Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 829 (Senator Colburn)
Education, Health, and Environmental Affairs

Renewable Fuels - Production Credits - British Thermal Units

This bill expands the scope of existing renewable fuel production credits to apply to producers that generate energy from specified renewable sources, but not for the production of electricity. The additional producers are identified as renewable British Thermal Unit (BTU) producers. A BTU is a unit of measure of heat energy.

Fiscal Summary

State Effect: Expenditures (general, special, federal fund) could increase by up to $62,600 annually through FY 2019, assuming certification of the *maximum* amount of renewable BTU production credits. It is uncertain how many individuals or entities might qualify for credits and whether the maximum amount of credits would be certified. Therefore, the timing and amount of any future expenditure increase cannot be reliably estimated at this time.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A BTU is defined as the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit. Qualifying biomass, one of the energy sources to which production credits could apply under the bill, is defined as waste material, segregated from inorganic waste material and derived from specified sources; and plants cultivated exclusively for the production of BTUs that are not

invasive, exotic plants. Waste material includes specified forest-related resources (with the exception of old-growth timber), wood packing materials, agricultural and silvicultural sources, poultry litter, and gas produced from anaerobic decomposition of animal or poultry waste.

To be eligible for credits, a renewable BTU producer must apply to the Renewable Fuels Incentive Board for certification. An applicant must provide specified information relating to the renewable BTU facility including, for a production facility that relies on renewable fuels other than from solar, wind, oceanic, or geothermal sources, the production capacity of the facility and the quantity and availability of fuels in the vicinity of the facility. An applicant must also show to the satisfaction of the board that the applicant will invest or has invested substantial resources in the State in connection with the facility and that the facility will constitute a permanent fixture in the State. In addition, a plan to give farmers in the State the opportunity to invest in the facility must be included.

The board must review each application and approve or deny an application within 60 days. The board must certify the producer as eligible for a credit in an amount that is based on the production capacity of the facility, as determined by the board, and is consistent with specified limits established by the bill.

The board may not certify renewable BTU production credits for more than 6,249,750 therms per producer per calendar year or a total of 37,498,500 therms per calendar year. A production credit may not exceed 0.167 cents per therm.

The board may pay credits for renewable BTUs produced on or after December 31, 2007, and may not pay a credit for renewable BTUs produced after December 31, 2019.

Current Law: The Renewable Fuels Promotion Act of 2005 (Chapter 332 of 2005) authorized the payment of credits for the production of ethanol and biodiesel to certified producers. The bill established a Renewable Fuels Incentive Board within the Maryland Department of Agriculture (MDA) to review credit certification applications and pay credits to producers over a 10-year period (beginning December 31, 2007, through December 31, 2017). For fiscal 2008 and each succeeding fiscal year, the Governor must include sufficient funds in the State budget to implement the credit program. The board must maximize the use of federal funds or matching programs to the extent possible.

Ethanol and biodiesel producers must apply to the board for certification to receive the production credits. If the board approves an application, the board must certify the producer as eligible for a credit in an amount based on the production capacity of the facility. The board may not certify ethanol production credits for more than a total of

15 million gallons per calendar year, at least 10 million gallons of which must be produced from small grains. The board may not certify biodiesel production credits for more than a total of 5 million gallons of biodiesel per calendar year, at least 2 million gallons of which must be from soybean oil produced in a facility that began operating after December 31, 2004, or under the expanded capacity of a facility that was expanded after December 31, 2004.

For an ethanol producer, credits are 20 cents per gallon produced from small grains and 5 cents per gallon produced from other agricultural products.

For a biodiesel producer, credits are 20 cents per gallon produced from soybean oil in a facility that began operating after December 31, 2004, or under the expanded capacity of a facility that was expanded after December 31, 2004. Credits are 5 cents per gallon of biodiesel produced from other feedstock, including soybean oil produced in a facility that began operating on or before December 31, 2004.

If eligible, a producer may apply to the board for certification for additional credits if the producer increases the production capacity of the facility. If a facility does not achieve its certified production capacity for two consecutive years, the board may revise the credit certification of the producer to reflect actual production.

Background: The BTU is a commonly used unit in the United States for comparing fuels. One gallon of gasoline equals 124,000 BTUs and one kilowatt-hour of electricity equals 3,412 BTUs. A therm is 100,000 BTUs.

Allowing for a production credit for renewable BTU producers would make a financial incentive available for individuals or entities to invest in renewable energy sources (such as the biomass resources identified in the bill) that could provide heat for manufacturing processes, home heating, etc., but not necessarily generate electricity.

According to the Energy Information Administration, biomass (including wood, waste, and alcohol fuels such as ethanol) is the largest source of renewable energy in the United States, producing more than 2.8 quadrillion BTUs in 2006.

State Fiscal Effect: No producers have been certified to receive credits to date under the existing ethanol and biodiesel program and funding for the credits has not been included in the proposed fiscal 2008 budget. According to MDA, there are currently no ethanol producers in the State, though there are facilities planned for development. There is one biodiesel producer, with a capacity of 1 million gallons per year, but the producer does not qualify for credits under current law. An additional biodiesel plant has broken

ground, however, and a number of others are in the conceptual stage. It is uncertain when credits might begin to be paid out under the existing program.

State expenditures could increase by $62,622 annually through fiscal 2019, assuming that the maximum amount of credits (equal to a total of 37,498,500 therms per calendar year) at the maximum amount per therm (0.167 cents) would be paid out in a given fiscal year. However, based on available information, it cannot be reliably estimated how many facilities might qualify for credits and whether the maximum amount of credits would be certified.

Current law requires the board to maximize the use of federal funds or matching programs, to the extent possible, to fund the payment of production credits. However, no federal or matching funding has been obtained to date. Thus, it is likely that general funds would be used to support the program.

Small Business Effect: Small businesses that already use renewable energy sources that would qualify for production credits or that would engage in the use of eligible renewable energy sources could potentially benefit from the production credits provided for under the bill. However, an applicant who applies for certification by the board must show that the applicant will invest or has invested substantial resources in the State in connection with the facility. It is uncertain whether small businesses would have invested or would invest in renewable BTU energy sources on the scale the criteria seem to suggest.

Additional Information

Prior Introductions: None.

Cross File: HB 1262 (Delegate Haddaway, *et al.*) – Economic Matters.

Information Source(s): Maryland Department of the Environment, Maryland Energy Administration, Maryland Department of Agriculture, Department of Business and Economic Development, Department of Legislative Services

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