Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1310 (Delegate Rosenberg)
Appropriations and Economic Matters

Clean Energy and Energy Efficiency - Investment in Low-Income Communities

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This bill requires the Commission on Environmental Justice and Sustainable Communities (CEJSC), by December 1, 2021, to develop policies and recommendations to place the highest priority on overall spending on clean energy and energy efficiency programs, projects, and investments in the State to benefit "low-income communities," as defined. State and local governmental units, in consultation with specified State agencies and CEJSC must, to the extent practicable, invest or direct specified programmatic resources in order to achieve the priorities established for low-income communities. Federal funding appropriated for specified State programs and agencies (most of which relate to energy and energy efficiency) must also be prioritized to provide funding to low-income communities, as specified. The bill also establishes several new reporting requirements. **The bill takes effect June 1, 2021**.

Fiscal Summary

State Effect: No effect in FY 2021. In FY 2022, general fund expenditures increase by $168,200 and special fund expenditures increase by $191,800. Future years reflect ongoing costs. Overall finances for affected programs are unchanged, but the bill redirects spending, as discussed below. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	$0	$0	$0	$0	$0
GF Expenditure	168,200	150,800	155,300	160,900	166,700
SF Expenditure	191,800	173,100	178,400	184,700	191,300
Net Effect	($359,900)	($323,900)	($333,700)	($345,600)	($357,900)

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

Local Effect: Local revenues and expenditures may be affected, but any such impact cannot be reliably estimated at this time.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Low-income Community

The bill defines a "low-income community" as a population census tract that has a poverty rate of at least 20% or (1) for a tract not located within a metropolitan area, has a median family income that does not exceed 80% of the statewide median family income or (2) for a tract located within a metropolitan area, has a median family income that does not exceed 80% of the greater of the statewide median family income or the metropolitan area median family income.

Policy Priorities and Recommendations for Prioritizing Spending

By December 1, 2021, CEJSC must develop policies and recommendations to place the highest priority on overall spending on clean energy and energy efficiency programs, projects, and investments in the State to benefit low-income communities.

The priority for spending developed by CEJSC under the bill applies in each fiscal year, starting with fiscal 2023, to spending on clean energy and energy efficiency programs, projects, and investments in the areas of housing, workforce development, pollution reduction, low-income energy assistance, energy, transportation, and economic development. The spending on programs, projects, and investments includes clean energy and energy efficiency programs that are wholly or partly funded under (1) the Small, Minority, and Women-Owned Business Account (SMWOBA) within the Department of Commerce (Commerce); (2) the Clean Energy Workforce Account within the Maryland Department of Labor (MDL); and (3) the Jane E. Lawton Conservation Loan Program (JELLP), the Strategic Energy Investment Program, and the Maryland Offshore Wind Business Development Fund (MOWBDF) within the Maryland Energy Administration (MEA).

To achieve these priorities, CEJSC must consult with the Maryland Department of the Environment (MDE), the Public Service Commission (PSC), MEA, other relevant units of State and local government, and representatives of low-income communities, clean energy industries and related energy interests, environmental advocates, and the general public. CEJSC must also conduct public information-gathering sessions throughout the State to solicit input from low-income communities and the public.

After consulting with the public, CEJSC must work with MDE, PSC, and MEA to coordinate and develop specific recommendations concerning identification of, and providing assistance to, low-income communities (including recommended legislative and regulatory changes to achieve the bill's priorities).

CEJSC must review its guidelines and recommendations annually, as specified, and may recommend modifications based on new data and other information. By October 1, 2022, and annually thereafter, CEJSC must submit a report of its activities and recommendations to the Governor and the General Assembly.

State and Local Governments

State and local governmental units, in consultation with CEJSC, MDE, PSC, and MEA, must, to the extent practicable, invest or direct available and relevant programmatic resources in a manner designed to achieve the priorities for low-income communities established under the bill.

Prioritization of the Use of Federal Funding for Specified Projects

Federal funds that are appropriated either in the budget bill or by budget amendment to agencies and programs that receive funds for the purpose of (1) clean energy and energy efficiency programs and projects; (2) energy; (3) housing; (4) workforce development; (5) pollution reduction; (6) low-income energy assistance; (7) transportation; and (8) economic development must be prioritized in a manner that provides funding to low-income communities in accordance with the bill. The bill specifies several programs subject to this provision, including programs administered by MEA, MDE, MDL, the Department of Human Services (DHS), the Department of Housing and Community Development (DHCD), the Maryland Department of Transportation (MDOT), and Commerce, in addition to any other agencies and programs receiving funds for the above purposes. However, the bill's requirements regarding the prioritization of federal funding do not apply to a program or activity to the extent that the requirement conflicts with federal law or regulations for that program or activity.

Required Annual Report

The Department of Budget and Management (DBM), in coordination with the appropriate State agencies, must submit an annual report to specified committees of the General Assembly by December 31, 2021, and annually thereafter. The report must provide information on the amount of federal funds that are appropriated for (1) clean energy and energy efficiency programs and projects; (2) energy; (3) housing; (4) workforce development; (5) pollution reduction; (6) low-income energy assistance; (7) transportation; and (8) economic development. The report also must provide information on the share of funds directed to low-income communities pursuant to the bill.

Current Law:

Commission on Environmental Justice and Sustainable Communities

CEJSC within MDE was established by executive order in 2001 and codified in 2003. CEJSC is tasked with examining issues of "environmental justice" and sustainable communities for all Marylanders. To this end, CEJSC reviews and analyzes the environmental justice implications of current State policy, laws, and regulations; assesses the adequacy of State and local laws to address the issue of environmental justice and sustainable communities; coordinates with the Children's Environmental Health and Protection Advisory Council on recommendations to further environmental justice and sustainable communities; develops criteria to assess whether communities may be experiencing environmental justice issues; and recommends options to the Governor for addressing issues, concerns, or problems related to environmental justice. "Environmental justice" means equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status.

Strategic Energy Investment Program and Fund

The Strategic Energy Investment Program within MEA has the stated purpose of decreasing energy demand and increasing energy supply to promote affordable, reliable, and clean energy to fuel Maryland's future prosperity. The program is supported by the Strategic Energy Investment Fund (SEIF), which was established by Chapters 127 and 128 of 2008, primarily to contain revenue generated from the sale of carbon dioxide emission allowances under the Regional Greenhouse Gas Initiative. The allocation of revenue has been altered several times in budget reconciliation legislation. The current allocation requires (1) at least 50% for energy assistance; (2) at least 20% for energy efficiency and conservation (at least one-half for low- and moderate-income programs); (3) at least 20% for renewable and clean energy, energy-related education and outreach, resiliency, and climate change programs; and (4) up to 10%, but no more than $5.0 million for administrative expenses.

Small, Minority, and Women-Owned Businesses Account

State law generally requires that 1.5% of video lottery terminal proceeds at each licensed video lottery facility be paid into SMWOBA. The account, which was established in 2007, is a special, nonlapsing fund that is administered by Commerce. The purpose of the account is to provide investment capital and loans to small, minority, and women-owned businesses in the State. At least 50% of such activity must be allocated to eligible businesses in the jurisdictions and communities surrounding a video lottery facility. Chapter 757 of 2019 requires MEA to use SEIF to provide funding for access to capital for small, minority, women, and veteran-owned businesses in the clean energy industry under SMWOBA, subject to specified conditions. This funding is required to be allocated in annual increments from fiscal 2021 through 2028.

The Employment Advancement Right Now Program and the Clean Energy Workforce Account

The Maryland Employment Advancement Right Now (EARN) program, administered by MDL, was established in 2013 to create industry-led partnerships to advance the skills of the State's workforce, grow the State's economy, and increase sustainable employment for working families. Specifically, the program provides general fund grants on a competitive basis for industry partnerships, workforce training programs, and job readiness and skills training.

Chapter 757 requires MEA to use SEIF to invest in pre-apprenticeship, youth apprenticeship, and registered apprenticeship programs to establish career paths in the clean energy industry under the EARN program. Subject to specified requirements, starting in fiscal 2021, $1.5 million must be transferred for grants to pre-apprenticeship jobs training programs, and $6.5 million must be transferred for grants to youth and registered apprenticeship jobs training programs until all amounts are spent. Chapter 757 also established the Clean Energy Workforce Account in the EARN program to receive and disburse the transfers as grants.

Jane E. Lawton Conservation Loan Program

The stated purpose of JELLP within MEA is to provide financial assistance in the form of low-interest and zero-interest loans to nonprofit organizations, local jurisdictions, State agencies, and eligible businesses for projects to (1) promote energy conservation; (2) reduce consumption of fossil fuels; (3) improve energy efficiency; and (4) enhance energy-related economic development and stability in the nonprofit, commercial, and industrial sectors.

Maryland Offshore Wind Business Development Fund

Chapter 3 of 2013 (The Maryland Offshore Wind Energy Act) established MOWBDF within MEA to (1) provide financial assistance, business development assistance, and employee training opportunities to emerging businesses in the State to prepare them to participate in the emerging offshore wind industry and (2) encourage emerging businesses in the State to participate in the emerging offshore wind industry. In addition to other sources of revenue, developers of approved offshore wind projects must each deposit $6.0 million into the fund over about two years. MEA is authorized to use the fund to carry out the purposes of the fund and for implementation costs.

EmPOWER Maryland

In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in per capita electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018 to 2020 and 2021 to 2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company's 2016 sales. Approved program costs are recovered by electric companies on customer bills.

Energy Assistance

The Office of Home Energy Programs within DHS administers a variety of energy assistance programs and services for residential customers using local administering agencies, including local departments of social services, in each county and Baltimore City. These programs include the Electric Universal Service Program bill payment assistance, Maryland Energy Assistance Program bill payment assistance (heating source), and gas and electric arrearage assistance programs. The income eligibility for each of these programs is 175% of the federal poverty level.

State Expenditures:

Maryland Energy Administration Administrative Costs

SEIF special fund expenditures for MEA increase by $191,754 in fiscal 2022, which accounts for a 30-day start up delay. This estimate reflects the cost of hiring two full-time employees, one program manager and one energy specialist to (1) consult and work with CEJSC as necessary to coordinate and provide assistance to low-income communities; (2) conduct necessary program review and develop new policies; (3) meet the bill's requirements to invest or direct available and relevant programmatic resources in a manner designed to achieve the priorities identified for low-income communities under the bill; (4) prioritize federal funding appropriated to affected MEA-administered programs as required; and (5) collect data for the required annual reporting. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the bill creates an annual cycle of data collection, program review, and the development of new policies; and
- MEA administers more than a dozen programs that are either explicitly or likely affected by the bill, many of which have subprograms or other distinct categories within them; accordingly, the bill creates new responsibilities for MEA that cannot be handled with existing staff.

Positions	2.0
Salaries and Fringe Benefits	$180,264
Operating Expenses	11,490
MEA FY 2022 Administrative Costs	**$191,754**

Future year administrative expenditures reflect salaries with annual increases and employee turnover and ongoing operating expenses. To the extent SEIF does not have sufficient funding to cover these costs, general funds may be necessary to cover these costs in the out-years.

Maryland Department of the Environment Administrative Costs

General fund expenditures for MDE increase by $168,151 in fiscal 2022, which accounts for a 30-day start up delay. This estimate reflects the cost of hiring two full-time administrators to handle CEJSC's expanded duties under the bill, including (1) developing the required policies, recommendations, and funding priorities regarding spending on clean energy and energy efficiency programs, projects, and investments; (2) coordinating with other agencies and entities; (3) conducting information gathering sessions; (4) annually reviewing the guidelines and recommendations that are developed; and (5) developing and submitting the required annual report. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the bill creates an annual cycle of data collection, program review, and the development of new policies; and
- based on MDE's experience staffing CEJSC, MDE staff are not able to absorb the additional workload anticipated as a result of the bill.

Positions	2.0
Salaries and Fringe Benefits	$156,661
Operating Expenses	11,490
MDE FY 2022 Administrative Costs	**$168,151**

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

Public Service Commission Administrative Costs

PSC advises that, depending on the extent of the consulting required under the bill, existing resources should be sufficient to implement the bill. To the extent existing resources prove insufficient, special fund expenditures increase, and special fund revenues increase correspondingly due to assessments imposed on public service companies.

Priority Spending to Benefit Low-income Communities and New Reporting Requirements

Overall finances of any affected programs are not affected. However, the bill changes the priority for spending under a broad variety of clean energy and energy efficiency programs, projects, and investments in the areas of housing, workforce development, pollution reduction, low-income energy assistance, transportation, and economic development. Since the priority spending policies are not yet developed and low-income communities have been defined but not identified, a reliable estimate of how the bill redirects existing spending cannot be made at this time.

However, according to the Governor's proposed fiscal 2022 budget, the amount of federal funding alone that could be affected for just the *listed* agency and program budget codes could be more than $1.0 billion. Thus, the universe of potential affected funding is significant. It should be noted that the extent to which priority uses identified under the bill conflict with federal law or regulations for affected programs or activities is unknown.

It is assumed that affected agencies (other than MDE and MEA), which include, at a minimum, MDL, DHS, DHCD, MDOT, and Commerce, can generally implement the priority policies and direct various funding as required under the bill, consult as necessary with CEJSC, MDE, PSC and MEA, and submit required information to DBM on an annual basis, with existing budgeted resources. It is also assumed that DBM can collect the required data and report annually, beginning December 31, 2021, with existing budgeted resources.

Local/Small Business Effect: Although the bill does not impact the overall finances of the affected State programs, spending is redirected under the bill. This likely means some local jurisdictions and small businesses benefit from an increase in funding, while others receive less funding. Since, taken together, the affected programs have considerable funding, the impact could be meaningful. However, without more detail on the priority spending policies developed and the identification of low-income communities, a reliable estimate of the bill's impact cannot be made at this time.

Furthermore, the bill requires that local governmental units, to the extent practicable, invest or direct specified programmatic resources in order to achieve the priorities established for low-income communities. Thus, spending on affected local programs may also be redirected under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; City of Havre de Grace; Department of Commerce; Maryland Department of the Environment; Department of Housing and Community Development; Department of Human Services; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Public Service Commission; Department of Legislative Services

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