothermal residential property in Prince George's County.

**State Revenues:** The bill alters the definition of bio-heating oil for purposes of the credit and extends, to tax years 2013 through 2017, the years in which the credit may be claimed.

Altering the definition of bio-heating oil is not expected to have a significant impact on the amount of credits claimed. General fund revenues will decrease beginning in fiscal 2014 due to extension of the tax credit.

To the extent additional credits are claimed against the corporate income tax, Transportation Trust Fund and Higher Education Investment Fund revenues will decrease beginning in fiscal 2014.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Joint Committee on Taxation, Maryland Energy Administration, Department of Legislative Services

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