HB 985

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 985 (Delegates Rosenberg and Taylor)
Ways and Means

Income Tax Credit for Green Buildings

This bill provides for several State income tax credits for specified construction or rehabilitation costs of "green buildings," as well as specified associated equipment, that meet applicable energy efficiency and environmental standards established by the Maryland Energy Administration (MEA) and the Maryland Department of the Environment (MDE). The bill provides for an annual cap on the amount of credits that may be issued each year. Total credits that may be issued cannot exceed $25 million from fiscal 2001 through 2009. The bill takes effect July 1, 2000, and applies to all taxable years beginning after December 31, 2000.

Fiscal Summary

State Effect: Total annual revenue loss of $1 million in FY 2001. Future years reflect amounts specified in the bill. The distribution of the loss between the general fund and the Transportation Trust Fund (TTF) depends upon the number of claims against the corporate income tax and the number of claims against the personal income tax. A portion of the loss to the TTF will be passed through to local jurisdictions. General fund expenditure increase of $500,900 in FY 2001. Future years reflect ongoing operating expenditures and reduced consulting fees.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	($1,000,000)	($2,000,000)	($3,000,000)	($4,000,000)	($5,000,000)
GF Expenditures	$500,900	$383,600	$475,900	$418,500	$487,200
Net Effect	($1,500,900)	($2,383,600)	($3,475,900)	($4,418,500)	($5,487,200)

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

Local Effect: To the extent that credits are taken by corporations, local revenues would decline as a portion of the corporate income tax is distributed to the TTF to which a distribution to local governments is made.

Small Business Effect: Potential meaningful. Small businesses that qualify for the credits will realize a reduced tax liability. In addition, businesses involved in the construction or rehabilitation of buildings could realize increased revenues if the credits provided by the bill increases demand for their services.

Analysis

Bill Summary:

Green building is defined as a building designed to meet energy efficiency and environmental standards established by MEA and MDE.

Allowable costs include the amounts charged to a capital account that are paid or incurred on or after July 1, 2000, for: construction or rehabilitation; commissioning costs; interest paid or incurred during the construction of rehabilitation period; legal, architectural, engineering, and other professional fees allocable to construction or rehabilitation; closing costs for construction, rehabilitation, or mortgage loans; recording taxes and filing fees incurred during construction and rehabilitation; site costs, including temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities; and furniture, carpeting, partitions, walls and wall coverings, ceilings, drapes, blinds, lighting, plumbing, electrical wiring, and ventilation.

Base building is defined as all areas of a building not intended for occupancy by a tenant or owner including: structural components of the building; exterior walls; floors; windows; roofs; foundations; chimneys and stacks; parking areas; mechanical rooms and mechanical systems; and owner-controlled or operated service spaces, sidewalks, main lobbies, shafts and vertical transportation mechanisms, stairways, and corridors.

Credit allowance year is the taxable year in which the property, construction, completion or rehabilitation is originally placed in service or the first taxable year for which the credit may be claimed under the initial credit component certificate issued.

Eligible building is a building in Maryland that: (1) contains at least 20,000 square feet of interior space and is used primarily for nonresidential purposes or is a multi-family building with at least 12 dwelling units; (2) contains at least 20,000 square feet of interior space in the aggregate if in any single phase of the project at least 10,000 square feet of interior space is under construction or rehabilitation for residential multi-family buildings with at least two dwelling units that are part of a single or phased of a single or phased construction project; or

(3) any combination of these buildings.

The credit allowed for any year is the sum of specified credit components. The credit allowed may not exceed the State tax liability, but may be carried forward for up to 15 years or until used. The taxpayer is required to obtain and file an initial component certificate and an eligibility certificate. A certificate of occupancy for the building is required to be issued and the property must be in service during the taxable year. The credit amount allowed for the credit component may be claimed for the credit allowance year and for each of the next four taxable years. Credits may be claimed by successor owners or tenants.

A credit for a green tenant space may not be claimed by an owner or tenant that occupies fewer than 10,000 square feet of the building unless the base building is a green building.

The bill allows a credit of 6% of the capitalized costs of the installation of a fuel cell. The costs cannot exceed $100,000 per kilowatt hour of installed dc-rated capacity fuel cells, reduced by any federal, State, or local grant received and used for the purchase of the fuel cell and not included in federal gross income of the taxpayer.

The bill also allows a credit for the installation of photovoltaic modules in these buildings. The allowable costs may not exceed $3 multiplied by the number of watts included in the dc-rated capacity of these modules and must be reduced by the amount of any federal, State, or local grant received and used to purchase or install the equipment, if not included in federal gross income. The credit is equal to 5% of the cost of the non-building-integrated photovoltaic modules, including the cost of the foundation or platform and the labor costs associated with installation and 20% of: (1) the cost of building-integrated photovoltaic modules and any associated inverter, additional wiring or other electrical equipment, or additional mounting or structural materials less the cost of spandrel glass or other building material that would have been used if the modules had not been installed; (2) incremental labor costs properly allocable to on-site preparation, assembly, and original installation of the modules; and (3) incremental architecture and engineering services and designs and plans directly related to the construction or installation of the modules.

The bill allows a credit of 2% of the cost of new air-conditioning equipment that uses a non-ozone depleting refrigerant approved by the Environmental Protection Agency (EPA) and is installed in a green building, a green base building, or in green tenant space.
The MEA is required to issue an initial credit component to the taxpayer stating the first taxable year for which the credit may be claimed. MEA may also extend the expiration date of the credit to prevent hardship.

Aggregate credit component certificates may not be issued by MEA in excess of $25 million for the fiscal 2001through 2009 period. The maximum credit issuances are:

Tax Year	Credit Components in the Aggregate
2001	$1 million
2002	$2 million
2003	$3 million
2004	$4 million
2005	$5 million
2006	$4 million
2007	$3 million
2008	$2 million
2009	$1 million

If issuances fall short of the permitted maximum for any year, the excess may be carried forward to add to the maximum permitted issuances. No initial credit component certificates may be issued after December 31, 2004.

Current Law: None applicable.

State Fiscal Effect: It is not known how many individuals will claim the credit proposed by the bill. However, the bill caps the total amount of the allowable credit for each year at the limits outlined above. It is assumed that the maximum allowable will be claimed each year.

Credits taken on personal income tax returns will reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated.

MEA estimates that general fund expenditures could increase by an estimated $298,300 in fiscal 2001. This estimate includes salaries, fringe benefits, one time start-up costs and ongoing operating expenditures. MEA advises that given the requirement to have regulations developed by December 2000, i.e., in only five months from the effective date of the bill, four additional staff will be needed. Given the broad scope of building improvements for which tax credits could apply, two of these employees will need to be building engineers. In addition, legal assistance for writing regulations will be needed. Also needed will be clerical/research assistance for researching federal regulations, procuring needed documents, typing drafts, etc.

It is estimated that approximately 100 buildings could be granted credits under the limits called for in the bill. There could then be several hundred applications to review. These positions will be needed in future years to assess applications, review compliance, and recommend further refinements to regulations and statute. Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

MDE advises that general fund expenditures could increase by an estimated $202,600 in fiscal 2001. This estimate reflects the cost of hiring one industrial hygienist and one office secretary and contractual services to hire a consultant to research and establish regulations on various environmental building standards required by the bill (e.g., ventilation and air exchange, indoor air quality plans for specific pollutants, recycled content of building materials, and water and storm water management. Consulting fees would also be incurred in fiscal 2003 and 2005 as a result of the bill's requirement to review and revise the regulations every two years. The bill also requires MDE to approve licensed and certified professionals for indoor air quality testing. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Fiscal Effect: Local government revenues would decline as a result of corporate taxpayers claiming the credits proposed in the bill. As mentioned above, 75% of corporate tax revenues are distributed to the general fund, and 25% are distributed to the TTF. Of the 25% distributed to the TTF, approximately 30% is distributed to local jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Business and Economic Development, Department of Housing and Community Development, Maryland Energy Administration, Department of Legislative Services

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