SB 541

Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 541 (Senator Frosh, *et al.*)
Finance

Energy-Saving Investment Program

This bill establishes an Energy-Saving Investment Fund in the Maryland Energy Administration (MEA) as a special, continuing, nonlapsing fund. The stated purpose of the fund is to increase the opportunities for energy consumers to save energy, reduce energy costs, and reduce pollution and threats to public health associated with energy production and consumption. The bill requires each retail electric customer and each residential retail gas customer (except for "large industrial and large commercial customers") to contribute to the fund through an energy-saving investment charge that each electric company and each gas company will collect and remit to the Comptroller to be placed in the fund.

The bill takes effect July 1, 2002 and sunsets December 31, 2012.

Fiscal Summary

State Effect: Special fund revenues would increase by $10.05 million in FY 2003, by $20.10 in FY 2004, and by $40.20 million annually from FY 2005 through FY 2010 from investment charges. Special fund expenditures by MEA would increase correspondingly, primarily for implementing energy efficiency programs. Future year expenditures are annualized, adjusted for inflation, and reflect ongoing operating costs and increased program activities. General fund expenditures would increase by $16,000 in FY 2003, $32,100 in FY 2004, and $64,100 from FY 2005 through FY 2010 for the State's share of the investment charge, with expected energy savings in the long run.

($ in millions)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	$10.05	$20.10	$40.20	$40.20	$40.20
GF Expenditure	.02	.03	.06	.06	.06
SF Expenditure	10.05	20.10	40.20	40.20	40.20
Net Effect	($.02)	($.03)	($.06)	($.06)	($.06)

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

Local Effect: Increase in local expenditures for most local jurisdictions from FY 2003 through FY 2010 related to the charge. Energy savings in the long run.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The fund consists of: (1) the charge collected pursuant to the bill; (2) funds to match the collected charges, as appropriated in the State budget and subject to the availability of funds; and (3) any additional funds appropriated to the fund. Not more than 10% of the funds may be expended by MEA on management and supervision of activities. The Public Service Commission (PSC) shall set the level of the investment charge as provided by the bill. A municipal corporation or cooperative that provides retail electric or gas service to customers may decline to collect the charge if it gives prior written notice to the Comptroller. PSC may suspend the collection of the charge for up to six months if it finds that the balance in the fund has exceeded $35 million for two consecutive fiscal quarters. Any uncommitted funds remaining in the fund at the end of June 30, 2012, must be returned to electric and gas customers in a manner prescribed by PSC.

MEA must prepare and maintain an energy-saving investment plan. All disbursements from the fund shall be in accordance with the plan. MEA must submit the initial plan to PSC by January 2, 2003, and must periodically update the plan. The first updated plan must be submitted to PSC by January 2, 2006. The plan must describe, evaluate, and recommend programs designed to accomplish several specified objectives. At least 5% of each of the funds derived from residential retail electric customers and residential gas customers, respectively, shall be directed toward programs to serve low-income residential electric customers and low-income residential gas customers, respectively. The bill outlines the required elements of the plan. MEA shall annually determine the amount of any additional funds needed to implement programs recommended in the plan and submit the request for additional funding to PSC. PSC must review the plan or update and provide an opportunity for interested parties to comment on the plan or update. PSC must issue a final order within 90 days after receiving the plan or update. The bill outlines the requirements for approving the plan and provides that, as part of its final order, PSC may modify or reject any program recommended for implementation if it finds that it is not cost-effective. Within 60 days after any final order rejecting or modifying the plan or update or any program in the plan or update, MEA may file a supplement. PSC must review the supplement and issue a final order within 60 days.

MEA must: (1) manage, supervise, and administer the programs implemented under the approved plan; (2) adopt regulations necessary to ensure that the implemented efficiency programs carry out the purposes of the plan; and (3) develop procedures for monitoring and assessing all energy efficiency programs. MEA may contract with one or more nongovernmental entities for assistance in carrying out its responsibilities under the bill.

By July 1, 2002, the Director of the Energy Administration must convene an Energy-Saving Advisory Board to provide MEA with review and comment on draft and final versions of the plan, plan updates, and plan supplements, goals, milestones, budgets and performance indicators, recommendations, and other matters. By January 2, 2004, and at one-year intervals thereafter through January 2, 2012, MEA must submit an annual report on the fund to the General Assembly in cooperation with the Comptroller.

"Large industrial and large commercial customer" means an entity that consumes more than 1 million kilowatt-hours of electricity per year.

Current Law: MEA's programs reflect a wide arena of energy issues, including energy efficiency. Among other things, MEA manages the Commercial Green Buildings Program for the State, including defining standards for the income tax credit for green buildings that was established during the 2001 session (Chapters 620 and 621). The Maryland Clean Energy Incentive Act of 2000 (Chapter 296), is a package of tax incentives for energy efficient products and services. MEA's Home Energy Rating System is in the process of being accredited by the national Residential Energy Services Network as provider of energy audits (or ratings) of a home's energy efficiency.

After several years of debate in the legislature and in regulatory circles, the Customer Choice Act of 1999 (Chapter 4) restructured the electric industry, allowing for consumer choice of electricity suppliers. As a result, Maryland's electric industry was opened to competition in 2000. MEA continues to participate, monitor, and analyze the transition to a fully functional competitive market through federal action, State proceedings, and industry corporate changes. In particular, MEA participates in the State's efforts to establish emission disclosure rules, green power development, and enhanced energy efficiency.

Background: When electric restructuring emerged on the scene in the mid 1990s, the prior growth in electric utility investments in energy efficiency reversed course. As a result of restructuring, electric utilities are seeking ways to cut discretionary expenditures to reduce costs while maximizing electricity sales to recover sunk costs and increase profits. Nationwide, utility spending on energy efficiency has declined by 50% since 1994. (It had been projected to increase by 50% prior to restructuring.) According to MEA, Maryland utilities have terminated most of their efficiency programs.

Eighteen states (including Maryland) have either enacted enabling legislation or issued a regulatory order to implement retail access. In order to replace defunct utility-run efficiency programs, 15 of those 18 states have developed a fund similar to that proposed in this bill. Four states that have not restructured their electric power industries are implementing energy efficiency programs supported by a fund similar to that proposed in this bill.

In order to address issues related to energy conservation and efficiency, the Governor established the Task Force on Energy Conservation and Efficiency in January 2001. The task force was charged with: (1) evaluating historic, current and projected energy use in order to determine an energy reduction goal for the State; (2) recommending strategies to attain the energy reduction goal; (3) evaluating current energy use in various sectors in order to identify opportunities for energy savings in each sector and to prioritize conservation measures; (4) investigating the various commercial, consumer, and institutional barriers to investments in energy-efficiency measures and recommending solutions to overcome those barriers; (5) determining the most effective elements of an energy conservation program, including removing bureaucratic restraints, providing technical assistance, increasing conservation incentives and creating public awareness programs; and (6) documenting anticipated energy savings resulting from proposed conservation measures taking into account projected population growth.

MEA advises that the proposed funding mechanism and energy efficiency programs that would be implemented as a result of this bill are a direct result of the recommendations made by the task force in its December 2001 report to the Governor.

State Revenues: The bill specifies that PSC must set the level of the charge on retail electric customers as follows: 0.025 cents (0.25 mills) per kilowatt-hour for fiscal 2003; 0.05 cents (0.5 mills) per kilowatt-hour for fiscal 2004; and 0.1 cents (1 mill) per kilowatt-hour thereafter through fiscal 2010. (Upon request by MEA and approval by PSC, the charge could be higher, although MEA advises that a higher charge is not anticipated.) For residential gas customers, the charge must be an amount that PSC finds to have the same or substantially similar effect on the total yearly gas bill of an average residential gas customer as the amount established for retail electric customers has on the total yearly electric bill of an average residential retail electric customer. According to MEA, such a charge would total approximately $0.0244 per million British Thermal Units (mmBTU) for fiscal 2003, $0.0488 per mmBTU for fiscal 2004, and $0.0976 per mmBTU thereafter through fiscal 2010. Based on information provided by MEA, special fund revenues from the investment charge would total an estimated $10.05 million in fiscal 2003, an estimated $20.10 million in fiscal 2004, and $40.20 million annually thereafter through fiscal 2010.

These estimates are based on average electricity and gas consumption in the residential, commercial, and industrial sectors as reported by the U.S. Department of Energy (USDOE) for Maryland utilities for 2000. These estimates assume that all investor-owned utilities will participate in the program, but that municipal electric corporations and cooperatives will choose to opt out of the program. The estimates also assume that PSC will not suspend the charge as authorized by the bill under specified circumstances. The estimates do not include any State matching funds or any other funds appropriated to the fund. To the extent that any such funds are appropriated, special fund revenues would increase.

The bill provides that if any funds remain in the special fund at the end of fiscal 2012, funds would be returned to customers in a manner prescribed by PSC. Because the State is a retail electric customer, general fund revenues could increase in fiscal 2013 pursuant to any refunds.

State Expenditures: Special fund expenditures would increase by an estimated $10.05 million in fiscal 2003 related to the implementation of the program by MEA. General fund expenditures would increase by an estimated $16,000 in fiscal 2003 for the State's electric costs. PSC and the Office of People's Counsel could likely handle any increase in workload with existing budgeted resources.

The estimates do not include any State matching funds or any other funds appropriated to the fund. To the extent that any such funds are appropriated, general fund expenditures would increase.

Maryland Energy Administration

Special fund expenditures would increase by an estimated $10.05 million in fiscal 2003, which includes costs for administration and for the implementation of programs that would be developed pursuant to the energy-saving investment plan. Special fund expenditures for *administrative activities* would be about $1 million in fiscal 2003, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring three employees (an energy efficiency program manager, an assistant attorney general, and a procurement specialist) to: (1) coordinate all program activities; (2) provide legal expertise; and (3) provide fiscal management and oversight. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- no more than 10% of the funds collected may be expended on management and supervision of activities, as provided by the bill;

- administrative expenditures for a similar program in Wisconsin totaled 14% of revenues; in New York, administrative costs totaled 9% of revenues;

- contractual services will be used for independent evaluation and monitoring of all energy efficiency programs, a comprehensive survey to define current energy use practices, and program support;

- substantial in-state and out-of-state travel;

- the purchase of a computer and office equipment, including data servers, personal computers, software, desks, and file space for each position; and

- extensive use of contractors (private businesses and nonprofit organizations) to design and administer the programs.

Salaries and Fringe Benefits	$166,800
Contractual Services	750,000
Communications	45,000
Equipment	20,000
Travel and Other Operating Expenses	15,300
Total FY 2003 Administrative Exp.	**$997,100**

In fiscal 2004, an additional four employees would be hired (a residential program manager, a commercial/industrial program manager, and two program associates) to: (1) design and manage programs; (2) coordinate the evaluation and reporting of programs; (3) assist with the organization, coordination, and review of programs; and (4) monitor activities in other states. In fiscal 2005, an additional two employees (a communications manager and a data manager) would be hired to: (1) facilitate the communications process; and (2) manage reports and data.

Future year administrative expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; (2) additional start-up and ongoing operating costs related to the new personnel in fiscal 2004 and 2005; (3) increases in costs related to communications and contractual services; and (4) 1% annual increases in ongoing operating expenses.

MEA advises that it would spend the remaining fund balance each year on programs established pursuant to the energy-saving investment plan. These expenditures are estimated to total approximately $9.05 million in fiscal 2003, $18.81 million in fiscal 2004, and $37.40 million annually from fiscal 2005 through fiscal 2010. (Program expenditures may vary in the out-years depending on the available fund balance.) A breakdown of estimated costs for the anticipated residential and commercial/industrial programs is provided below:

Anticipated Programs	**Estimated Expenditures for FY 2003 (in millions)**	**Estimated Expenditures for FY 2004 (in millions)**	**Estimated Annual Expenditures for FY 2005-2010 (in millions)**
Residential Programs (subtotal)	***$5.8***	***$12.5***	***$24.9***
Existing Homes Programs	1.5	4.0	7.9
New Homes Programs	0.8	1.6	3.1
Residential Appliances Programs	3.5	6.9	13.9
Comm./Ind. Programs (subtotal)	***3.2***	***6.4***	***12.6***
Operations and Maint. Program	0.3	0.6	1.1
Comm. & Ind. Performance Program	0.9	1.8	3.5
Commercial Lighting Program	0.6	1.2	2.5
Street Lighting Program	0.2	0.5	1.0
Motor Efficiency Program	0.5	0.9	1.8
Technical Assistance Program	0.7	1.4	2.7
Total, All Programs	**$9.05**	**$18.81**	**$37.40**

Note: Numbers may not total due to rounding.

According to MEA, the residential programs will most likely include: (1) an existing homes program, including programs to encourage the use of more efficient water heaters, windows, and HVACs, and programs providing home energy audits and certifications; (2) a new construction program, including programs to provide education and training related to building codes, programs to provide information and incentives to builders and developers for the construction of energy efficient model homes, and an education program targeting builders and subcontractors related to the design and construction of energy efficient homes; and (3) a residential appliances program, to promote the sale and purchase of Energy Star® appliances and products and to encourage the retirement and recycling of older, less efficient appliances.

The commercial/industrial programs are anticipated to include: (1) an operation and maintenance program, to build market awareness and the demand for resource efficient building operation and maintenance practices through training and certification, technical assistance, and incentives; (2) a commercial and industrial performance program, to provide financial, performance-based incentives to energy services companies to work with small businesses and local governments; (3) a commercial lighting program, to help owners and managers of small commercial spaces improve the effectiveness and efficiency of their lighting; (4) a street lighting and traffic lighting program, to offer a cost-share incentive for local jurisdictions to encourage the use of energy efficient lighting systems and controls; (5) a premium efficient motors program, to educate consumers, provide sales incentives, train sales staff, and train plant engineers for motor system optimization; and (6) an industrial technical assistance program, to provide specialized training for plant managers, financial officers, and others related to the development of an energy management plan, energy-efficiency training, and guidance for financing energy efficiency projects. Partnerships with engineering firms and universities will support extension services to provide energy audit and efficiency services to small- and medium-sized industries.

To the extent that special fund revenues vary, program expenditures would vary accordingly.

Public Service Commission

PSC advises that general fund expenditures would increase by an estimated $92,650 in fiscal 2003, which reflects the cost of hiring two regulatory economists to independently evaluate and advise PSC on the plans submitted by MEA (including the development of databases, monitoring program performance, and comparing the results of Maryland programs to programs in other states), and developing utility surcharges, including rate design, tune-ups, and audits. PSC's estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Legislative Services advises, however, that at this time, the need for two additional employees is unclear. While PSC's workload may increase to design and modify rates and to monitor the fund, it is unclear to what extent this additional workload justifies hiring additional staff. Further, MEA's administrative costs under the bill (which would be borne out of the revenues generated as a result of the utility surcharges), include costs for independent, third-party evaluation of all programs. Any additional evaluation by PSC would be redundant. In addition, plan review would occur only every few years. Accordingly, Legislative Services advises that PSC should be able to handle the bill's requirements with existing budgeted resources. Should existing resources prove inadequate, PSC may request additional resources through the annual budget process.

The State as a Consumer of Electricity

As a consumer of electricity, the State would be subject to the investment charge established by the bill (the State has nearly 600 electricity accounts consuming less than 1 million kilowatt-hours per year). According to information provided by MEA, the total consumption of those accounts is estimated at 64,120,844 kilowatt-hours in fiscal 2001. Assuming the State's electricity use in those accounts remains at that level, the State's share of the investment charge would total an estimated $16,000 in fiscal 2003, an estimated $32,100 in fiscal 2004, and an estimated $64,100 annually thereafter through fiscal 2010. Accordingly, general fund expenditures for electric service would increase by those amounts. However, the State could also benefit from the programs implemented as a result of the bill. To the extent that the bill results in greater use of energy efficient practices and products, the State would realize energy savings in the long run.

Local Fiscal Effect: It is assumed that a municipal corporation or electric cooperative that provides retail electric or gas service would decline to collect the charge as provided by the bill. Accordingly, its customers, including any local jurisdictions, would not be required to pay the charge. Several of the State's local jurisdictions may be exempt from the program since their electricity services are provided by municipal systems, such as Berlin, Easton, Hagerstown, Thurmont, and Williamsport. Likewise, local jurisdictions served by electric cooperatives also could be exempt, such as Port Tobacco, La Plata, Indian Head, and Leonardtown.

The majority of local jurisdictions, however, are served by investor-owned utilities and would, therefore, face increased energy costs from fiscal 2003 through fiscal 2010 related to the charge established by the bill. Due to the varying sizes of local governments, the economic impact of the charge on local jurisdictions is difficult to estimate. To the extent that any funds remain in the special fund at the end of fiscal 2012, funds would be returned to customers in a manner prescribed by PSC. Local jurisdictions paying into the fund could also benefit from the programs implemented as a result of the bill. To the extent that the bill results in the use of more energy-efficient practices and products, local jurisdictions would realize energy savings in the long run.

Small Business Effect: Small business consumers of retail electricity served by investor-owned utilities would incur increased expenditures from fiscal 2003 through fiscal 2010 as a result of the charge. For small commercial customers (those with 50 or fewer employees), the average charge is estimated at approximately $56 per year. To the extent that any funds remain in the fund at the end of fiscal 2012, funds would be returned to customers in a manner prescribed by PSC. As consumers of electricity, small businesses paying into the fund could directly benefit from the programs established pursuant to the bill. To the extent that the bill results in the use of more energy-efficient practices and products, businesses would realize energy savings in the long run. To the extent that the programs developed by MEA result in an increase in the demand for energy-efficient products or services, any small business manufacturing, selling, or providing such products and services would benefit. Small businesses would also benefit to the extent that they are hired as contractors or subcontractors to implement the programs established pursuant to the bill.

Additional Comments: According to USDOE, in 2000 there were 1,809,125 residential electric customers served by investor-owned utilities, 941,384 residential gas customers, and 203,495 commercial and industrial accounts served by investor-owned utilities in the State. Residential customers would pay approximately 75% of the total charges collected pursuant to the bill; commercial and industrial customers would pay approximately 25% of the total charges. The average annual cost for the energy-saving investment charge is estimated to be: $12 for each residential electric customer, $9 for each residential gas customer, and $84 for each commercial electric customer paying into the program. (This assumes that businesses with over 170 employees will most likely be exempt from the charge as provided by the bill.) The average cost for industrial electric customers paying into the fund cannot be reliably estimated at this time. To the extent the bill results in greater energy efficiency, customers paying into the fund would realize energy savings in the long run.

Additional Information

Prior Introductions: Similar legislation was introduced during the 2001 session as SB 688/HB 1322. SB 688 received an unfavorable report by the Senate Finance Committee. HB 1322 received an unfavorable report by the House Environmental Matters Committee.

Cross File: HB 1332 (Delegate Franchot) – Environmental Matters.

Information Source(s): Maryland Energy Administration, Public Service Commission, Office of People's Counsel, Department of Legislative Services

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