Department of Legislative Services

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FISCAL AND POLICY NOTE
Revised

Senate Bill 740 (Senator Middleton, *et al.*)

Budget and Taxation Environmental Matters

Renewable Fuels Promotion Act of 2005

This bill authorizes the payment of credits for the production of ethanol and biodiesel that meets specified requirements. The bill establishes a Renewable Fuels Incentive Board within the Maryland Department of Agriculture (MDA) to review credit certification applications and pay credits to producers over a 10-year period. For fiscal 2008 and each succeeding fiscal year, the Governor must include sufficient funds in the State budget to implement the credit program.

Fiscal Summary

State Effect: Potential increase in administrative expenditures (general funds) of $10,000 annually in FY 2006 and 2007. Total credit payments, which could begin in FY 2008, cannot be reliably estimated, but could total up to $4 million annually based on limits established by the bill. To the extent the bill results in the construction of additional plants in Maryland, State tax revenues would increase.

Local Effect: To the extent the bill results in the construction of additional plants in Maryland, local tax revenues would increase.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: To be eligible for credits, an ethanol or biodiesel producer must apply to the board for certification on an application provided by the board. An applicant must provide specified information relating to the ethanol or biodiesel facility, such as the production capacity of the facility. The board must review each application and approve or deny an application within 60 days.

The board must certify the producer as eligible for a credit in an amount that is based on the production capacity of the facility, as determined by the board, and is consistent with specified limits established by the bill. If eligible, a producer may apply to the board for certification for additional credits if the producer increases the production capacity of the facility. If a facility does not achieve its certified production capacity for two consecutive years, the board may revise the credit certification of the producer to reflect actual production.

The bill authorizes the board to pay credits to certified producers for ethanol or biodiesel produced on or after December 31, 2007. A credit may not exceed the maximum amount certified by the board. The bill establishes specified credit amounts depending on the production inputs. The bill also establishes the maximum amount of credits that could be paid per calendar year. The board is prohibited from paying a credit for ethanol or biodiesel produced after December 31, 2017.

After February 1, 2008, to receive a credit payment, a certified ethanol or biodiesel producer must file a quarterly claim with the board. The bill establishes provisions governing such claims, including review by an independent certified public accountant.

Applications and claims are not subject to disclosure under the Maryland Public Information Act.

MDA, the Department of Business and Economic Development (DBED), and the Maryland Department of the Environment (MDE) must provide staff support for the board. The board is directed to maximize the use of federal funds or matching programs to the extent possible and is authorized to solicit and accept grants or donations from State, local, or private entities.

Current Law: Current law does not provide for the payment of credits to biofuels producers. Producers could benefit from other State incentive programs, such as the Job Creation Tax Credit Program, which provides an income tax credit to businesses that expand or establish a facility in Maryland that results in the creation of new jobs.

Background: The U.S. imports more than 62% of its oil; this percentage is expected to increase to more than 77% by the year 2025. The use and production of domestically-produced renewable fuels, such as ethanol and biodiesel, could help reduce the nation's dependence on foreign oil and have environmental benefits.

Ethanol production has doubled nationally in the last 10 years; 84 plants in 20 states have a capacity to produce 3.4 billion gallons annually. Small grains grown as a winter crop have been shown to be extremely effective as cover crops. According to the Chesapeake

Bay Commission, the use of cover crops is one of the most cost-effective methods of reducing nutrient loading to the Chesapeake Bay.

Biodiesel production is anticipated to grow from 30 million gallons annually to 150 million gallons annually, in part due to the increased demand for a clean-burning alternative to sulfur in diesel fuel.

Since the 1930s, several states and the federal government have provided various incentives designed to stimulate the production and use of biofuels such as ethanol. This bill is intended to encourage the production of ethanol and biodiesel in the State.

State Fiscal Effect:

Administrative Costs

General fund expenditures could increase by $10,000 annually in fiscal 2006 and 2007 if the Renewable Fuels Incentives Board seeks the opinion of outside consultants regarding the technical and financial feasibility of applications from prospective biofuels producers. If consultants are not hired, the bill's administrative functions could be handled within the existing resources of MDA, MDE, and DBED.

Credit Payments

The bill directs the Governor, beginning in fiscal 2008, to include sufficient funds in the State budget to implement the renewable fuels production credit program. The bill also requires the board to maximize the use of federal funds or matching programs to the extent possible, and authorizes the board to solicit and accept grants or donations from State, local, or private entities. In the absence of such funds, it is assumed that general funds would be provided for the program.

The board would not start paying credits to producers until fiscal 2008. The total amount of credits that would be paid under the bill is unknown; it would depend on the number of qualifying plants and whether the feedstocks used to manufacture the biofuels qualify for a 5 cents or 20 cents per gallon credit, as provided by the bill.

Based on the limits established in the bill, credit payments to producers could total a maximum of $4 million annually ($3 million in payments to ethanol producers and $1 million in payments to biodiesel producers). For credit payments to reach the maximum, the bill would have to result in the establishment of two biofuels plants (one ethanol plant producing at least 15 million gallons of ethanol per year from small grains, and one biodiesel plant producing at least 5 million gallons of fuel from soybean oil produced in a facility that began operating or expanded production after December 31, 2004). Based on information provided by MDA, it is possible that the bill would result in the establishment of two such plants. To the extent that fewer plants are established, or that any plants established use feedstock that qualify for the lower credit, credit payments would be less.

Economic Development

The economic impact of the bill would depend on the number and size of plants established and the feedstocks used. A 2002 study conducted for the Maryland Grain Producers Utilization Board estimated the annual economic impact of a 15 million gallon per year barley-based ethanol plant in Maryland as follows:

- 25 permanent jobs directly associated with the plant;
- up to 250 indirect jobs throughout the State economy;
- $1.125 million in direct personal household income from the plant;
- $20 million in indirect personal household income throughout the State economy;
- $3 to $5 million in additional farmgate value of barley to producers;
- at least $25 million in ethanol plant revenue;
- close to $30 million in one-time construction costs;
- $100 million in total additional economic activity; and
- over $500,000 in State and local taxes.

These estimates were based on data extrapolated from studies conducted in other states; a Maryland-specific study was not conducted.

MDA advises that, due to economies of scale, it is more likely that an ethanol plant would generate 30 to 40 million gallons per year rather than 15 million gallons per year. A June 2002 study titled *Ethanol and the Local Community* evaluated the annual economic impact of a 40 million gallon per year ethanol plant. The study concluded that such a plant would expand the local economy by $110.2 million, generate an additional $19.6 million in household income, create up to 694 permanent jobs throughout the economy, generate at least $1.2 million in new state and local tax revenues, and generate additional revenue for local grain farmers. The tax effects were based on the average state and local tax rates of states that produce ethanol. According to MDA, a June 2003 study conducted by the State of New York estimated that, over a five-year period, a 30 million gallon per year biodiesel plant would add $300 million to the economy, generate $177 million in household income, create 1,145 jobs throughout the state, and generate $19.1 million in state taxes.

Accordingly, to the extent the bill results in the construction of additional plants in Maryland, State tax revenues would increase.

Local Revenues: To the extent the bill results in the construction of additional plants in Maryland, local tax revenues would increase.

Small Business Effect: Most farms are small businesses. According to the 2002 Census of Agriculture, 2,335 Maryland farms derive most of their farm income from grains and oilseed crops. Grain producers and businesses that generate or handle certain other feedstocks would benefit to the extent the bill results in an increase in the demand for their products (such as barley, soybean oil, yellow grease, and animal fats). According to MDA, the local soybean industry incurred significant losses when the last remaining export facility closed in 2002. The Task Force on the Marketing of Grain and Other Agricultural Products concluded that the best long-term opportunity to improve the local soybean market was the development of additional soybean processing capacity in the State. With respect to barley, MDA advises that the local demand for barley is very limited, and that the establishment of an ethanol plant would provide the opportunity for significantly increased barley acreage at a price that would encourage farmers to grow it.

To the extent the bill results in the construction of additional plants in Maryland, small businesses in the surrounding areas could benefit.

Additional Information

Prior Introductions: None.

Cross File: HB 1346 (Delegate Conway, *et al.*) – Environmental Matters.

Information Source(s): Maryland Department of Agriculture, Department of Business and Economic Development, Maryland Department of the Environment, Department of Legislative Services

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