SB 1097

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1097 (Senator Hollinger, *et al.*)
Finance and Budget and Taxation

Electric Utilities - Windfall Profits Tax - Electric Universal Service Program

This bill imposes a windfall profit tax on electric companies and electric company affiliates. Any revenue generated from the tax must be used to fund the existing electric universal service program (EUSP).

The bill takes effect July 1, 2006 and applies to tax year 2006 and beyond.

Fiscal Summary

State Effect: Potential significant increase in special fund revenues in FY 2008 and beyond due to imposition of the windfall profit tax. Corresponding increase in special fund expenditures at the Department of Human Resources (DHR) in FY 2008 and beyond for EUSP. General fund expenditures would increase by approximately $84,200 in FY 2008 due to implementation costs at the Comptroller's Office.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	$0	-	-	-	-
GF Expenditure	0	84,200	0	0	0
SF Expenditure	0	-	-	-	-
Net Effect	$0	($84,200)	$0	$0	$0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill imposes a windfall profit tax on electric companies and electric company affiliates in addition to any State income tax imposed. The tax rate is 50% of a specified corporation's "windfall profits," as calculated by the bill. An electric company is as defined under Section 1-101 of the Public Utilities Companies Article. The bill defines an electric company affiliate as a corporation that is a member of an affiliated group of corporations: (1) of which an electric company is a member; and (2) more than 50% of the voting stock of each member is owned either by a common owner or owners or one or more member corporations of the group.

Windfall profits are the amount of a corporation's income for the current tax year in excess of the corporation's adjusted base year income. The adjusted base year income is the income of a corporation for the base year increased by 110% times the percentage change in the total Maryland taxable income for all corporations for the most recent tax year for which data is available over the total Maryland taxable income for all corporations for the base year. The base year is 2004 or another tax year that the Comptroller's Office allows.

Current Law: There is no windfall profit tax on electric companies or electric company affiliates. The income of these corporations attributable to Maryland is subject to the State's income tax.

Background: Chapters 3 and 4 of 1999 required the Public Service Commission (PSC) to establish a continuing, nonlapsing EUSP to help electric customers with annual incomes at or below 150% of the federal poverty level. DHR is required to administer the program through the Maryland Energy Assistance Program within the Office of Home Energy Programs (OHEP). DHR may contract with a for-profit or nonprofit Maryland corporation existing as of July 1, 1999 to help administer the program. PSC is responsible for overseeing the program. The universal service program includes: (1) bill assistance, at a minimum of 50% of the individual's need; (2) low-income weatherization; and (3) retiring arrearages.

PSC determines a fair and equitable way of allocating electric customers' charges among all customer classes. The total funds collected for the universal service program are $34 million annually: $24.4 million from the industrial and commercial classes; and $9.6 million from the residential classes. At the end of the fiscal year, any unspent funds collected during that year must be made available for disbursement during the first three months of the next fiscal year to customers who qualify for assistance during the given fiscal year, apply for assistance from the fund before the end of the given fiscal year, and remain eligible for assistance when services are provided. PSC can give an additional three-month extension to disburse the unspent funds in a given fiscal year. Any unspent funds that remain unspent at the end of the allowable period must revert back to each customer class in proportion to their contributions.

OHEP has experienced significant increases in enrollment in the EUSP program. OHEP estimates that fiscal 2007 program enrollment will reach 95,000. The chart below shows the number of applicants and actual program enrollments from fiscal 2002 through 1/20/06.

Fiscal	Applications	Approved	Percentage Approved
2002	64,547	58,263	90.3%
2003	77,025	69,781	90.6%
2004	80,825	72,930	90.2%
2005	88,368	78,668	89.0%
2006 (thru 1/20/06)	76,524	53,718	70.2%

The following chart provides the EUSP revenues and expenditures, according to DHR, from fiscal 2002 through 1/18/06.

Fiscal	Revenues	Expenditures	Excess (Deficiency)
2002	$37,775,358	$30,995,459	$6,779,899
2003	31,233,453	32,601,213	(1,367,760)
2004	34,573,915	32,153,765	2,420,150
2005	32,339,581	30,516,239	1,823,342
2006 (thru 1/18/06)	13,148,861	23,041,589	(9,892,728)

State Revenues: Special fund revenues could increase significantly in fiscal 2008 and beyond due to the imposition of the tax. The amount of increase depends on the amount of Maryland income reported by all corporations and by corporations subject to the windfall tax and cannot be reliably estimated at the time. The Comptroller's Office advises that the data necessary to implement the tax would not be available until tax year 2007.

State Expenditures: Expenditures could increase at the Comptroller's Office due to the implementation costs and at DHR for distributions under EUSP.

Comptroller's Office

General fund expenditures could increase by approximately $84,200 in fiscal 2008, which reflects an implementation date of tax year 2007. This includes costs for data processing changes to the SMART income tax return processing and imaging systems, and systems testing.

Electric Universal Service Program

The bill provides that any revenue generated from the windfall profit tax be credited to the electric universal service program fund. The amount of expenditures would depend on the revenue generated from the windfall profit tax and cannot be reliably estimated. It is assumed that the additional amount distributed could be done within existing budgeted resources at DHR.

Small Business Effect: The incidence of the tax would partly be borne by the corporations paying the tax and partly paid by electricity consumers. Small businesses would be negatively impacted due to the increase in electricity prices that would likely be caused by the bill, but any increase is not expected to be substantial.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 28, 2006
mll/hlb

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