Department of Legislative Services

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2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 905 (Senator Feldman)

Education, Energy, and the Environment

Electric Companies, Gas Companies, and the Department of Housing and Community Development - Energy Efficiency and Conservation Plans

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This bill generally alters the EmPOWER Maryland Energy Efficiency Program by (1) explicitly requiring energy efficiency and conservation measures to support greenhouse gas (GHG) emissions reductions; (2) removing prescriptive energy savings targets and instead requiring the Public Service Commission (PSC) to set GHG emissions reduction targets and approve energy efficiency and conservation measures designed to meet those targets; and (3) expanding applicability of EmPOWER to gas companies. The Department of Housing and Community Development (DHCD) is also required to participate in the program, as it does under current law. The changes are made through a combination of repealing all existing provisions and establishing a new Part that includes a mixture of existing requirements and processes and new requirements. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures for the Maryland Department of the Environment (MDE) increase by $352,000 in FY 2024. Future years reflect annualization and the elimination of one-time costs. PSC and other affected State agencies can implement the bill with existing resources. Special fund revenues and expenditures for DHCD increase or decrease as necessary to align with DHCD costs under the bill but are generally expected to align with existing amounts. The effect on utility rates is discussed separately below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	$0	$0	$0	$0	$0
GF Expenditure	352,000	184,400	192,600	201,100	211,700
Net Effect	($352,000)	($184,400)	($192,600)	($201,100)	($211,700)

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

Local Effect: Local governments are affected to the extent they receive different funding levels under the bill through DHCD's EmPOWER Maryland programs. The effect on utility rates is discussed separately below.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Repeal of Existing Requirements

Existing provisions related to the EmPOWER Maryland Energy Efficiency Act are repealed.

New General Requirements

Subject to review and PSC approval, each electric company and gas company must develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, electric companies, and gas companies in support of the GHG emissions reduction goals and targets specified in the Environment Article.

As directed by PSC, each municipal electric or gas utility and each electric cooperative that serves a population of less than 250,000 in its service territory must include energy efficiency and conservation programs or services as part of their service to their customers. (This requirement exists in current law and distinguishes the State's large investor-owned utilities and electric cooperatives from municipal electric utilities and small cooperatives for purposes of EmPOWER.)

PSC must encourage and promote the efficient use and conservation of energy in support of the GHG emissions reduction goals and targets in the Environment Article and set by PSC under the bill by:

- requiring each electric company and gas company to establish any program or service that PSC determines to be appropriate and cost-effective;
- adopting rate-making policies that provide cost recovery and reasonable financial incentives for electric companies and gas companies through a surcharge or base rate recovery for the companies' investments in programs and resources; and
- ensuring that adoption of electric customer choice and gas customer choice do not adversely impact these goals and targets.

Cost Effective Energy Efficiency, Conservation, and Greenhouse Gas Emissions Reductions Programs

Generally, beginning September 1, 2023, PSC must require each electric company and gas company to:

- develop a plan for procuring or providing for its customers cost-effective energy efficiency, conservation, and GHG emissions reduction programs and services; and
- procure or provide for its customers the programs and services.

PSC must ensure that the programs and services procured or provided by an electric company or gas company:

- have projected and verifiable energy efficiency, conservation, and GHG emissions reductions for each affected customer class;
- achieve gross GHG emissions reduction targets as set by PSC; and
- are composed of sufficient percentages, as determined by PSC, of behind-the-meter programs, non-energy programs, front-of-meter community programs, and front-of-meter utility programs, as those terms are defined.

Contributions to GHG emissions reduction goals and targets in a plan of an electric company or a gas company may include programs and resources that are recovered in a base rate proceeding, subject to PSC approval.

Beginning September 1, 2023, DHCD must procure or provide to low- and moderate-income individuals energy efficiency, conservation, and GHG emissions reduction programs and services. DHCD may procure or provide savings that are achieved through funding sources that meet the standards of program funding through utility rates or the U.S. Department of Energy. DHCD must submit any programs or services procured or provided under the bill to PSC for review and approval.

Consultation with Relevant Agency Staff Required for Each Three-year Plan Cycle

By July 1, 2023, and every three years thereafter, each electric company, each gas company, and DHCD must consult with PSC technical staff, the Office of People's Counsel (OPC), the Maryland Energy Administration (MEA), and MDE regarding the design and adequacy of its plans for achieving the efficient use and conservation of energy in support of the GHG emissions reduction goals and targets in the Environment Article and set by PSC under the bill. The entities must provide any additional information as requested. MDE must prepare and submit to PSC an analysis regarding the adequacy of each plan in supporting the State's GHG emissions reduction goals in the Environment Article and set by PSC under the bill.

Plan Details, Review, and Approval

By September 1, 2023, and every three years thereafter, an electric company, a gas company, and DHCD must submit its plan to PSC. Each plan must detail a proposal for achieving the energy efficiency, conservation, and GHG emissions reduction targets for three subsequent calendar years (this is generally how EmPOWER works under current law). Each plan must include specified relevant information, such as anticipated costs and GHG emissions reductions. DHCD's plans must include the definition of "low- or moderate-income individual" to be used in its programs and services.

PSC must review each plan to determine whether it is adequate and cost effective (across specified metrics and categories) in achieving the GHG emissions reduction targets set by PSC under the bill. PSC must consider written findings by MEA and MDE regarding plan design and adequacy. In approving a plan, PSC must consider specified factors. Programs and services offered by DHCD are not required to be cost effective.

Plan Implementation Updates, Monitoring, and Reports

Every six months, each electric company, each gas company, and DHCD must provide to PSC an update on plan implementation, as specified. PSC must monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

By May 1 each year, PSC must report to the General Assembly on the status of programs and services, as specified, and a recommendation for the appropriate funding level to adequately fund the programs and services.

Current Law:

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 2018-2020 and 2021-2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company's 2016 sales. That legislation also required PSC to conduct a related study by July 1, 2022. Chapter 38 of 2022 (the Climate Solutions Now Act) further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter. The Act also specified that the core objective of the reductions must include development and implementation of a portfolio of mutually reinforcing goals, including GHG emissions reduction, energy savings, net customer benefits, and reaching underserved customers. The Act included related administrative requirements in uncodified language.

DHCD participates in EmPOWER Maryland through two special fund programs: the Low Income Energy Efficiency Program (LIEEP); and the Multifamily Energy Efficiency and Housing Affordability (MEEHA) Program. LIEEP helps low-income households undertake energy conservation projects in their homes at no charge, while MEEHA promotes energy efficiency and affordability in the State's multifamily rental housing developments for low- and moderate-income households. Approved program costs are recovered by electric companies on customer bills.

Maryland Greenhouse Gas Emissions Reduction Targets and the Climate Solutions Now Act

The Climate Solutions Now Act made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045. The Act also established new and altered existing energy conservation requirements for buildings and increased and extended the EmPOWER Maryland program, as described above.

State Fiscal Effect: PSC can implement the required changes to the EmPOWER Maryland program with existing budgeted resources, as can MEA and OPC. Except for MDE, these agencies are already generally involved with EmPOWER planning and would be in the future under current law.

Maryland Department of the Environment

Utilities and DHCD must consult with various State entities, including MDE, regarding the design and adequacy of their plans for achieving the efficient use and conservation of energy in support of the GHG emissions reduction goals and targets in the Environment Article and set by PSC under the bill. Additionally, MDE is required to conduct a GHG analysis regarding the adequacy of each plan in supporting the GHG emissions reduction goals. MDE advises that it cannot conduct such analyses and consult on this three-year planning cycle – and potentially other reporting cycles – with existing resources. MDE advises that it requires two staff for ongoing plan review and analysis and anticipates a one-time consulting expense of $150,000 to establish a GHG analysis framework that considers legal, programmatic, and accounting implications for energy efficiency and conservation programs. Costs are assumed to be paid for with general funds, although special funds may be available.

Accordingly, general fund expenditures increase by $352,037 in fiscal 2024, which accounts for the bill's July 1, 2023 effective date. This estimate reflects the cost of hiring two energy policy analysts to assist with ongoing plan review and analysis. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time consulting expense of $150,000 to establish the GHG analysis framework.

Positions	2.0
Salaries and Fringe Benefits	$186,689
Contractual Services	150,000
Other Operating Expenses	15,348
Total FY 2024 State Expenditures	**$352,037**

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time costs.

Department of Housing and Community Development

Unlike the other agencies listed above with advisory and regulatory responsibilities, DHCD must directly implement energy efficiency/GHG reduction plans under the bill. This analysis assumes that DHCD conforms and expands where necessary its existing EmPOWER Maryland programs in order to meet the bill's new requirements. Further, as EmPOWER Maryland must continue beyond the current 2024-2026 planning cycle under current law, ongoing DHCD savings/costs are assumed to be incremental. DHCD advises that it expects costs to be similar under the bill as under current law. Nevertheless, DHCD's costs to implement the EmPOWER Maryland program are assumed to be paid for by EmPOWER surcharge revenues. Accordingly, special fund revenues increase or decrease to the extent necessary to align with DHCD costs under the bill. The amount and timing will depend on the change in costs for DHCD to comply with the EmPOWER requirements under the bill and the amount and timing of approved cost collection by PSC.

Local Fiscal Effect: Local weatherization agencies receive funds through LIEEP to assist in program implementation, and local housing authorities receive funds through MEEHA. Therefore, local governments are affected to the extent they receive different funding levels under the bill through DHCD's EmPOWER Maryland programs.

Small Business Effect: Small businesses engaged in projects under the EmPOWER Maryland program are affected by potential changes in program funding levels.

Additional Comments: The EmPOWER surcharge is assessed on utility customers to pay for the program. Accordingly, all utility customers – including the State, local governments, and small businesses – will ultimately pay for any additional expenditures incurred under the bill and funded through allowable surcharges and/or base rates when those costs are recovered by electric and gas companies. However, PSC advises that it is unclear if the bill will cause costs greater than those required to comply with the current requirement to meet a 2.0% to 2.5% energy efficiency goal.

A July 2022 PSC report discusses the transition of EmPOWER Maryland from energy savings goals to GHG abatement goals and PSC's recommendation that the General Assembly adopt GHG abatement goals. The report incorporates intent language in the Climate Solutions Now Act.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1035 (Delegate Wilson) - Economic Matters.

Information Source(s): Public Service Commission; Maryland Department of the Environment; Department of Housing and Community Development; Maryland Energy Administration; Office of People's Counsel; Department of Legislative Services

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js/lgc

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