HB 737

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 737 (Delegate Hubbard)
Economic Matters

Regional Greenhouse Gas Initiative - Carbon Allowances

This bill specifies that any carbon allowances allocated to the State under the Regional Greenhouse Gas Initiative (RGGI) must be sold by the Maryland Department of the Environment (MDE) through an auction open to the public. Proceeds from the sale of allowances must be used for consumer benefit, as provided by the bill. Proceeds must be paid into the Energy Efficiency Utility Fund established by the bill; the Maryland Energy Administration (MEA), in consultation with MDE, must administer the fund.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: General fund expenditures could increase minimally in FY 2008 and by roughly $44,000 in FY 2009, representing the State's share of the costs of setting up a RGGI regional auction platform. General fund expenditures could increase in future years due to ongoing auction costs, though any increase is not expected to be substantial. The bill's requirement that 100% of the State's carbon allowances be sold through an auction would not necessarily result in an increase in special fund revenues and expenditures.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	$0	-	-	-	-
GF Expenditure	-	44,000	-	-	-
SF Expenditure	0	-	-	-	-
Net Effect	$0	($44,000)	$0	$0	$0

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

Local Effect: Local governments could benefit from increased funding directed toward consumer benefit or strategic energy programs established under RGGI.

Small Business Effect: Potential Meaningful.

Analysis

Bill Summary: MDE must adopt regulations that establish an auction system by January 1, 2008. The bill establishes requirements regarding the regulations.

Proceeds from the sale of allowances may only be used to promote energy efficiency and conservation, directly mitigate electricity ratepayer impacts, and promote renewable noncarbon-emitting energy technologies. MDE, in consultation with MEA, must determine the proportion of proceeds used for those purposes.

The Energy Efficiency Utility Fund must be self-sustaining. Moneys in the fund may not revert or be transferred to the general fund. MEA may use up to 7% of the monies in the fund for administrative expenses.

Current Law/Background: The Healthy Air Act of 2006 requires the Governor to include the State as a full participant in RGGI by June 30, 2007. The State is authorized to withdraw from RGGI at any time after January 1, 2009. If the State's participation in RGGI ceases for any reason, the Governor is required to report to the General Assembly regarding why participation ceased and a plan to reduce carbon dioxide (CO_2) emissions from power plants in the State.

RGGI is a seven-state coalition (Connecticut, Delaware, Maine, New Hampshire, New Jersey, New York, and Vermont) originally created to discuss the design of a regional cap-and-trade program to reduce emissions of greenhouse gases from power plants in the region. The states entered into a Memorandum of Understanding (MOU) in December 2005, agreeing to stabilize CO_2 emissions from the region's power plants at current levels from 2009 to the start of 2015, and then a 10% reduction in emissions by 2019. The program launch date is January 1, 2009.

Under the agreement, annual CO_2 emissions budgets are apportioned to the signatory states consisting of allowances equal to 1 ton of CO_2 emissions and generally reflecting the states' current emissions levels. Each covered electricity generating facility within the states (fossil fuel-fired electricity generating units 25 MW and greater) must obtain allowances equal to its emissions. The MOU provides for, at most, three-year compliance periods (though exceptions apply under certain circumstances), at the end of which a facility must have a sufficient number of allowances to cover its emissions during that period. The method of distributing allowances is, for the most part, left to each state's discretion. A state could distribute the allowances to electricity generating facilities for free, based on past emissions levels, or the allowances could be sold to generate revenue. Each state's CO_2 emissions budget is stated in the MOU and is as shown in **Exhibit 1**. MDE advises Maryland's emissions budget would have to be set and approved by the RGGI states before Maryland joins RGGI.

Exhibit 1
RGGI Signatory States' CO_2 Emissions Budgets

State	**Emissions Budget (short tons, millions)**
Connecticut	10.7
Delaware	7.6
Maine	5.9
New Hampshire	8.6
New Jersey	22.9
New York	64.3
Vermont	1.2
Total	**121.3**

Source: Regional Greenhouse Gas Initiative, *Memorandum of Understanding*

Under the RGGI MOU, each state agrees that 25% of the state's allowances will be dedicated to consumer benefit or strategic energy purposes (generally sold or otherwise distributed and revenue used for those purposes). Consumer benefit or strategic energy purposes include the promotion of energy efficiency, the mitigation of electricity ratepayer impacts, the promotion of renewable or noncarbon-emitting energy technologies, the stimulation or rewarding of investment in the development of innovative carbon emissions abatement technologies, and/or administration of each state's component of the RGGI program.

Based on information available to date, states generally plan to either auction 25% or 100% of the allowances, with most states choosing 100%. Vermont, for example has enacted into law a requirement that 100% of the state's allowances be sold and the proceeds be used for the benefit of the state's electricity consumers.

The Healthy Air Act of 2006 does not specify how, or what percentage of, Maryland's allowances are to be sold or where proceeds from the sale of allowances under RGGI will be deposited.

Since the enactment of the Healthy Air Act, RGGI has issued a model rule for the member states to use as a basis for regulatory or statutory proposals. The model rule does not change the discretion left to the states to determine how the allowances are distributed (aside from the existing requirement of 25% being dedicated to consumer benefit or strategic energy purposes). The model rule does add slightly to the listed purposes included under "consumer benefit or strategic energy purposes." The rule specifies the potential purpose of "direct mitigation of electricity ratepayer impacts" as being those impacts attributable to the implementation of the state's CO_2 Budget Trading Program. The model rule specifies that the listed purposes are illustrative and do not necessarily represent what a state would choose to propose.

A Post-Model Rule Action Plan released by the member states indicates an intent to administer the states' consumer benefit and strategic energy purpose set-asides and other allowance mechanisms through a joint regional auction.

State Revenues: In the event the State would otherwise decide to sell only 25% of Maryland's allowances each year, the bill's requirement to sell 100% of allowances at auction could result in an additional $26 to $105 million annually. However, under current law, the State could decide to sell as much as 100% of the State's allowances upon joining RGGI. Therefore, it cannot be said definitively that the bill's requirement that 100% of the State's carbon allowances be sold at auction would result in an increase in State revenues. Further, any revenue generated from the sale of the allowances is generally contingent on Maryland remaining a member of RGGI.

The fiscal notes for SB 154/HB 189 of 2006, which were enacted as the Healthy Air Act (Chapter 23/301) estimated State special fund revenues and expenditures could increase by between $4 and $20 million annually beginning in fiscal 2009, due to income received from the sale of 25% of the State's carbon allowances. This estimate was based on an emissions budget of 22.9 million tons and allowance prices ranging from $0.75 to $3.50 per ton. Also, the emissions budget was based on the emissions from affected facilities specified under the Healthy Air Act. It was contemplated that revenues could vary due, in part, to the fact that the universe of affected facilities under RGGI is different than the affected facilities specified in the Healthy Air Act.

MDE currently estimates that, upon joining RGGI, Maryland's CO_2 emissions budget could be roughly 35 million tons, taking into account all of the facilities in Maryland that would be subject to RGGI requirements.

The price that allowances would be sold for cannot be accurately determined prior to the actual sale and remains uncertain at this time. Recent studies commissioned by RGGI and MDE (pursuant to the Healthy Air Act), however, show that allowance prices could range from roughly $1 to $4 per ton.

Based on those estimates and MDE's estimate of Maryland's potential CO_2 emissions budget upon joining RGGI, between $35 and $140 million could accrue annually to the Energy Efficiency Utility Fund if 100% of the State's carbon allowances were auctioned. Assuming the State would otherwise only sell 25% of the carbon allowances apportioned to it (to meet the minimum RGGI consumer benefit and strategic purposes requirement), an additional $26 to $105 million could be generated from the sale of allowances due to the bill's requirements.

The decision as to whether Maryland would, through auction, dedicate 25% of the carbon allowances (to consumer benefit and strategic purposes) or a higher percentage would be made once Maryland has joined RGGI. MDE plans to address the advantages and disadvantages of selling different percentages of the allowances prior to that time.

State Expenditures:

Energy Efficiency Utility Fund Management

It is uncertain how the revenues that accrue to the fund would be spent. The bill specifies that the revenues be spent to: (1) promote energy efficiency and conservation; (2) directly mitigate electricity ratepayer impacts; and (3) promote renewable noncarbon-emitting energy technologies. The proportions in which the revenues must be spent among those purposes are to be determined by regulations adopted by MDE, in consultation with MEA, by January 1, 2008.

The bill specifies that up to 7% of the money in the fund may be spent by MEA for administrative expenses. MEA anticipates being able to manage the fund within this constraint and advises the fund could be administered in a manner similar to a system used in Vermont in which energy efficiency efforts are contracted out. Administrative expenses for the system in Vermont consist of the cost of a professional staff position and an administrative assistant for contract administration, which would be well within MEA's 7% constraint, considering the potential revenue that could be generated from the 100% auction of allowances.

Auction Costs

General fund expenditures could increase minimally in fiscal 2008 and by about $44,000 in fiscal 2009 to cover auction setup costs. MDE anticipates collaborating with the RGGI signatory states to create a regional, web-based auction. The total cost of setting up the auction could be in the general range of $200,000, which would be proportionately shared by the states (Maryland's share is anticipated to be 22%). It is assumed general fund expenditures could also increase in future years for ongoing auction costs. It is assumed, based on the initial setup costs of the auction, that any ongoing costs would not be substantial. MDE funding is not expected to be available to cover these costs.

The bill requires MDE to sell the allowances at auction but does not specifically allow for auction costs to be paid from the auction proceeds. However, the RGGI MOU and model rule contemplate the sale of each state's minimum 25% of allowances for consumer benefit or strategic energy purposes being used for the administration of each state's component of the RGGI program. The only administrative costs allowed under the bill are for MEA, which has no role in the auction. To the extent the auction proceeds cannot be used for costs of the auction, those costs would need to be accounted for with general funds.

Local Fiscal Effect: Local governments could be potential recipients of funding generated from the sale of the State's RGGI carbon allowances through, for example, energy efficiency and conservation programs and efforts. Therefore, to the extent the bill increases the funding generated from the sale of the allowances, local governments could benefit.

Small Business Effect: To the extent the bill increases the funding generated from the sale of the State's RGGI allowances, small businesses could benefit from energy efficiency/conservation and renewable energy programs and efforts through energy savings and business opportunities (for those in the energy efficiency technology and renewable energy industries).

Additional Information

Prior Introductions: None.

Cross File None.

Information Source(s): Maryland Department of the Environment; Maryland Energy Administration; Center for Integrative Environmental Research, University of Maryland;

Regional Greenhouse Gas Initiative; Resources for the Future; Department of Legislative Services

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