SB 702

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 702 (Senator Kramer, *et al.*)

Finance and Education, Health, and Environmental Affairs

Healthy Climate Initiative

This bill establishes the Healthy Climate Initiative (HCI) within the Maryland Department of the Environment (MDE). As a funding source, the bill establishes a greenhouse gas (GHG) pollution charge on all GHG-producing substances distributed or used in the State. Revenue from the charge is deposited into two special funds created by the bill, which are used to provide rebates to households and employers and to fund specified State and local GHG reduction activities. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: Special fund revenues increase by an estimated $721.1 million in FY 2020 from charges collected; future year revenue estimates are annualized and reflect the increasing charges. Special fund expenditures increase correspondingly for rebates, projects, and administrative costs. State expenditures (all funds) increase significantly due to higher energy prices.

($ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	$721.1	$1,623.9	$1,987.3	$2,350.8	$2,714.2
SF Expenditure	$721.1	$1,623.9	$1,987.3	$2,350.8	$2,714.2
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	$0.0	$0.0	$0.0	$0.0	$0.0

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

Local Effect: Significant increase in local grant revenues and corresponding expenditures. Local expenditures for gas/electricity also increase significantly.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Healthy Climate Initiative, Generally

HCI provides for (1) the assessment of GHG pollution charges for GHG emissions that are measured according to carbon dioxide (CO_2) equivalents associated with various activities in the State; (2) the funding of activities for GHG reduction, improvements in resiliency, and the promotion of a just economic transition in the State; and (3) rebates to households and employers in the State to mitigate the impact of the charge under the initiative. The Secretary of the Environment must implement the charges and rebates initiative established under the bill.

The Secretary of the Environment must (1) administer the schedule of charges and (2) delegate the collection of the charges, distribution of rebates, and any other appropriate functions to the Comptroller. The collection of the charge must begin upon the adoption of all rules necessary for collection, but not later than January 1, 2021, for emissions occurring in 2020.

The bill establishes several other requirements for MDE and the Secretary of the Environment, including several reporting requirements and the adoption of regulations.

Greenhouse Gas Pollution Charge

The bill establishes a GHG pollution charge on all fossil fuels and other GHG-emitting substances that are distributed or used in the State. Revenue from the charge is deposited into the Healthy Climate Infrastructure Fund and the Household and Employer Rebate Fund, which are discussed in more detail below.

The charge is calculated based on the average CO_2 equivalent per unit of each GHG-producing substance, as determined by the Secretary of the Environment in consultation with the Public Service Commission (PSC), as specified. The charge is $20 per ton of CO_2 equivalent in 2019 and increases by $5 each year until net emissions from fossil fuels and other GHG-emitting priorities are zero.

Annual Reduction Targets

Starting in 2022, and every two years thereafter, the Secretary of the Environment must determine whether annual reduction targets are being achieved. The bill establishes provisions for calculating the annual reduction target. In each year that the annual reduction target is not achieved, the annual increase in the GHG charge is $10, not $5. If implementation is delayed, the schedule of charges is similarly delayed.

Charges may not be assessed on certain sales and government agencies, as specified. In addition, charges may not be imposed on any GHG substance if the imposition of such a charge is superseded by federal law or regulation.

Greenhouse Gas Pollution Charge on Petroleum Products and Natural Gas

The charge is assessed on all petroleum products at their first point of sale in the State for consumption or distribution in the State. However, the charge must be reduced by an amount equal to any charge paid in the same year on account of any transportation initiatives or any other initiative similar to the Regional Greenhouse Gas Initiative (RGGI). The amount deducted may not exceed the total amount of the charge.

The local distribution company for natural gas must pay the charge for all natural gas that the company distributes for use in the State. The charge for natural gas is calculated by multiplying the number of cubic feet of natural gas used by each customer by the amount of CO_2 equivalents released, as specified. MDE must determine the amount of CO_2 equivalents released from extraction, transport, or distribution of natural gas before the point of consumption and may add an additional charge, as specified.

Greenhouse Gas Pollution Charge on Electricity Suppliers and Related Filing Requirements

Electricity suppliers must pay the GHG pollution charge at least quarterly on behalf of all of their electricity consumers based on each kilowatt-hour of electricity used by each distribution customer and the electricity fuel mix, as specified. However, an electricity supplier must deduct the net amount the supplier paid for the same year for RGGI allowances; the amount deducted may not exceed the total amount of the charge. MDE must determine the fuel used to generate electricity at each generating plant in the State and the fuel used to generate imported electricity into the State, as specified. Electricity suppliers must reconcile annual charges paid at least once annually.

By October 1 annually, each electricity supplier must file the result of its projected calculation for the following year and supporting data with PSC. PSC must open a docket upon receipt of the filing and make a determination as to whether the calculation complies with the bill. If it does, PSC must issue an order approving the calculation by November 15 of the same year. If a supplier’s calculation does not comply with the bill, PSC must issue an order that clearly states the errors, which the electricity supplier must correct within 21 days. If the supplier fails to correct the errors, PSC must issue an order establishing the calculation that the electricity supplier must use for the following calendar year.

Any person that generates more than 25,000 kilowatt-hours of on-site generated electricity using any combination of one or more fossil fuels must pay as a charge the carbon price of the fuels. The bill establishes a process for calculating the carbon price for such fuels, and the Secretary of the Environment must adopt regulations for the calculation, assessment, and collection of these carbon price amounts within one year after the date that the charges and rebates take effect. However, any charge already paid on the fuel under HCI must be deducted from the charge that would otherwise be due under this provision.

Healthy Climate Infrastructure Fund

The Healthy Climate Infrastructure Fund (Infrastructure Fund), which is administered by MDE, consists of (1) 30% of the proceeds of the GHG pollution charge; (2) money appropriated in the State budget; and (3) any other money from any source accepted for the benefit of the fund. Interest earnings of the fund are credited to the fund. The stated purpose of the fund is to invest in initiatives that improve the health and welfare of the citizens of the State. These initiatives must invest the money in the Infrastructure Fund as follows: (1) 40% to create a cleaner, more just, and efficient transportation sector throughout the State; (2) 25% to expand the use of clean energy sources and energy efficiency in the electricity and other energy consuming sectors; (3) 25% to provide funding for resiliency against climate change and weather events that have an impact on the lives of the citizens of the State and its economy; and (4) 10% to organize and fund programs that promote a just transition for State residents who have lost their jobs as a result of HCI.

Up to 5% of the money in the fund may be used for administration. The Infrastructure Fund must then be distributed as follows: (1) at least half the money must be distributed to (or for the benefit of) neighborhoods and local governments, in proportion to the number of residents within each jurisdiction, to be used for the stated purposes of the Infrastructure Fund, as specified; and (2) the remaining money in the fund must be used to support State programs for the stated purposes of the Infrastructure Fund.

The Secretary of the Environment must approve all funding awards, which must be prioritized as specified. The bill also creates a Healthy Climate Infrastructure Fund Advisory Board to assist the Secretary of the Environment in developing criteria for providing grants from the fund.

Household and Employer Rebate Fund

The Household and Employer Rebate Fund (Rebate Fund), also administered by MDE, consists of (1) the remaining proceeds from GHG pollution charges after the required distribution to the Infrastructure Fund (or 70% of the proceeds); (2) money appropriated in the State budget; and (3) any other money from any source accepted for the benefit of the fund. Interest earnings are credited to the fund. The stated purpose of the fund is to provide rebates to households and employers in the State in order to offset increased fuel and electricity costs resulting from HCI. The intent of the Rebate Fund is to (1) provide a high degree of protection for low- and moderate-income households, as specified and (2) protect vulnerable employers, including those in agriculture, manufacturers, small nonprofit organizations, and governmental units. Up to 5% of the money in the fund may be used for administration. The remaining money in the fund must be used to pay rebates. There are two separate rebate accounts in the fund: (1) the Household Rebate Account, which consists of 85% of the money in the fund; and (2) the Employer Rebate Account, which consists of 15% of the money in the fund.

Household Rebate Account

The money in the household rebate account must be distributed as follows: (1) 60% to households in specified income-based quintiles; (2) 10% of the money derived from charges on the direct sale of heating fuels to households must be allocated to the Department of Human Services (DHS) for use by the Maryland Energy Assistance Program (MEAP); (3) households that heat with fuel oil must receive an additional rebate, as specified; and (4) any remaining money in the account must be rebated to households in the State depending on the number of adult and minor residents in the household. The Secretary of the Environment must coordinate with the Comptroller and other specified agencies in rebating charge proceeds from the household rebate account, as specified.

Employer Rebate Account

The money in the employer rebate account must first be distributed to businesses in economic sectors identified, in consultation with specified agencies, as potentially experiencing significant negative impacts from the bill. The remaining money in the employer rebate account must be distributed to employers in the State based on their proportional share, in full-time equivalent employees, of total employment in the State.

Rebates, Generally

Rebates provided under the bill are not taxable income and, to the extent feasible, must be excluded from household income for the purposes of determining eligibility for, or the level of, any form of public assistance.

The Secretary of the Environment must make all reasonable efforts to return all charges collected but is not subject to penalties or actions for damages if the rebates are not precisely equal to charges collected. The Secretary of the Environment must also consider alternative calendar schedules for distribution of rebates, as specified. The Secretary may issue additional rebates or declare exemptions from charges if charges have been paid but no emissions occurred.

Current Law: A "carbon dioxide equivalent" is the measurement of a given weight of GHG that has the same global warming potential, measured over a specified period of time, as one metric ton of carbon dioxide.

Maryland's Healthy Air Act and Greenhouse Gas Emissions Reduction Act

The Healthy Air Act of 2006 established emission limits for nitrogen oxides, sulfur dioxide, and mercury from specified electric generating facilities in the State. The Act also addressed CO_2 emissions by requiring the Governor to include the State in RGGI. In 2007, Maryland joined RGGI, a cap-and-trade program established in conjunction with eight other northeastern and mid-Atlantic states. Each state limits CO_2 emissions from electric power plants, issues CO_2 allowances, and establishes participation in CO_2 allowance auctions. In August 2017, the participating states agreed to further reduce the program's carbon pollution cap.

The Greenhouse Gas Reduction Act, originally enacted in 2009 and made permanent and expanded in 2016, was enacted in light of Maryland's particular vulnerability to the impacts of climate change. Under the Act, the State must develop plans, adopt regulations, and implement programs to reduce GHG emissions by 25% from 2006 levels by 2020 and must further reduce GHG emissions by 40% from 2006 levels by 2030; the 2030 reduction requirement terminates December 31, 2023. A draft plan to reach the 2030 requirement is expected to be released by MDE soon. In addition, by October 1, 2022, MDE must report on the progress toward achieving the 2030 reductions as well as the reductions needed by 2050 to avoid the most dangerous impacts of climate change, as specified.

Regional Greenhouse Gas Initiative

Nine states currently participate in RGGI: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. In January 2018, the Governor of New Jersey signed an Executive Order requiring the state to rejoin RGGI after withdrawing in 2012. Additionally, Virginia may soon join RGGI.

In order to reduce CO_2 emissions from the power sector, each participating state limits CO_2 emissions from electric power plants, issues CO_2 allowances, and establishes participation in CO_2 allowance auctions. A single CO_2 allowance represents a limited authorization to emit one ton of CO_2. Total allowances in the Maryland program are 19.1 million in 2017, which decreases over time to 17.7 million by 2020.

Transportation and Climate Initiative of the Northeast and Mid-Atlantic States

The Transportation and Climate Initiative (TCI) of the Northeast and Mid-Atlantic States is a regional collaboration that seeks to improve transportation, develop the clean energy economy, and reduce carbon emissions from the transportation sector. There are 13 participating jurisdictions: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. MDE advises that Maryland has been an active participant in TCI since its inception in 2010. According to TCI's website, the initiative is directed by state and district agencies within the participating jurisdictions and is facilitated by the Georgetown Climate Center, with funding support from various entities.

On December 18 2018, nine of the member states (including Maryland, Virginia, and the District of Columbia) announced the intent to design a regional low-carbon transportation policy proposal that would (1) cap and reduce carbon emissions from the combustion of transportation fuels and (2) invest proceeds from the program into a low-carbon and more resilient transportation infrastructure. Participating states intend to complete the policy development process within one year, at which point each jurisdiction will decide whether to adopt and implement the policy.

Initiatives in Other States that are Similar to the Healthy Climate Initiative Established by the Bill

Related measures have been introduced in a number of other states, including Connecticut, Massachusetts, New Hampshire, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. In particular, recent initiatives proposed in Massachusetts and Rhode Island would establish similar charges and rebate programs.

State Fiscal Effect:

Proceeds from the Greenhouse Gas Pollution Charge

Special fund revenues from the GHG pollution charge increase by an estimated $721.1 million in fiscal 2020, increasing to nearly $2.7 billion by fiscal 2024, as shown in **Exhibit 1**. This estimate is based on the increasing charges established by the bill ($20 in 2019, increasing to $40 in 2024). Adjustments are made for imported electricity, the costs of RGGI allowances, and a calendar year to fiscal year conversion; however, the estimate does not account for any exemptions from the charge. The following additional information/assumptions were used:

- data from the U.S. Energy Information Administration on the average CO_2 equivalent from the emissions associated with energy consumption (in metric tons) from calendar 2011 to 2016 in Maryland by sector;
- the GHG pollution charge begins to be collected on January 1, 2020;
- the annual reduction target for each year is met, and so the fee increases by $5 each year, not $10; and
- consumption remains constant over time.

To the extent that the collection of charges is delayed, the increase in special fund revenues is similarly delayed. To the extent that the annual reduction target is not met in any given year, the fee is higher (and so are associated revenues).

Exhibit 1
Revenue Generated by the Charge and the Allocation of Funds
Fiscal 2020-2024
($ in Millions)

		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Charges Collected		**$721.1**	**$1,623.9**	**$1,987.3**	**$2,350.8**	**$2,714.2**
Infrastructure Fund	**30%**	**$216.3**	**$487.2**	**$596.2**	**$705.2**	**$814.3**
Administrative Costs	5%	10.8	24.4	29.8	35.3	40.7
Available for Projects	95%	205.5	462.8	566.4	670.0	773.6
Rebate Fund	**70%**	**$504.8**	**$1,136.7**	**$1,391.1**	**$1,645.5**	**$1,900.0**
Administrative Costs	5%	25.2	56.8	69.6	82.3	95.0
Household Rebate Account	85%	407.6	917.9	1,123.3	1,328.8	1,534.2
Employer Rebate Account	15%	71.9	162.0	198.2	234.5	270.7

GHG: greenhouse gas

Source: Department of Legislative Services

Available Funds for the New Special Funds Established by the Bill

As shown in Exhibit 1, based on the estimated revenues collected under the bill from the GHG pollution charge, an estimated $216.3 million is available to the Healthy Climate Infrastructure Fund in fiscal 2020, which reflects 30% of the total proceeds; by fiscal 2024, an estimated $814.3 million is available to the fund. Based on the anticipated revenue stream, an estimated $504.8 million is available to the Household and Employer Rebate

Fund in fiscal 2020, which reflects 70% of the proceeds; by fiscal 2024, an estimated $1.9 billion is available to the fund.

For the purposes of this fiscal and policy note, it is assumed that MDE spends all the special fund revenue collected in each year under HCI. As a result, special fund expenditures increase correspondingly. However, it is possible that, at least initially, MDE may carry a significant fund balance until the program is fully established.

As noted earlier, up to 5% of the money in both funds may be used for administration. Because the total administrative costs to implement HCI cannot be reliably estimated at this time, as discussed below, it is difficult to estimate the amount of funding that will be available in both funds for their primary purposes (State/local projects from the Infrastructure Fund and rebates from the Rebate Fund). However, Exhibit 1 shows the amounts available for projects/rebates in each fund assuming the full 5% is used to cover administrative costs. As shown in the exhibit, the following amounts are available for the primary purposes of each fund:

- Healthy Climate Infrastructure Fund: $205.5 million in fiscal 2020, increasing to $773.6 million by fiscal 2024;
- Household Rebate Account in the Household and Employer Rebate Fund: $407.6 million in fiscal 2020, increasing to $1.5 billion by fiscal 2024; and
- Employer Rebate Account in the Household and Employer Rebate Fund: $71.9 million in fiscal 2020, increasing to $270.7 million by fiscal 2024.

Among other required uses, funding from the Household Rebate Account must be used to support MEAP in DHS. Thus, special fund revenues and expenditures for DHS increase beginning in fiscal 2020. It is assumed that DHS can distribute the additional funding under the bill with existing staff.

Administrative Costs for Maryland Department of the Environment and the Comptroller

MDE is broadly responsible for administering the schedule of charges but must delegate the collection of charges, distribution of rebates, and any other appropriate functions to the Comptroller. As noted above, up to 5% of the money in each fund may be used for administrative costs. Thus, special fund administrative expenditures for the Comptroller increase by at least $504,511 in fiscal 2020, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one field auditor, one tax consultant, one revenue specialist, and two revenue examiners to begin collecting charges and distributing rebates. It includes salaries, fringe benefits, one-time start-up costs (including costs to design a new tax form and develop a database), and ongoing operating expenses.

Positions	5
Salaries and Fringe Benefits	$227,717
New Tax Form Costs	150,000
Development of Database	100,000
Operating Expenses	26,794
FY 2020 Comptroller Administrative Expenditures	**$504,511**

Costs could be higher to the extent MDE delegates any additional responsibilities to the Comptroller that are not currently anticipated. Future year administrative expenditures for the Comptroller reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Although MDE's administrative costs cannot be reliably estimated at this time given the magnitude of HCI, the breadth of the affected entities, the complex system of charges established by the bill, the amount of funding available for State projects and local grants under the Healthy Climate Infrastructure Fund, and the complex rebate system established by the bill, MDE needs to create a new functional unit within the department. At least a dozen staff are likely needed, beginning in fiscal 2020, to administer and oversee HCI and to implement the bill's various requirements. To the extent MDE delegates additional responsibilities to the Comptroller, the need for staff within MDE decreases somewhat.

Despite the fact that a reliable estimate of the total administrative costs incurred by MDE and the Comptroller cannot be made, it is assumed that total administrative costs are well within the 5% of the money in both funds that is authorized for administration, which is estimated to total $36.1 million in fiscal 2020 and $135.7 million by fiscal 2024 (as shown in Exhibit 1). The Department of Legislative Services advises, however, that although the bill authorizes the use of special funds to cover the administrative costs incurred to implement HCI, it is possible that MDE and the Comptroller incur costs prior to collecting any charges. To the extent this occurs, general funds may be needed until special funds are available.

State Expenditures for Energy

Increased energy supplier costs resulting from the GHG pollution charge will ultimately be passed on to ratepayers in the form of higher energy prices. Thus, State expenditures (all funds) increase significantly due to an increase in the price of gas and electricity. This estimate assumes the charges, and thus the increase in State expenditures, begin January 1, 2020. The actual amount of this increase is unknown; however, based on the usage of electricity alone, the increase in State expenditures could exceed $25 million annually by fiscal 2024.

To the extent any State agencies, as employers, receive any rebates from the Employer Rebate Account, some portion of the anticipated increase in expenditures may be offset.

Public Service Commission and the Office of People's Counsel

Under the bill, PSC must review electricity supplier's calculations, open a docket, make determinations on the calculations of charges, as specified, and issue various orders. PSC can likely comply with these requirements using existing budgeted resources. The Office of People's Counsel also anticipates that it can comply with the bill's requirements using existing budgeted resources.

Other Agencies

It is assumed that the various agencies identified in the bill that are required to consult with MDE on various activities and/or participate in the Healthy Climate Infrastructure Fund Advisory Board can do so with existing budgeted resources.

Local Fiscal Effect: Local government expenditures increase significantly beginning in fiscal 2020 due to an increase in the price of gas and electricity resulting from the establishment of the GHG pollution charge. To the extent any local governments, as employers, receive any rebates from the Employer Rebate Account, some portion of the anticipated increase in expenditures may be offset.

The bill also specifies that at least half of the money in the Healthy Climate Infrastructure Fund (after administrative costs) must be distributed to benefit neighborhoods and local governments in proportion to the number of residents within each jurisdiction. Thus, local grant revenues increase significantly from funding distributed by MDE from the Healthy Climate Infrastructure Fund, and expenditures increase correspondingly as local governments use the grants to improve the transportation sector, expand the use of clean energy sources and energy efficiency in the electricity and other energy-consuming sectors, increase resiliency against climate change and weather events, and promote a just transition for State residents who have lost their jobs as a result of HCI. In addition, local governments benefit from State support of the same types of projects.

Small Business Effect: Small businesses throughout the State incur a significant increase in expenditures due to an increase in the price of gas and electricity resulting from the establishment of the GHG pollution charge. As employers, however, small businesses are slated to receive rebates under the bill. In addition, small businesses that provide services and products related to reducing GHG emissions (for example, renewable energy installers and maintenance companies; engineering and construction companies; environmental mitigation companies; heating, ventilation, and air conditioning companies; landscape architects; etc.) likely see a meaningful increase in the demand for their services as a result of the significant funding available for these types of projects under HCI.

Additional Information

Prior Introductions: HB 939 of 2018, a similar bill, received an unfavorable report from the House Economic Matters Committee.

Cross File: HB 1235 (Delegate Fraser-Hidalgo, *et al.*) - Economic Matters and Environment and Transportation.

Information Source(s): Department of Commerce; Montgomery and Worcester counties; Maryland Association of Counties; City of Westminster; Maryland Municipal League; Town of Leonardtown; Comptroller's Office; Maryland Department of the Environment; Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Maryland Energy Administration; Office of People's Counsel; Public Service Commission; State of New Jersey Department of Environmental Protection; RGGI Inc.; U.S. Energy Information Administration; Transportation and Climate Initiative of the Northeast and Mid-Atlantic States; Yale Climate Connections; Department of Legislative Services

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