

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 633 (Senator Middleton, *et al.*)
Budget and Taxation

Energy - Taxes - Extension and Expansion of Credit for Renewable Energy

This bill makes the following changes to the existing tax credit for renewable energy program by: (1) changing the dates a facility can qualify for the credit if it is originally placed in service or begins co-firing a qualified energy resource on or after January 1, 2005 but before January 1, 2013; (2) eliminating the restriction that a taxpayer may not claim the State credit if the taxpayer claims the federal renewable electricity production credit; (3) making the credit transferable; (4) expanding qualifying facilities to include electricity generated from any combustible gas resulting from thermal decomposition generated from an agricultural operation; and (5) clarifies that unless otherwise specified, qualified energy resources has the meaning defined in Section 45 (C) (1) of the Internal Revenue Code (IRC).

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: The extent of the revenue loss depends on the annual amount of energy produced by qualifying facilities and cannot be reliably estimated. Under one set of assumptions, revenues could decline by approximately \$2.1 million annually beginning in FY 2007.

Local Effect: Based on the assumptions above, local highway user revenues would decline by approximately \$75,000 annually beginning in FY 2007 if half of the credits were claimed against the corporate income tax.

Small Business Effect: Minimal.

Analysis

Current Law: Qualifying facilities can claim the credit if they were originally placed in service or began co-firing a qualifying energy resource on or after January 1, 2001 but before January 1, 2005. A facility that claims the federal renewable electricity production credit cannot claim the State credit. The State credit is not transferable but can be carried forward 10 years. The amount of the credit is 0.5 cents for each kilowatt hour of electricity produced for each qualifying facility that is co-fired with coal and equal to 0.85 cents for all other facilities. Unless otherwise specified, qualified energy resources have the meaning defined in Section 45 of the IRC.

Background: A federal renewable energy production credit (REPC) is provided for electricity produced from qualifying renewable energy under Section 45 of the IRC. The Working Families Tax Relief Act of 2004 extended the tax credit, which had expired at the end of 2003 to December 31, 2005. The American Jobs Creation Act of 2004 (P.L. 108-357) expanded the renewable energy sources that could qualify for the credit under Section (45)(C)(1) to include: (1) wind; (2) closed-loop biomass; (3) open-loop biomass; (4) geothermal; (5) solar; (6) small irrigation power; (7) municipal solid waste; and (8) refined coal.

“Closed-loop biomass” is the use of plant matter on a renewable basis as an energy source to generate electricity. The plants must be grown for the sole purpose of being used to generate electricity. “Open-loop biomass” includes livestock waste and specified solid, nonhazardous, cellulosic waste materials.

REPC provides a 1.5 cents per kWh credit, adjusted annually for inflation, for wind, solar, closed-loop biomass, and geothermal. The adjusted credit amount for 2003-2005 is 1.8 cents per kWh. Electricity from open-loop biomass, small irrigation hydroelectric, and municipal solid waste resources will receive half that rate – currently 0.9 cents/kWh. The duration of the credit for closed-loop biomass and wind continues to be 10 years, while open-loop biomass, solar, geothermal, small irrigation hydro, and municipal solid waste resources are eligible for the credit for a 5-year period. Refined coal facilities will receive \$4.375 per ton (indexed for inflation) for a 10-year term.

State Revenues: The actual cost of the bill cannot be reliably ascertained and depends on the amount of electricity produced from qualifying facilities in a given year. *For illustrative purposes only*, revenues could decline by \$2.1 million annually beginning in fiscal 2007. This estimate is based on the following facts and assumptions:

- According to the Maryland Energy Administration (MEA), two wind projects, Clipper Windpower Criterion Project and Savage Mountain, have received permitting approval from the State. MEA has estimated that the projects will begin operations in 2005 and will produce approximately 247,000 megawatts annually. Legislative Services estimates that 2006 is the earliest credits could be claimed by these projects. These facilities would qualify and claim \$2.1 million in credits annually beginning in fiscal 2007.

MEA advises that other eligible facilities such as qualifying agricultural facilities and wind projects on the Eastern Shore could qualify for the tax credit but that it cannot reliably estimate the potential fiscal impact from these facilities. MEA did not provide an estimate on the potential fiscal impact of other qualifying facilities such as small irrigation power, geothermal, and refined coal.

Additional Information

Prior Introductions: HB 1496 of 2004, an identical bill, received an unfavorable report from the House Ways and Means Committee.

Cross File: HB 1277 is listed as a cross file, but the bills are not identical.

Information Source(s): Maryland Energy Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 21, 2005
mp/hlb

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