Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 516 (Delegate Fennell, *et al.*)

Economic Matters and Environment and Transportation

Climate Crisis and Environmental Justice Act of 2024

This bill establishes the Climate Crisis Initiative in the Maryland Department of the Environment (MDE). As a funding source, the bill establishes various pollution fees on fossil fuels. Revenues from the fees are deposited into two MDE special funds created by the bill and used for administrative expenses (5%) and other specified purposes. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Special fund revenues for MDE increase significantly beginning as early as FY 2025 from fees; revenues may reach $1.0 billion annually in future years. Special fund expenditures increase beginning as early as FY 2025 for programmatic and administrative purposes. General fund expenditures may increase in FY 2025 for initial implementation costs, likely repaid in FY 2026. State expenditures (all funds) increase significantly due to higher energy and fuel prices beginning as early as FY 2025.

Local Effect: Local expenditures for energy and fuel increase significantly beginning as early as FY 2025; local revenues and expenditures may increase from funds received under the bill.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Climate Crisis Initiative – Generally

The purpose of the Climate Crisis Initiative is to provide for:

- the assessment of greenhouse gas (GHG) pollution fees;
- the provision of benefits to households and employers in the State to mitigate the impact of fees under the initiative; and
- the funding of activities for GHG emissions reduction and sequestration, improvements in resiliency, and the promotion of a just economic transition in the State.

The Secretary of the Environment must administer the schedule of GHG pollution fees and may delegate any appropriate functions to the Comptroller, such as the collection of fees and the distribution of benefits. The Comptroller must carry out all functions delegated by the Secretary.

The bill establishes several other requirements for MDE, the Comptroller, the Public Service Commission (PSC), the Department of Human Services, the Department of Commerce, the Maryland Department of Labor, the Department of Housing and Community Development, and the Commission on Environmental Justice and Sustainable Communities, including several reporting requirements, consultation on various aspects of the initiative, and the adoption of regulations.

Greenhouse Gas Pollution Fees

The bill establishes a fee on all fossil fuels brought into the State for combustion in the State. The fees are calculated based on relevant carbon dioxide- (CO_2) equivalent emissions, subject to related requirements, and with various additions, exclusions, reductions, as specified.

GHG pollution fees begin in calendar 2025, increase each year through 2024, and remain level beginning in 2035. For nontransportation fuels, the fee starts at $25 per ton of CO_2 equivalent and increases to $75 per ton of CO_2 equivalent beginning in 2035. For transportation fuels, the fee starts at $25 per ton of CO_2 equivalent and increases to $52 per ton of CO_2 equivalent beginning in 2035. Additional fees for escaped or released methane may be added by the Secretary. The collection of the fee must begin upon the adoption of all rules necessary for collection, but not later than January 1, 2026. If the fees take effect in a calendar year later than 2025, the Secretary of the Environment must delay the fee schedule by the same number of years.

The fees must be collected as the first point of sale of the fossil fuel in the State and paid by the entity transporting the fossil fuel into the State. The bill specifies that these fees may not be passed through as a direct cost to (1) an end user of a fossil fuel or (2) a customer of a gas company. However, that general prohibition does *not* prohibit a gas company from passing through such a fee on the commodity distributed to a customer to the extent that PSC approves the fee as a prudently incurred cost of distribution.

Fee Revenue Distributions

Revenues from the fees are deposited into the newly established Household and Employer Benefit Fund and the Climate Crisis Infrastructure Fund, as discussed further below. Each fund is administered by MDE (though MDE must consult with specified commissions to administer Infrastructure Fund), may be used for administrative costs, and must be used for specified purposes. The Benefit Fund and the Infrastructure Fund each receive 50% of the total GHG pollution fee revenue.

Household and Employer Benefit Fund

The Household and Employer Benefit Fund, in addition to any other funds, consists of 50% of the total GHG pollution fee revenue. The stated purposes of the fund are to (1) provide a high degree of protection for low- and moderate-income households in the State and (2) protect energy intensive trade-exposed employers in the State. Generally, the fund must be used to pay benefits, for which there are two separate accounts: (1) the Household Benefit Account, which consists of 80% of the money in the fund; and (2) the Employer Benefit Account, which consists of 20% of the money in the fund. Money must be distributed through the two benefit accounts to households and employers, subject to various requirements, exclusions, and potential timing changes, as specified. Leftover funds are transferred to the Infrastructure Fund.

Money distributed from the Household Benefit Account is 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.

Climate Crisis Infrastructure Fund

The Climate Crisis Infrastructure Fund, in addition to any other funds, consists of (1) 50% of the total GHG pollution fee revenue and (2) any remaining unspent benefits received from the Household and Employer Benefit Fund. The stated purpose of the fund is to invest in initiatives that improve the health and welfare of the citizens of the State for specified purposes generally related to clean energy and resiliency. When feasible, investments must also be designed to create local economic development and employment in the State. At least 50% of the money must be invested in projects that are located within and provide meaningful benefits to disproportionately affected communities. Additionally, up to 50% of the money may be disbursed to county and municipal governments for qualifying projects; the Secretary, in consultation with the Commission on Environmental Justice and Sustainable Communities, must establish and publish the qualification criteria, as specified. Up to 5% of the money in the fund may also be used to provide technical assistance, capacity, and planning tools to local governments, as specified.

MDE may delegate administration of any programs developed under the fund to State agencies, regional authorities, municipal governments, and other public institutions.

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 CO_2.

The Maryland Department of the Environment's Climate Change Program

MDE's Climate Change Program leads the State's efforts to reduce GHG emissions, as required by the GHG Emissions Reduction Act and participation and oversight in other initiatives, including the Regional Greenhouse Gas Initiative (RGGI) and the U.S. Climate Alliance. The program also ensures State compliance with climate-related State and federal laws, such as the Climate Solutions Now Act (Chapter 38 of 2022), discussed below.

The U.S. Climate Alliance is a bipartisan coalition of governors, including the Governor of Maryland, committed to reducing GHG emissions consistent with the goals of the Paris Agreement. These goals include reducing collective net GHG emissions by at least 26% to 28% by 2025 and by 50% to 52% by 2030 (both below 2005 levels) and collectively achieving overall net-zero GHG emissions as soon as practicable, but no later than 2050.

Maryland also participates in the multi-state 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.

Chapters 127 and 128 of 2008 created the Maryland Strategic Energy Investment Program and the implementing Strategic Energy Investment Fund (SEIF) to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. SEIF is primarily funded through the proceeds from the auction of carbon allowances under RGGI.

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

Chapter 38 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.

In December 2023, MDE published Maryland's Climate Pollution Reduction Plan, which was developed to implement Chapter 38.

State Fiscal Effect: Special fund revenues from the GHG pollution fees cannot be reliably estimated at this time. However, special fund revenues for MDE increase *significantly* beginning as early as fiscal 2025 from the fees; revenues may reach $1.0 billion annually in future years, based on previous estimates for similar legislation and the fees specified in the bill. Special fund expenditures for MDE increase beginning as early as fiscal 2025 as fee revenues in the Household and Employer Benefit Fund and the Climate Crisis Infrastructure Fund are used for programmatic and administrative purposes under the allocations required by the bill.

As noted earlier, up to 5% of the money in each fund may be used for administration. Due to many unknown factors, the total administrative costs to implement the initiative cannot be reliably estimated at this time, although MDE advises that administrative costs average approximately $5.5 million to $6.3 million annually from fiscal 2025 through 2029 for approximately 60 new staff and other implementation costs. The Comptroller may also have significant administrative costs, although the amount largely depends on the duties delegated by MDE. Fee revenues cannot be collected earlier than calendar 2025, but MDE and/or the Comptroller may have administrative costs prior to that date. Thus, it is assumed that some general funds are needed to initially cover costs in fiscal 2025 prior to special funds being made available for repayment.

To the extent that the collection of fees is delayed, as may be the case due to the time necessary for MDE to adopt regulations, the duration of general fund support increases, while special fund revenues and associated expenditures are delayed.

Other various agencies identified in the bill that have administrative responsibilities not discussed above can generally handle the bill's requirements with existing budgeted resources. To the extent other agencies experience operational effects, State expenditures further increase.

State Expenditures for Gas/Electricity and Fuel

As noted above, the bill specifies that, generally, GHG pollution fees may not be passed through as a direct cost to (1) an end user of a fossil fuel or (2) a customer of a gas company.

Despite this general prohibition, the bill still increases production costs in the energy sector, which will affect commodity output and/or prices as the affected companies seek to maximize revenues: output will likely fall, and prices will likely rise. Further, specific to natural gas, the bill does not prohibit the passing through of the GHG pollution fees to the extent that PSC approves the fee as a prudently incurred cost of distribution. Therefore, State expenditures (all funds) increase significantly beginning as early as fiscal 2025 due to higher energy and fuel prices.

To the extent any State agencies, as employers, receive any benefits from the Employer Benefit Account, or receive funds from the Infrastructure Fund, some portion of the anticipated increase in expenditures may be offset.

Local Fiscal Effect: Local government expenditures increase significantly beginning as early as fiscal 2025 due to higher energy fuel prices, for the reasons discussed above. To the extent any local governments, as employers, receive any benefits from the Employer Benefit Account, or receive funds from the Infrastructure Fund, some portion of the anticipated increase in expenditures may be offset. Local governments may also benefit from technical assistance, capacity, and planning tools provided under the Infrastructure Fund.

Small Business Effect: Small businesses throughout the State incur a significant increase in expenditures due to higher energy and fuel prices for the reasons discussed above. As employers, however, some small businesses are slated to receive benefits under the bill. In addition, small businesses that provide services and products related to reducing GHG emissions 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 the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 135 and HB 171 of 2022; and SB 76 and HB 33 of 2021.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Comptroller's Office; Public Service Commission; Office of People's Counsel; Maryland Energy

Administration; Department of Natural Resources; Maryland Department of Transportation; Department of Commerce; Maryland Department of Emergency Management; Department of General Services; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Department of State Police; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; University System of Maryland; Morgan State University; Interagency Commission on School Construction; Maryland Stadium Authority; Maryland-National Capital Park and Planning Commission; Anne Arundel, Baltimore, Charles, and Garrett counties; City of Laurel; Town of La Plata; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services.

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