HB 1215

Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1215 (Delegate Shriver, *et al.*)
Environmental Matters

Electricity Regulation - Clean Energy Portfolio Standard and Credit Trading

This bill requires the Public Service Commission (PSC) to establish a Clean Energy Portfolio Standard that applies to all retail electricity products sold in the State beginning in 2006. It also directs PSC to establish a clean energy credit.

Fiscal Summary

State Effect: Any increase in workload prior to FY 2005 could be handled with existing budgeted resources. General fund expenditures would increase by $103,600 in FY 2005 to implement the portfolio standard program. Out-year expenditures are adjusted for inflation and reflect ongoing operating expenses. Potential increase in special fund revenues beginning in FY 2006. Special fund expenditures would not be affected until at least FY 2013.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	-	-	-	-	-
SF Expenditure	0	0	103,600	98,900	103,800
Net Effect	$0	$0	($103,600)	($98,900)	($103,800)

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

Local Effect: Potential increase in expenditures for any local jurisdiction that becomes a retail electricity supplier. Potential increase in local revenues to the extent that a local jurisdiction becomes a generator of eligible energy.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill requires any company selling electricity in a competitive market to include some amount of renewable energy as part of its portfolio of generating fuels. The portfolio standard is 0.5% in 2006, 1% in 2007, 2% in 2008, 3% in 2009, 4% in 2010, and 5% in 2010 and each year thereafter. Energy is eligible for inclusion in meeting the standard if it is generated from an eligible energy resource at a facility that did not produce energy from an eligible energy resource before January 1, 2002. Each electricity supplier must submit an annual report to PSC relating to compliance with the portfolio standard for the preceding year.

The bill establishes a Maryland Clean Energy Fund as a special, nonlapsing fund to encourage the development of generating resources for clean energy. If a retail electricity product contains fewer kilowatt-hours from eligible energy resources than are required to comply with the standard for that year, the supplier must pay a compliance fee of two cents per kilowatt-hour into the fund. The bill provides for the payment of fees from the fund to owners of eligible facilities that produce clean energy after a specified period of time. PSC must, by regulation or order, impose sufficient penalties to ensure compliance with the bill and adopt orders or regulations to implement the bill.

By December 31, 2013, an electricity supplier shall receive double credit toward meeting the standard for energy derived from solar energy or fuel that is derived from an eligible energy resource and is used in a fuel cell. In the sixth calendar year after the fund collects compliance fees for a given year, PSC must pay the compliance fees to owners of eligible facilities in the State that produce electricity from eligible energy resources. The bill requires PSC to adopt by regulation or order eligibility criteria for owners and facilities which may receive compliance fees from the fund.

"Eligible energy resource" includes solar, wind, qualifying biomass, methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant, geothermal, or ocean, including energy from waves, tides, currents, and thermal differences. "Qualifying biomass," means a solid, nonhazardous, cellulosic waste material that is segregated from other waste materials and is derived from specified sources. "Retail electricity product" means electricity sold under identical terms of service and not for resale.

The bill requires PSC to establish a market-based clean electricity trading system in which electricity suppliers can trade clean energy credits (CECs) with each other to fulfill the energy portfolio standard. A CEC is defined as a credit equal to 100-kilowatt hours of retail electricity in the State that is derived from eligible energy resources. PSC must develop a clearinghouse that registers CEC transactions among suppliers and maintain records of those transactions. The clearinghouse must provide current information of the status of CECs to owners and the public through the Internet and other means. PSC may charge an administrative fee on CEC transactions only to recover actual direct costs of processing the transaction. A credit can only be diminished or extinguished by the owner of the facility from which it is derived. The bill allows a credit to be initially sold or transferred by the owner of the facility from which it is derived.

Current Law: State law does not require electricity suppliers to use renewable energy.

Background: Eleven states, including Maine, Pennsylvania, Arizona, and Connecticut, now use a renewable portfolio standard, according to the Database of State Incentives for Renewable Energy. Three other states, Hawaii, Minnesota, and Illinois, have a renewable portfolio goal. Illinois, for example, enacted legislation in 2001 that states as an explicit goal that at least 5% of its energy production and use be derived from renewable forms of energy by 2010 and at least 15% from renewable forms of energy by 2020. The Clinton Administration's proposed Comprehensive Electricity Competition Act, submitted to Congress in 1999, included a federal renewable portfolio standard that would apply to all U.S. electricity suppliers.

The main differences among various renewable portfolio standards proposals are the required renewable share, the timing of the program, the definition of qualifying facilities, and whether or not there is a limit on the allowable price for renewable credits.

Approximately 95% of electricity generated in Maryland comes from conventional energy sources such as coal or oil. The remaining 5% comes from renewable sources such as solar, biomass, or municipal waste. According to the U.S. Department of Energy, 46 renewable energy facilities operate in the State, including bioenergy (7), photovoltaic (31), wind (1), and hydroelectric (7).

State Fiscal Effect: Because the portfolio standard and the clean energy credit would not be effective until 2006, PSC could handle any increase in workload prior to fiscal 2005 with existing resources. Development of the regulations and the energy credit trading system will likely require advance preparation. General fund expenditures would increase by approximately $103,600 in fiscal 2005 to hire a regulatory economist to develop regulations, collect data from suppliers, examine the data, and monitor the clean energy portfolio of each supplier, as well as an administrative specialist to assist with those duties and develop the clearinghouse database for the energy credit transactions. 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:

- a regulatory economist and an administrative specialist would be hired effective July 1, 2005; and
- there are approximately 30 to 35 licensed electricity suppliers.

Salaries and Fringe Benefits	$93,407
Operating Expenses	10,241
Total FY 2003 State Expenditures	**$103,648**

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Suppliers who do not meet the requirements of the portfolio standard must pay a compliance fee of two cents per kilowatt-hour into the special fund established by the bill. Revenues to the fund would depend on the number of suppliers that are unable to meet the portfolio standards and the associated shortfalls, which cannot be predicted at this time.

Since suppliers would be required to submit an annual report to PSC relating to compliance with the standard for the preceding year, no compliance fees would be paid into the fund until at least fiscal 2007. Expenditures from the fund would not occur until at least fiscal 2013, or the sixth calendar year after the fund collects compliance fees for a given year. Any such expenditures would depend on revenues collected and the eligibility of facilities to be awarded payments from the fund. Eligibility for such funds will be prescribed by regulation and cannot be predicted at this time. Similarly, the revenues from the administrative fee that PSC can charge for energy credit transactions cannot be determined at this time.

The bill also provides for the development of regulations or orders to impose sufficient penalties to ensure compliance with the bill. Because any such penalties will be developed by regulation in consultation with the Office of the Attorney General, and because the extent to which retail electricity suppliers will violate the provisions of the bill is unknown, any such revenue cannot be estimated at this time.

Local Fiscal Effect: Currently, no local jurisdictions in the State are licensed retail electricity suppliers. The Department of Legislative Services notes that HB 345, introduced in the 2002 session, would authorize a county or municipal corporation to act as an aggregator that supplies electricity. If HB 345 is enacted, local jurisdictions who become electricity suppliers would be subject to the requirements of this bill, including the related compliance fees and penalties.

To the extent that any local jurisdiction becomes a generator of eligible energy resources, the bill could result in an increase in local revenues to the extent that local jurisdictions sell eligible energy to suppliers that need to purchase it to meet the standards established by the bill. The extent to which the bill will result in an increase in the demand for eligible energy resources cannot be estimated at this time. Presumably, a local generator could also become eligible for payments from the fund as provided by the bill.

Small Business Effect: To the extent that the bill increases the demand for eligible energy resources, any small business that generates eligible energy could benefit. A producer of clean energy could also benefit to the extent that it becomes eligible for payments from the fund as provided by the bill. According to PSC, retail electricity suppliers are generally larger businesses, so small businesses would not be subject to the bill's requirements relating to suppliers.

Additional Comments: To the extent that the bill's requirements cause suppliers to increase their prices, consumers would face higher costs. Any such increase cannot be predicted at this time. In any event, because the electric industry has been restructured, a consumer facing higher costs could always choose another electricity supplier.

Additional Information

Prior Introductions: A similar bill was introduced as SB 767 in the 2001 session and given an unfavorable report by the Finance Committee.

Cross File: None.

Information Source(s): Public Service Commission, Maryland Energy Administration, Database of State Incentives for Renewable Energy Incentives, Department of Legislative Services

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