SB 745

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 745 (Senators Van Hollen and Roesser)
Budget and Taxation Ways and Means and Environmental Matters

Income Tax Credit for Green Buildings

This bill provides for several State income tax credits for specified construction or rehabilitation costs of "green buildings" and green tenant space. The bill places an annual cap on the amount of credits that may be issued each year. Total credits that may be issued cannot exceed $25 million for the tax year 2003 – 2011 period.

The bill takes effect July 1, 2001 and applies to all taxable years beginning after December 31, 2002.

Fiscal Summary

State Effect: Total annual revenue loss of approximately $1 million in FY 2004. Future years reflect increasing amounts of the green building tax credit 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 $158,200 in FY 2002. Future years reflect ongoing operating expenditures.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF/SF Rev.	$0	$0	($1,000,000)	($2,000,000)	($3,000,000)
GF Expenditure	158,200	152,500	160,000	168,000	176,400
Net Effect	($158,200)	($152,500)	($1,160,000)	($2,168,000)	($3,176,400)

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

Local Effect: To the extent that the green building credit is 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 increase demand for their services.

Analysis

Bill Summary:

"Green whole building" is a building that consists of a green base building and green tenant space and meets energy efficiency and environmental standards established by the Maryland Energy Administration (MEA) in accordance with criteria set forth by the U. S. Green Building Council or other similar criteria.

"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.

"Allowable costs" include the amounts charged to a capital account that are paid or incurred on or after July 1, 2001 for: construction or rehabilitation; commissioning costs; interest paid or incurred during the construction or 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; and finishes and furnishings consistent with the regulations adopted by MEA; blinds, lighting, plumbing, electrical wiring, and ventilation.

"Eligible building" is defined as a building located in the State that: (1) is used primarily for nonresidential purposes if the building contains at least 20,000 square feet of interior space; (2) is a residential multi-family building with at least 12 dwelling units and contains at least 20,000 square feet of interior space; or (3) is any combination of either. In the case of a newly constructed building for which a certificate of occupancy was not issued before July 1, 2001, an eligible building: (1) is located on a qualified brownfields site; (2) is located in a priority funding area; and (3) is not located on wetlands, the alteration of which requires a permit under the federal Clean Water Act. In the case of a rehabilitation of a building, or eligible building: (1) is located in a priority funding area or on a qualified brownfields site; or (2) is not an increase of more than 25% in the square footage of the building.

The bill allows an individual or corporation to claim a credit against the State income tax for "green buildings" and green building components. Credit certificates are to be issued by the Maryland Energy Administration. For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in an amount equal to:

- 8% of allowable costs for the construction of a green whole building or the rehabilitation of a building that is not a green whole building;

- 6% of allowable costs for the construction of a "green base building" or the rehabilitation of a building that is not a green base building;

- 6% of allowable costs for the construction or completion of green tenant space or the rehabilitation of tenant space that is not green tenant space to be green tenant space;

- 30% of the capitalized costs of the installation of a fuel cell to serve a green whole building, green base building, or green tenant space, not exceeding $1,000 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;

- 20% of the incremental cost paid or incurred for building-integrated photovoltaic modules and 25% of the cost of the nonbuilding-integrated photovoltaic modules, to serve a green whole building, green base building, or green tenant space, including the cost of the foundation or platform and the labor costs associated with installation, not to exceed $3 multiplied by the number of watts included in the dc-rated capacity of these modules and then 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; and

- 25% of the sum of the capitalized costs paid or incurred to install each wind turbine to serve a green whole building, green base building, or green tenant space, including the cost of the foundation or platform and the labor cost associated with installation.

The credit allowed may not exceed the State tax liability, but may be carried forward for up to ten years or until used. The taxpayer is required to obtain and file an initial certificate and an eligibility certificate. A certificate of occupancy for the building is required and the property must be in service during the taxable year.

MEA is required to issue an initial credit certificate to the taxpayer stating the earliest taxable year for which the credit may be claimed. MEA may also extend the expiration date of the credit to prevent hardship.

Aggregate credit certificates may not be issued by MEA in excess of $25 million for the tax year 2003 - 2011 period. The maximum credit issuances are:

Maximum Allowable Credits

2003	$1 million
2004	$2 million
2005	$3 million
2006	$4 million
2007	$5 million
2008	$4 million
2009	$3 million
2010	$2 million
2011	$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, 2011.

On January 1, 2004, and each year thereafter, MEA is required to provide to the Comptroller a list of all taxpayers in the prior taxable year that have been issued an initial credit certificate.

By July 1, 2002, MEA, in consultation with the Department of the Environment, must adopt regulations with respect to the certification of green whole buildings, green base buildings, and green tenant space that are consistent with criteria set forth by the State's Green Buildings Council or other similar criteria for: (1) energy use; (2) appliance and heating, cooling, and hot water equipment standards; (3) air conditioning equipment, including chillers; (4) building materials, finishes, and furnishings; (5) stormwater runoff for new construction; (6) water conservation and efficiency; and (7) indoor air quality, in consultation with the Department of Health and Mental Hygiene.

Current Law: None applicable.

Background: The green building tax credit provided by the bill is based upon recommendations of the U.S. Green Building Council. It is also a follow-up to the Maryland Clean Energy Incentive Act of 2000 (Chapter 296) which encouraged the purchase of energy efficient appliances and automobiles as well as the production of alternative sources of electric power. The credit provided by this bill is intended to encourage the building of green buildings -- buildings that are environmentally friendly and constructed with the latest recycled and environmentally sound materials.

The Chesapeake Bay Foundation has recently completed the construction of a nationally recognized and award winning green building for its new headquarters in Annapolis, Maryland.

State Fiscal Effect: It is not known how many individuals will claim the credit components 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 credit allowed 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 expects that approximately 100 buildings could be granted credits pursuant to the bill. This could increase MEA's general fund expenditures by an estimated $133,200 in fiscal 2002. The estimate reflects the cost of two new positions (one building engineer and one administrative officer II) to write regulations, inspect buildings, and issue credits. In addition, contractual expenditures could increase by approximately $50,000 in fiscal 2002 only as a result of hiring one contractual employee to assist in getting regulations promulgated by July 1, 2002. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenditures. Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

In addition, the department plans to work with other agencies that are developing Green Buildings programs for State and local government buildings as a result of the

Governor's Executive Order on Green Buildings and Energy Efficiency that was issued March 13, 2001.

The Office of the Comptroller advises that it could incur an annual expenditure increase of approximately $1,000 to add another form dealing with this credit and a one-time expenditure of $326 in fiscal 2002 for artwork to design the new form. The Department of Legislative Services advises that economies of scale regarding computer programming changes could be realized since there will be changes to the income tax processing system due to the 1997 income tax reduction which is phased in through 2002. In addition, since forms and instructions are updated annually, the costs for form changes resulting from this bill could be absorbed within existing resources.

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

Additional Information

Prior Introductions: A similar bill was introduced as HB 985 in the 2000 session. It received an unfavorable report from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Maryland Department of the Environment, Department of Health and Mental Hygiene, Maryland Energy Administration, Department of Legislative Services

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