SB 203

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 203 (Senator Miller)
Budget and Taxation

Property Tax Exemption - Property Used to Generate Electricity, Steam, or Hot or Chilled Water

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This bill repeals a 50% exemption from the local personal property tax for machinery or equipment that is used to generate: (1) electricity or steam for sale; or (2) hot or chilled water for sale that is used to heat or cool a building.

The bill takes effect June 1, 2005 and applies to all taxable years beginning after June 30, 2005.

Fiscal Summary

State Effect: None.

Local Effect: Local government revenues could increase by approximately $47.9 million in FY 2006 and by approximately $39.0 million in FY 2010. Expenditures would not be affected.

Small Business Effect: Potential meaningful.

Analysis

Background: In 1999, legislation was enacted (Chapters 3 and 4 of 1999) to provide for electric customer choice and the restructuring of the electric utility industry in the State. In connection with the legislation providing for retail electric competition, legislation was enacted (Chapters 5 and 6 of 1999) to address the State and local tax implications of restructuring the electric utility industry.

Under Chapters 5 and 6 of 1999, the former gross receipts tax on electric utilities was replaced with a "combination tax" consisting of a gross receipts tax imposed only on revenues from the transmission and delivery of electricity and a separate tax based on kilowatt hours of electricity delivered for final consumption in the State. These changes were also made applicable to gas utilities, with the former gross receipts tax on revenues from the sale of natural gas being replaced with a tax based on therms of natural gas delivered for final consumption in the State. The Acts also for the first time imposed the corporate income tax on electric and gas utilities.

Property tax relief for electric generation facilities in the State was also provided under the Acts. The Acts provided relief from the disparity in the taxation of real property used in generation without affecting local property tax revenues, by allowing a credit against the State income tax for 60% of the real property taxes paid by an electric utility. For relief from personal property taxes on generation facilities, the Acts provided a 50% exemption from property tax, phased in over two years, with State grants specified in the law to reimburse the counties where the generation facilities are located. These grants were set at amounts estimated to cover roughly two-thirds of the projected costs of the property tax relief.

The rate of the new State kilowatt hour-based tax on electricity was set at a level designed to provide a certain level of revenues for the State. The revenues from the new tax, when combined with the continuing gross receipts tax on transmission and distribution and the new corporate income tax from electric utilities, were supposed to offset the loss from the gross receipts tax on revenues from the sale of electricity and recover about half of the State's cost of grants to reimburse the affected counties for personal property tax relief. The net effect of the new tax structure and reimbursement framework was that the costs of the property tax relief provided to the utilities would be shared roughly equally among the affected counties, the State, and electric consumers.

The actual overall impact of electric and gas utility industry restructuring and tax reform on State and local tax revenues has been approximately the same as expected when the legislation was enacted. State revenues from the public service company franchise tax from electric and gas utilities have been slightly higher than anticipated, partly due to the imposition of the gross receipts tax on "competitive transition charges" collected by the regulated utilities. Corporate income tax revenues from electric and gas utilities to date have also been slightly higher than expected.

Local property tax revenues from the electric utility industry have declined as anticipated. However, the county-by-county impact has varied somewhat, primarily due to factors other than the direct impact of the utility tax reform legislation. The sale of electric generating plants, facilitated by the restructuring of the electric utility industry, has resulted in a significant increase in the valuation of some plants for property tax purposes. These increases have mitigated the anticipated loss of assessable base due to the 50% exemption for generation property, resulting in a net increase for some jurisdictions in the assessable base attributable to electric utility and nonutility generator property, even after allowing for the 50% exemption.

Local Fiscal Effect: The bill would result in a significant increase in local government revenues. Based on current assessable base estimates, local government revenues could increase by approximately $47.9 million in fiscal 2006. **Exhibit 1** shows the total projected local government revenue increase for fiscal 2006 through 2010. Future year revenues reflect a projected decrease in utility property values and the depreciation of personal property.

Exhibit 1
Total Projected Local Government Revenue Increase (Fiscal 2006 - 2010)

Fiscal Year	Projected Revenue Increase
2006	$47,878000
2007	45,485,000
2008	43,209,000
2009	41,049,000
2010	38,995,000

The State Department of Assessments and Taxation would continue to assess the personal property of public utilities and nonutility generators at its full value.

A State grant was established as a partial reimbursement for local governments where electric generating plants are located. The jurisdictions include Baltimore City and Anne Arundel, Baltimore, Calvert, Charles, Dorchester, Garrett, Harford, Montgomery, Prince George’s, and Washington counties. This grant totaled $15.3 million in fiscal 2001 and $30.6 million for each year beginning with fiscal 2002. For fiscal 2004, the Board of Public Works reduced the local grant to $26.2 million. The grants were fully funded at $30.6 million for fiscal 2005. The Governor’s proposed fiscal 2006 budget eliminates the grant contingent upon passage of legislation (SB 147/HB 148).

Small Business Effect: Since this bill would significantly increase personal property taxes for the utility and nonutility generators, electric rates for consumers, including small businesses, could increase as electricity generators and providers try to mitigate their increased costs.

Additional Comments: Electric generating plants owned by operating utilities are located in the following jurisdictions: Anne Arundel County (two plants – Brandon Shores and Wagner Point both owned by BGE), Baltimore City (two plants – Westport, and Philadelphia Road all owned by BGE), Baltimore County (three plants – Riverside, Notch Cliff, and Crane all owned by BGE), Calvert County (Calvert Cliffs Nuclear Plant owned by BGE), Harford County (two plants – Susquehanna owned by PECO and Perryman owned by BGE), Prince George's County (Chalk Point CT owned by SMECO), and Somerset County (Smith Island owned by A&N).

The following jurisdictions have nonutility generators: Allegany County (AES Warrior Run owned by AES), Charles County (Morgantown owned by Mirant), Dorchester County (Vienna Unit 8 and Vienna Peaking owned by NRG Energy), Garrett County (Deep Creek owned by Reliant MD), Montgomery County (Dickerson owned by Mirant), Prince George's County (Chalk Point owned by Mirant and Panda Brandywine owned by Panda), and Washington County (R. Paul Smith owned by Allegheny Energy Supply). The R. Paul Smith plant is located in the Town of Williamsport.

Additional Information

Prior Introductions: This bill was introduced as SB 853 in the 2004 session. No action was taken by the Senate Budget and Taxation Committee.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2005
ncs/hlb

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