SB 1009

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1009 (Senator Schrader, *et al.*)
Budget and Taxation

Income Tax Credits for Green Buildings - Additional Credits Authorized

This bill expands the existing State income tax credit for Green Buildings by: (1) allowing nonprofit organizations to claim the credit; (2) making the tax credit transferable; (3) expanding the buildings eligible by allowing buildings with at least 10,000 square feet of interior space to qualify; and (4) authorizing the Maryland Energy Administration (MEA) to authorize an additional $25 million in credits in tax year 2008 through 2012. MEA and the Comptroller's Office are required to adopt regulations that establish a process for ensuring that any credit issued prior to July 1, 2006 can be claimed prior to any credit issued after July 1, 2006.

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

Fiscal Summary

State Effect: General fund and Transportation Trust Fund (TTF) revenues could decrease by approximately $3.5 million beginning in FY 2007 due to making the credit transferable. The distribution of the loss between the general fund and TTF cannot be reliably estimated. Future year losses reflect anticipated claim schedule under current law versus under the provisions of the bill. FY 2009 through 2011 reflect additional credits authorized in tax year 2008 through 2010.

($ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF/SF Rev.	($3.5)	($3.9)	($7.4)	($6.0)	($4.8)
Expenditure	$0	$0	$0	$0	$0
Net Effect	($3.5)	($3.9)	($7.4)	($6.0)	($4.8)

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

Local Effect: Local highway user revenues would decrease as a result of accelerated credits claimed against the corporate income tax due to making the credit transferable and refundable.

Small Business Effect: Potential meaningful. Small businesses that earn the credit or are transferred the credit could benefit from the bill.

Analysis

Bill Summary: Credits can be transferred if: (1) no portion of the credit has been claimed; (2) the entire amount of the credit is transferred; and (3) the transferor notifies the Comptroller's Office within 30 days. **Exhibit 1** lists the amount of credits MEA can authorize under current law and under the bill.

Exhibit 1
Credits Authorized
Current Law and SB 1009
($ in Millions)

Tax Year	Current Law	SB 1009	Increase
2003	$1.0	$1.0	$0
2004	2.0	2.0	0
2005	3.0	3.0	0
2006	4.0	4.0	0
2007	5.0	5.0	0
2008	4.0	9.0	5.0
2009	3.0	8.0	5.0
2010	2.0	7.0	5.0
2011	1.0	6.0	5 0
2012	0	$5.0	5.0
Total	**$25.0**	**$50.0**	**$25.0**

Current Law: The credit is not transferable and any unused amount of the credit can be carried forward 10 tax years. An individual or corporation is eligible to claim the credit. Buildings must have at least 20,000 feet of interior space in order to qualify for the credit.

Background: Businesses that construct or rehabilitate a building that conforms to specific standards intended to save energy and to mitigate environmental impact may take a credit for a portion of the cost. The building must be located in either a priority funding area or a qualified brownfields site and cannot be located in a wetlands area. The total amount of credits certified for all taxpayers each year (calendar 2003 through 2011) is subject to the limitations in Exhibit 1. Credits are allowed for amounts spent on or after July 1, 2001. Allowable costs may not exceed in the aggregate: $120 per square foot for that portion of the building that is owner occupied; and $60 per square foot for that portion of the building that comprises the tenant space. The credit is the sum of four credit components.

Building Credit Component: A percentage of the allowable costs paid by the owner or tenant to make some portion of the building "green." Each credit is limited by a dollar amount per square foot. For a whole building, 8% of the allowable costs paid for or incurred by the owner or tenant, as outlined: <u>base building</u> (areas not intended to be occupied) – 6% of the allowable costs; allowable costs may not exceed $120 per square foot; the maximum credit amount is $7.20 per square foot for the area that comprises the base building; <u>tenant space</u> – 6% of the allowable costs; allowable costs may not exceed $60 per square foot; the credit cannot be claimed by the owner if the owner occupies less than 10,000 square feet of the building or by the tenant if the tenant occupies less than 5,000 square feet; the maximum credit amount is $3.60 per square foot.

Fuel Cell Credit Component: 30% of the costs paid by the owner or tenant to purchase and install a fuel cell in a green whole building, base building, or tenant space. The credit cannot exceed $1,000 per kilowatt hour of capacity and is reduced by nontaxable government grants used to purchase and install the fuel cell.

Photovoltaic Module Credit Component: 25% (20% if building-integrated) of the cost paid by an owner or tenant to purchase and install a photovoltaic module in a green whole building, base building, or tenant space. The costs used to determine the credit amount cannot exceed $3 per watt of capacity and are reduced by nontaxable government grants used to purchase and install the modules. The credit cannot be taken if the Clean Energy Incentive Credit has been claimed for the installation of the photovoltaic modules.

Wind Turbine Component: 25% of the cost to purchase and install wind turbines that qualify as alternative energy sources and will serve a green whole building, base building, or tenant space.

State Revenues: Exhibit 2 lists the fiscal impact of the bill in fiscal 2007 through 2019.

The bill will impact State revenues in two ways. First, it expands the existing credit by making the credit transferable beginning in tax year 2006. This will affect State revenues by increasing revenue losses in the near-term while decreasing revenue losses in the out-years. It is assumed that under current law, due to insufficient tax liability, credits will be claimed and carried forward seven tax years at a rate of one-eighth per tax year and that by making the credit transferable all of the credit will be claimed in the fiscal year following the tax year in which the credit is allowed.

Second, the bill authorizes $25 million in additional credits in tax years 2008 through 2012 which will impact State revenues in fiscal 2009 through 2013 as shown in Exhibit 2.

Exhibit 2
SB 1009 Fiscal Impact

Fiscal	Existing Credits	New Credits	Total Net Effect
2007	(3.5)		(3.5)
2008	(3.9)		(3.9)
2009	(2.4)	(5.0)	(7.4)
2010	(1.0)	(5.0)	(6.0)
2011	0.3	(5.0)	(4.8)
2012	1.4	(5.0)	(3.6)
2013	2.4	(5.0)	(2.6)
2014	2.4		2.4
2015	1.9		1.9
2016	1.3		1.3
2017	0.8		0.8
2018	0.4		0.4
2019	0.1		0.1

Additional Information

Prior Introductions: HB 975 of 2005, a similar bill, received a favorable with amendments report from the House Ways and Means Committee and passed the House but received an unfavorable report from the Senate Budget and Taxation Committee.

Cross File: None.

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

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mll/hlb

Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510