Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 926 (Senator Madaleno, *et al.*)
Budget and Taxation

Income Tax Credit - Renewable Energy Property

This bill allows an individual or corporation to claim a State income tax credit for the eligible costs to construct, purchase, or install renewable energy property for residential or business use. Subject to specified maximum amounts, the value of the credit is equal to 35% of the costs and increases to 50% if the property is located on a brownfields site or within certain low-income communities. The Maryland Energy Administration (MEA) must administer the program and may award a maximum of $150 million in tax credits from January 1, 2018, to December 31, 2022.

The bill takes effect July 1, 2017, and applies to tax year 2019 and beyond.

Fiscal Summary

State Effect: Special fund revenues increase by $0.1 million in FY 2018 and $0.2 million in FY 2019 due to the payment of application fees. Net State revenues decrease by $13.5 million in FY 2020 as a result of tax credit claims. Future year revenue estimates reflect projected credit claims and credit carry forwards from previous years. Expenditures for administrative costs increase by $0.3 million in FY 2018 and by $0.5 million in FY 2022.

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	$0	$0	($11.8)	($19.1)	($26.5)
SF Revenue	$0.1	$0.2	($1.7)	($3.7)	($5.6)
GF/SF Exp.	$0.3	$0.5	$0.5	$0.5	$0.5
Net Effect	($0.2)	($0.3)	($14.0)	($23.3)	($32.6)

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

Local Effect: Local highway user revenues distributed from the corporate income tax decrease by about $129,300 in FY 2020 and by $387,800 in FY 2022. Local expenditures are not affected.

Small Business Effect: Potential meaningful. Small businesses that purchase, produce, or invest in renewable energy property will be positively impacted.

Analysis

Bill Summary: Renewable energy property must meet the requirements of Section 48(A)(3) of the Internal Revenue Code (IRC) and includes solar, geothermal, fuel cell, microturbine, combined heat and power system property, and qualified small wind energy property. The amount of the credit is equal to 35% of the eligible costs to construct or purchase renewable energy property that is placed in service in the State. Eligible costs include the cost of equipment and related design, construction, development, and installation but does not include any discounts, costs paid by public funds, or other similar reductions in cost paid to the owner of the property. The percentage value of the credit is increased to 50% if the property is located in:

- a census tract that has a poverty rate of at least 20%;
- a census tract with a median household income that does not exceed 80% of the statewide average or, if it is located within a Metropolitan Statistical Area (MSA), no more than 80% of the greater of the MSA or statewide average; or
- a brownfields site.

The value of the credit may not exceed, for each installation of renewable energy property, $10,500 for residential use or $5.0 million for business use. Business use includes offering for sale or using energy on the site where energy is generated for any nonresidential purpose. MEA can award a total of $125 million in business tax credits and $25 million in residential tax credits. Individuals and businesses seeking the tax credit must apply to MEA, submit specified information, pay an application fee, and comply with specified program requirements. The application fee is equal to 0.5% of the expected credit amount and is paid to MEA to cover the cost of reviewing applications.

The tax credit can be claimed beginning with the first taxable year after the renewable energy property is placed in service. The credit is ratable over four tax years for a business claiming the credit. If the value of the credit exceeds the tax liability imposed in the year, the amount of the excess can be carried forward to five tax years.

MEA must (1) certify the value of the credit; (2) approve tax credit applications on a first-come, first-served basis; (3) establish a waiting list for any additional applications; and (4) void the approval of applicants who do not adhere to program requirements and reallocate tax credits as necessary. MEA may adopt regulations to implement the bill.

The bill allows, subject to specified requirements, the credit to be transferable and for the credit to be claimed by a lessee of renewable energy property. The Comptroller is required to recapture the credit if the renewable energy property is taken out of service or moved out of State, beginning within a specified period.

Current Law/Background: Numerous federal, State, and local provisions provide renewable energy incentives, two of which are discussed below.

Federal Renewable Energy Credits

Federal energy investment tax credits, authorized under Section 48 of the IRC, encourage the use of renewable energy. The credit is generally equal to 30% of the qualified costs of renewable energy property. Solar energy property has comprised about 90% of the qualified renewable energy property costs claimed as a credit.

Clean Energy Incentive Tax Credit

Qualified energy facilities that use a qualified energy resource to produce electricity can qualify for the clean energy incentive tax credit. The facility must first receive an initial credit certificate from MEA. The maximum total value of an initial credit certificate for an energy producer cannot exceed $2.5 million. The amount of an initial credit certificate issued by MEA is based on the estimated amount of energy produced or purchased annually by the applicant.

Chapter 594 of 2016 extended the termination date of the program to December 31, 2018. Chapter 594 also shifted the program from a traditional tax credit to a budgeted tax credit, subject to an aggregate limit each year – the total amount of initial tax credit certificates issued by MEA in each fiscal year cannot exceed the amount appropriated in the State budget to a reserve fund established by the Act. The Governor may appropriate money to the reserve fund in fiscal 2018 and 2019. The Governor's proposed fiscal 2018 budget does not include an appropriation for the tax credit program.

Renewable Energy Portfolio Standard

Maryland's Renewable Energy Portfolio Standard (RPS) was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. Maryland's RPS operates on a two-tiered system with carve-outs for solar energy and offshore wind energy and corresponding renewable energy credits (RECs) for each tier. Electric companies (utilities) and other electricity suppliers must submit RECs equal to a percentage specified in statute each year or else pay an alternative compliance payment equivalent to their shortfall. In 2016, the requirements were 12.7% for Tier 1 renewable sources, including at least 0.7% from solar energy sources, and 2.5% from Tier 2 renewable sources. The percentage requirements gradually increase to a minimum of 20%, including 2% from solar energy sources, by 2022.

State Revenues: MEA may award a total of $150.0 million in credits beginning in calendar 2018. Tax credits may be claimed in the first taxable year after the year in which the qualified property is placed in service. As a result, general fund revenues will decrease by $11.8 million in fiscal 2020. Transportation Trust Fund revenues will decrease by $1.3 million and Higher Education Investment Fund revenues will decrease by $553,700 in fiscal 2020.

This estimate is based on the following facts and assumptions:

- the federal Joint Committee on Taxation estimates that about $1.8 billion in federal tax credits for renewable energy property will be claimed annually over the next several years;

- the projected amount of federal credits is shared to Maryland and increased to reflect the combined federal and proposed State credit of up to 80%;

- about 90% of the federal credits are claimed against the corporate income tax; and

- individuals claim the tax credit in the first year following the year the property is placed in service while businesses claim the credit over the following four years.

Exhibit 1 shows the estimated impact on State and local revenues from fiscal 2020 through 2024.

Exhibit 1
State and Local Revenue Impacts – Tax Credits
Fiscal 2020-2024
($ in Millions)

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
General Fund	($11.8)	($19.1)	($26.5)	($29.3)	($22.0)
HEIF	(0.6)	(1.1)	(1.7)	(1.9)	(1.3)
TTF	(1.3)	(2.7)	(4.0)	(4.6)	(3.2)
MDOT	*(1.2)*	*(2.4)*	*(3.7)*	*(4.1)*	*(2.9)*
LHUR	*(0.1)*	*(0.3)*	*(0.4)*	*(0.4)*	*(0.3)*
Total Revenues	**($13.7)**	**($22.9)**	**($32.2)**	**($35.7)**	**($26.5)**

HEIF: Higher Education Investment Fund
TTF: Transportation Trust Fund
MDOT: Maryland Department of Transportation
LHUR: local highway user revenues

Note: Totals may not sum due to rounding.

Source: Department of Legislative Services

Based on the requirements specified by the bill and U.S. Census Bureau estimates for 2014, about 2.0 million Maryland residents live within an area that meets the low-income area requirement, and 714,000 live in a high-poverty area. Taking into account the overlap between the areas, about 2.0 million individuals, or 35% of Maryland's total population, live within an area that meets one of the requirements to qualify for the enhanced credit of 50%. MEA advises that most planned renewable energy facilities will likely be built within areas that qualify for the enhanced credit.

Applicants must pay MEA an application fee as specified by the bill. Based on the forecasted amount of credits shown above, special fund revenues will increase by $103,500 in fiscal 2018, $207,000 in fiscal 2019, $207,000 in fiscal 2020, $150,400 in fiscal 2021, $58,100 in fiscal 2022, and by $17,600 in fiscal 2023.

State Expenditures: General fund and special fund expenditures increase beginning in fiscal 2018 due to implementation costs at MEA, as described below. Application fees must be used to cover administrative costs at MEA. To the extent that these revenues are insufficient to cover administrative costs, general fund expenditures will increase.

MEA reports that it will need one administrator and two tax administrators to implement and administer the program and will incur contracting expenses to certify eligible properties. General fund and special fund expenditures will increase by an estimated $330,000 in fiscal 2018, which reflects a three-month start-up period before credits can be awarded beginning on January 1, 2018, and six months of contracting expenditures. This estimate includes salaries, fringe benefits, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	$215,600
Operating Expenses	114,400
Total FY 2018 Expenditures	**$330,000**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

The Comptroller's Office reports that it will incur a one-time expenditure increase of $32,000 in fiscal 2019 to add the credit to the personal and corporate income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Local Revenues: Local highway user revenues will decrease by $129,300 in fiscal 2020 and by $308,500 in fiscal 2024, as shown in Exhibit 1.

Additional Information

Prior Introductions: SB 809 of 2016, a similar bill, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, HB 1070, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: HB 1548 (Delegate Ebersole, *et al.*) - Rules and Executive Nominations.

Information Source(s): Department of Commerce; Comptroller's Office; Department of Budget and Management; Maryland Energy Administration; Department of Legislative Services

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