Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 729 (Garrett County Delegation and Allegany County Delegation)
Ways and Means

Maryland-Mined Coal - Tax Credits

This bill modifies a credit available to public service companies against the public service company franchise tax and modifies a credit available against the income tax for "cogenerators," based on the purchase of Maryland-mined coal, by eliminating the 1986 base year limitation. The bill also extends availability of the credit against the income tax to specified "electricity suppliers." The bill repeals the June 30, 2001, sunset date of the credit against the public service company franchise tax.

The bill takes effect July 1, 2000 and applies to all taxable years beginning after December 31, 2000.

Fiscal Summary

State Effect: Current general fund revenue losses of approximately $6 million will be maintained beyond FY 2001 as a result of repealing the sunset date. Potential general fund and Transportation Trust Fund decrease of up to $6 million annually beginning in FY 2002. No effect on expenditures.

Local Effect: Potential significant revenue loss. 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. To the extent that any cogenerators or electricity suppliers are small businesses, they will be able to claim a $3 per ton credit for every ton of Maryland mined coal purchased.

Analysis

Bill Summary: A cogenerator is defined as a qualifying cogenerator or a qualifying small power producer as determined by the Federal Energy Regulatory Commission under the Public Utility Regulatory Policies Act of 1978.

Current Law: Public service companies may claim a credit against the public service company franchise tax in the amount of $3 for each ton of Maryland-mined coal purchased in the calendar year in excess of the number of tons of Maryland-mined coal purchased in 1986. This provision of law sunsets June 30, 2001.

Cogenerators, not subject to the public service company franchise tax, may claim a credit against the State income tax in the amount of $3 for each ton of Maryland-mined coal purchased in the calendar year in excess of the number of tons of Maryland-mined coal purchased in 1986.

Background: Approximately 4 million tons of coal are mined in Maryland each year. Approximately $6 million is claimed in credits each year against the public service company franchise tax, on approximately one-half of the coal mined in the State (2 million tons).

In March of 1995, the Attorney General ruled that a utility could purchase Maryland-mined coal, resell the coal to another utility, and still claim the $3 per ton credit against the public service company franchise tax. As a result, brokered purchases by utilities caused the usage of the credit to increase to its current levels. Prior to that ruling, only companies that purchased and used Maryland-mined coal could claim the credit.

No cogenerators have claimed credits on Maryland corporate income tax returns for the purchase of Maryland-mined coal.

State Fiscal Effect: General fund revenue losses of approximately $6 million will continue beyond fiscal 2001 as a result of repealing the sunset date of the credit against the public service company franchise tax.

As a result of the 1995 Attorney General's ruling, companies subject to the public service company franchise tax do not need to use the coal that they purchase. This ruling would allow any of the 385 companies subject to the tax, such as non-coal using utilities, including telecommunications companies, to participate in the brokering of coal and claim the credit. Repealing the 1986 purchase requirement would allow electric utilities that purchased Maryland-mined coal in 1986 a credit against all Maryland-mined coal purchased instead of just the amount in excess of what was purchased in 1986.

Expanding the types of entities eligible for the $3 per ton credit under the State income tax to include specified electricity suppliers (electric companies in effect by June 30, 1999, or their affiliates) will increase the number of entities that will be able to claim credits for brokered coal purchases as allowed under the Attorney General's 1995 opinion. Under current law, only qualifying cogenerators or qualifying small power producers are eligible to claim the credit. There is currently only one cogenerator in Maryland that uses Maryland-mined coal that would now be able to claim a credit against the State income tax.

As a result of the expansion of the pool of potential brokers eligible for tax credits, the tons of coal subject to the credits will likely increase. The number of increased credits claimed cannot be reliably estimated at this time. If all 4 million tons of Maryland-mined coal (based on current annual production levels) were to become subject to the credit as a result of being brokered by an eligible person (either a public service company subject to the franchise tax or an electricity supplier subject to the income tax), total general and special fund revenues would decline by an additional $6 million annually beginning in fiscal 2002 as the bill applies to all tax years beginning after December 31, 2000. It is assumed that revenue losses will occur in the fiscal year following the tax year. This decline could be greater if an increase in production of Maryland-mined coal above current production levels occurred, or would be less if production declined from current levels.

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.

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 Assessments and Taxation, Public Service Commission, Allegany and Garrett counties, Department of Legislative Services

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