SB 397

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 397 (Senators Frosh and Middleton)
Finance

Energy-Saving Investment Program

This bill establishes an Energy-Saving Investment Program and 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 residential retail electric and gas customers to contribute to the fund through an energy-saving investment charge collected by each electric and gas company.

The bill takes effect July 1, 2005 and sunsets March 31, 2016. The customer charge terminates September 30, 2014.

Fiscal Summary

State Effect: Special fund revenues would increase by $5.9 million in FY 2006 from investment charges and at least $7.9 million annually thereafter. Revenues could increase by as much as $13.8 million in FY 2007, $27.6 million in FY 2008, and $31.5 million in FY 2009 and 2010, depending on the rate set by the Public Service Commission (PSC). Special fund expenditures would increase correspondingly.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	$5,915,300	$7,887,100	$7,887,100	$7,887,100	$7,887,100
SF Expenditure	5,915,300	7,887,100	7,887,100	7,887,100	7,887,100
Net Effect	$0	$0	$0	$0	$0

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 appropriated funds.

The fund will support energy efficiency programs. MEA cannot spend more than 10% of the funds on management and supervision of activities. PSC can retain 1% of the funds to offset its administrative expenses associated with the program. PSC must set the level of the investment charge as provided by the bill. Customers who receive gas or electric bill assistance from the Maryland Energy Assistance or Electric Universal Service programs 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 September 30, 2015, must be returned to residential electric and gas customers. If a utility is authorized to directly implement its own residential energy efficiency program, the bill allows the PSC-approved customer charge to be subtracted from the amount of the charge to be collected from that utility's customers. The charge may be combined with the universal service fee allowed under current law.

MEA must prepare and maintain an energy-saving investment plan that directs all disbursements from the fund and describes, evaluates, and recommends programs designed to accomplish several specified objectives. MEA must submit the initial plan to PSC by March 1, 2006, and periodically update it. The first updated plan must be submitted to PSC by March 1, 2009. At least 5% of each of the funds derived from residential retail electric customers and residential retail gas customers must be directed toward programs to serve low-income customers. The plan must give priority to energy efficiency programs that reduce peak demands for electricity or natural gas, other factors being equal.

The bill outlines the required elements of the plan. PSC must review the plan and provide an opportunity for interested parties to comment. It also 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 recommended program that it finds to be 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 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 the program.

By October 1, 2005, the director of MEA must convene an Energy-Saving Investment 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 March 30, 2007, and at one-year intervals thereafter through 2014, MEA must submit an annual report on the fund to the General Assembly in cooperation with the Comptroller.

Current Law: Subject to review and approval by PSC, each gas and electric company is required to develop and implement programs and services to encourage and promote the efficient use and conservation of energy.

The Electric Customer Choice and Competition 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; however, the law and related settlements with utilities also resulted in a temporary rate freeze for residential and commercial customers. Rates are expected to increase after the freeze ends.

The restructuring law required PSC to ensure that restructuring did not affect cost effective conservation programs and directed it to evaluate whether current and potential programs were cost effective. PSC issued a report required by the statute that concluded that such programs should be evaluated by determining an overall demand reduction goal and whether the goal is worth the effort and related costs. It recommended using general funds or general obligation bonds as financing tools.

Chapter 4 provided for the establishment and administration of a $34 million universal service fund to help low-income customers pay their electricity bills and to provide for energy conservation measures for those customers.

Background: Unlike many states that have adopted electricity restructuring, Maryland did not have a significant history of levying public benefits charges on consumption of electricity before restructuring. Public benefit programs such as demand-side management were addressed directly through requirements in electricity tariffs rather than as separately stated charges for dedicated funds. The Maryland Energy Assistance Program administered by the Department of Human Resources (DHR) is only a pass-through of federal funds without any State contribution. Chapter 4 enacted the first true public benefit program in Maryland, the Electric Universal Service Program, to provide targeted assistance to low-income electric customers for bill payment, retirement of bill arrearages, and improved energy efficiency through weatherization.

As a result of restructuring, electric utilities are seeking ways to reduce discretionary expenditures while maximizing electricity sales to recover fixed costs and increase profits. Consequently, most have diminished or eliminated energy efficiency programs. However, MEA is involved with a range of activities relating to energy efficiency. For example, MEA's Energy Star® Marketing Campaign educates consumers about the benefits of purchasing Energy Star® appliances and homes. MEA also administers a training program to educate heating and cooling contractors on installation techniques to improve efficiency.

Eighteen states (including Maryland) and the District of Columbia have adopted electricity restructuring; all but Maryland and Virginia have developed a public benefits fund similar to that proposed in this bill. The surcharge per customer dedicated to energy efficiency programs varies from 0.003 cents per kilowatt hour (kWh) in Illinois to 0.3 cents per kWh in Connecticut.

According to the U.S. Department of Energy, from 2003 to 2025, national residential energy consumption is anticipated to grow at an annual rate of 0.9%. For the same period, electric consumption is anticipated to grow at an annual rate of 1.8% and natural gas consumption is anticipated to grow at an annual rate of 1.5%.

State Revenues: The charge established by the bill would take effect October 1, 2005. The bill specifies that PSC must set the level of the charge on retail electric customers at 0.025 cents per kWh for fiscal 2006. The bill establishes provisions requiring PSC to reset the charge to 0.05 cents per kWh and to 0.1 cents per kWh under specified conditions. The bill also requires PSC to reset the charge at a lower rate (not less than 0.025 cents per kWh) under specified conditions. The charges assessed a retail gas customer must be set by PSC at a level that would have the same effect on the total yearly gas bill as the charge established for a retail electric customer would have on the total yearly electricity bill.

Based on information provided by MEA, special fund revenues from the investment charge could total an estimated $5.9 million in fiscal 2006, accounting for the October 1 effective date of the charge. Beginning in fiscal 2007, revenues could total an estimated $7.9 million annually, assuming the rate were to remain at the 0.025 cents per kWh level. The maximum revenue that could accrue under the bill's provisions is estimated to total

$13.8 million in fiscal 2007, $27.6 million in fiscal 2008, $31.5 million in fiscal 2009 through 2014, and $7.9 million in fiscal 2015 (due to the termination date of the charge). The bill's schedule for potential rate changes does not follow the fiscal year; therefore, the fiscal year revenues would include three months of one charge and nine months of the succeeding charge.

These estimates are based on residential electricity consumption data from the PSC's Ten-Year Plan for 2003-2012 and residential gas consumption data from the U.S. Energy Information Administration for 2002. The estimates assume that all investor-owned utilities will participate in the program, but that municipal electric corporations and cooperatives will opt out. The estimates also reflect anticipated exemptions; MEA advises that an estimated 78,000 low-income households would be exempt from the charge, based on information provided by DHR.

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.

Any revenues remaining in the special fund at the end of September 30, 2015 would be returned to customers in a manner prescribed by PSC.

State Expenditures: Special fund expenditures could increase by an estimated $5.9 million in fiscal 2006 and by at least $7.9 million annually thereafter, as described below. The estimates are based on the anticipated revenue stream and do not include any State matching funds or any other funds appropriated to the fund. The Office of People's Counsel advises that it could handle any increase in workload with existing budgeted resources.

Maryland Energy Administration

Special fund expenditures within MEA could increase by approximately $5.9 million in fiscal 2006, which reflects approximately $5.3 million for contractual services to implement energy-efficiency programs, and $532,655 in administrative costs (including $182,655 in personnel costs and $350,000 in administrative contractual services).

Administrative Costs

Administrative costs within MEA would total an estimated $532,655 in fiscal 2006, which accounts for the October 1 effective date of the energy investment charge. This estimate includes $350,000 in contractual services to design the investment plan and conduct a comprehensive survey to define current energy use practices. The estimate also reflects costs to hire three employees (an energy efficiency program manager, a marketing specialist, and a procurement specialist) to coordinate all program activities and 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; and
- extensive use of contractors to design, implement, and monitor the energy-efficiency programs.

Salaries and Fringe Benefits	$149,051
Contractual Services (Administrative only)	350,000
Travel and Other Operating Expenses	23,104
Equipment	10.050
FY 2006 MEA Administrative Expenses	**$532,655**

Future year administrative expenditures, shown below, reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; (2) ongoing contractual services totaling $350,000 annually; and (3) 1% annual increases in other ongoing operating expenses.

	FY 2007	FY 2008	FY 2009	FY 2010
MEA Admin. Expenses	$584,914	$603,018	$609,957	$623,803

Energy Efficiency Programs

MEA advises that it would spend the remaining fund balance each year (after deduction of PSC administrative costs, which are described below) on programs established pursuant to the energy-saving investment plan. Based on the anticipated revenue stream and estimated administrative expenditures, funding available to implement the programs could total approximately $5.3 million in fiscal 2006 and $7.2 million annually thereafter, as shown below. These estimates assume the charge remains at 0.025 cents per kWh.

Programs	FY 2006 @ 0.025 cents ($ in millions)	Future Years @ 0.025 cents ($ in millions)
Existing Homes	$1.3	$1.3
New Homes	0.6	1.9
Appliances	3.1	3.6
Low-income	0.3	0.4
Total	**$5.3**	**$7.2**

If the charge were reset at a higher rate, as provided by the bill, the availability of funding for such programs would increase significantly. If the rate were reset to the maximum rates provided by the bill, at the bill's highest rate of 0.1 cents per kWh, the funding available for such programs could total approximately $30.8 million annually.

The programs may 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 homes 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.

Public Service Commission

PSC advises that it would need to hire one regulatory economist 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). Personnel costs are estimated at $43,429 in fiscal 2006, accounting for a 90-day start-up delay. The estimate includes a salary, fringe benefits, and ongoing operating expenses.

Future year administrative expenditures, shown below, reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

	FY 2007	FY 2008	FY 2009	FY 2010
PSC Admin. Expenses	$59,469	$62,988	$66,764	$70,822

As the bill permits PSC to retain 1% of the fund's revenues, these costs would be covered by the fund.

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, the bill would not significantly affect local operations or finances.

Small Business Effect: Small home-based businesses served by investor-owned utilities would incur increased expenditures from October 1, 2005 through September 30, 2014 as a result of the charge. (Only residential accounts would be subject to the charge.) To the extent that any funds remain in the fund at the end of September 30, 2015, they would be returned to customers.

As consumers of electricity, small businesses paying into the fund could directly benefit from the energy efficiency programs established under 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 the programs 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 as a result of the bill.

Additional Comments: The average annual cost for the energy-saving investment charge is estimated to be $5.83 per household at 0.025 cents per kWh. The annual charge rises to $11.66 if the rate increases to 0.05 cents per kWh and to $23.32 per year under the bill's maximum rate of 0.1 cents per kWh. To the extent the bill results in greater energy efficiency, customers paying into the fund would realize energy savings in the long run.

Additional Information

Prior Introductions: Similar bills were introduced as SB 654 (2004), SB 373 (2003), SB 541/HB 1332 (2002), and SB 688/HB 1322 (2001). SB 654 of 2004 passed the Senate with amendments but received an unfavorable report by the House Economic Matters Committee. SB 373 of 2003 was heard by the Senate Finance Committee, which took no action. SB 541 of 2002 was reported unfavorably from the Senate Finance Committee, and HB 1332 was withdrawn. SB 688/HB 1322 of 2001 both received unfavorable reports.

Cross File: HB 490 (Delegate McIntosh, *et al.*) – Economic Matters.

Information Source(s): Maryland Energy Administration, Public Service Commission, Office of People's Counsel, American Council for an Energy-Efficient Economy, Department of Legislative Services

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