Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 373 (Senator Frosh, *et al.*)
Finance

Energy-Saving Investment Program

This bill establishes an Energy-Saving Investment Fund in the Maryland Energy Administration (MEA) 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 residential retail electric and gas customer to contribute to the fund through an energy-saving investment charge that each electric company and each gas company will collect for placement in the fund.

The bill takes effect July 1, 2003 and sunsets December 31, 2013.

Fiscal Summary

State Effect: Special fund revenues would increase by $6.9 million in FY 2004 from investment charges and at least $6.9 million annually. Revenues from FY 2005 to 2008 could increase by as much as $13.8 million in 2005 and $27.6 million from 2006 to 2012 according to the rate set by the Public Service Commission (PSC). Special fund expenditures by MEA would increase correspondingly to implement energy efficiency programs. Future year expenditures are annualized, adjusted for inflation, and reflect ongoing operating costs and increased program activities.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	$6,902,400	$6,902,400	$6,902,400	$6,902,400	$6,902,400
SF Expenditure	6,574,900	6,628,600	6,705,400	6,783,900	6,864,100
Net Effect	$327,500	$273,800	$197,000	$118,500	$38,300

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

Local Effect: Minimal or none. It is assumed that municipal corporations that provide retail electric or gas service would decline to collect the charge as provided by the bill.

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. PSC must set the level of the investment charge as provided by the bill. Customers who receive benefits from the Maryland Energy Assistance or the Electric Universal Service programs or any other gas or electric bill assistance provided by the Department of Human Resources are exempt from the charge.

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, 2013, must be returned to electric and gas customers in a manner prescribed by PSC. The charge expires on June 30, 2012.

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, 2004, and periodically update it. The first updated plan must be submitted to PSC by January 2, 2007. 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, 2003, the Director of MEA must convene an Energy-Saving Advisory Board to 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, 2005, and at one-year intervals thereafter through January 2, 2013, MEA must submit an annual report on the fund to the General Assembly in cooperation with the Comptroller.

Current Law: MEA manages a wide variety of programs, including the Energy Star Partnership Program. The Maryland Clean Energy Incentive Act of 2000 (Chapter 296) provides a package of tax incentives for energy efficient products and services. MEA's Home Energy Rating System has been accredited by the national Residential Energy Services Network as a 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.

Twenty-four 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, at least 15 of those states have developed a fund similar to that proposed in this bill. Other 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.

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

The U.S. Energy Information Administration (EIA) expects residential energy consumption to increase by 27% between 2001 and 2025. Approximately 75% of this growth stems from electricity usage. Natural gas consumption is projected to grow by 1.1% per year through 2025; natural gas prices to residential customers are projected to increase by nearly 10% over the forecast but remain lower than the prices of other fuels, such as heating oil. EIA anticipates the number of homes heated by natural gas to increase more than the number heated by electricity and oil.

State Revenues: The bill specifies that PSC must set the level of the charge on retail electric customers by 0.025 cents (0.25 mills) per kilowatt-hour for fiscal 2004. The bill authorizes but does not require PSC to reset the charge after fiscal 2005 by up to 0.05 cents (0.5 mills) per kilowatt-hour and up to 0.1 cents (1 mill) per kilowatt-hour thereafter, if necessary.

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. MEA advises that approximately 81,900 homes will be exempt from the charge due to participation in State energy assistance programs.

Based on information provided by MEA, special fund revenues from the investment charge would total an estimated $6.9 million in fiscal 2004, $13.8 million in fiscal 2005, and $27.6 million annually thereafter through fiscal 2012.

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 2001 and PSC. 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 and 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 2013, funds would be returned to customers in a manner prescribed by PSC.

State Expenditures: Special fund expenditures would increase by an estimated $6.9 million in fiscal 2004 related to the implementation of the program by MEA as set forth below. 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 $6.6 million in fiscal 2004, which includes costs for administration and for the implementation of programs that would be developed pursuant to the energy-saving investment plan. Implementation costs are estimated to be $6,295,350 for contractual services. Special fund expenditures for *administrative activities* would be $629,138 in fiscal 2004.

This administrative cost estimate reflects the cost of hiring three employees (an energy efficiency program manager, a marketing specialist, and a procurement specialist) to: (1) coordinate all program activities; (2) provide marketing expertise for the Energy Star Marketing program; 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	$222,968
Contractual Services	350,000
Communications	25,000
Equipment	15,000
Travel and Other Operating Expenses	16,170
Total FY 2004 Administrative Expenses	**$629,138**

Future year administrative expenditures reflect full salaries with 4.5% annual increases and 3% employee turnover and 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 $6.3 million in fiscal 2004. Program expenditures may vary in the out-years depending on the available fund balance. A breakdown of estimated costs for the anticipated residential programs is provided below, according to the fiscal 2005 rate and the additional rates authorized by the bill for future years.

Anticipated Programs	**Estimated Expenditures for FY 2004 (.025 cents) ($ in Millions)**	**Estimated Expenditures (.05 cents) ($ in Millions)**	**Estimated Expenditures (0.1 cent) ($ in Millions)**
Residential Programs (total)	***$6.3***	***$13.1***	***$26.8***
Existing Homes Programs	1.3	4.0	8.5
New Homes Programs	1.0	2.5	5.0
Residential Appliances Programs	3.7	5.9	11.9
Low-income Programs	0.3	0.7	1.4

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; (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; and (4) programs for low-income energy consumers, including HVAC assistance.

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 $121,267 in fiscal 2004, 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.

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.

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, their 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.

Small Business Effect: Small home-based businesses served by investor-owned utilities would incur increased expenditures from fiscal 2003 through fiscal 2010 as a result of the charge. To the extent that any funds remain in the fund at the end of fiscal 2013, they would be returned to customers. As consumers of electricity, small businesses paying into the fund could directly benefit from the programs established pursuant to the bill.

To the extent the bill results in the use of more energy-efficient practices and products, these 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, 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 Maryland in 2000. The average annual cost for the energy-saving investment charge is estimated to be: $3 for each residential electric customer and $2 for each residential gas customer paying into the program. To the extent the bill results in greater energy efficiency, customers paying into the fund would realize energy savings in the long run. The average electricity bill for Maryland residents in 2000 was $79.92.

Additional Information

Prior Introductions: Similar bills were introduced as SB 541/HB 1332 in 2002. SB 541 was reported unfavorably from the Finance Committee and HB 1332 was withdrawn after a hearing in the Environmental Matters Committee. SB 688/HB 1322 of 2001 both received unfavorable reports.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2003
lc/jr

Analysis by: Ann Marie Maloney

Direct Inquiries to:
(410) 946-5510
(301) 970-5510