

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1320 (Delegates Bronrott and Hecht)
 Economic Matters

Maryland Energy Administration - Maryland Clean Energy Center

This bill establishes a Maryland Clean Energy Center as a body politic and corporate and as an instrumentality of the State to • generally promote and assist the development of the clean energy industry in the State; • promote the deployment of clean energy technology in the State; and • collect, analyze, and disseminate industry data. The bill also establishes a Maryland Clean Energy Technology Incubator Program to promote entrepreneurship and the creation of jobs in the clean energy technology-related industry and a Maryland Clean Energy Fund to be used for financial assistance under the incubator program and for other specified activities. The fund is primarily capitalized by proceeds from the sale of credits under the Regional Greenhouse Gas Initiative (RGGI), although the center is also authorized to receive other specified sources of funding.

Fiscal Summary

State Effect: General/special fund expenditure increase of \$477,100 in FY 2009 for minimum start-up costs of the center. Future year expenditure estimates reflect annualization, salary increases, and inflation related only to start-up costs; such expenditures could be higher once a course of action for the center is established. Nonbudgeted revenues and expenditures could increase significantly, depending on the future activities of the center and the extent to which the center issues bonds or obtains grants, loans, or other authorized funds.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
NonBud Rev.	-	-	-	-	-
GF/SF Exp.	477,100	631,300	657,200	684,200	712,400
NonBud Exp.	-	-	-	-	-
Net Effect	(\$477,100)	(\$631,300)	(\$657,200)	(\$684,200)	(\$712,400)

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

Local Effect: Local governments would not be directly affected by the bill, but could benefit as potential recipients of financial and other assistance from the center related to deployment of clean energy technology.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Maryland Clean Energy Center

The bill provides for the composition, powers, responsibilities, and function of a board of directors charged with managing the center and exercising its corporate powers. The board has to establish a specified advisory committee and may establish other committees as appropriate. Subject to the Governor's approval, the board must also appoint an executive director to serve as the chief administrative officer of the center and manage the administrative affairs and technical activities of the center.

The Attorney General is the center's legal advisor and the center may retain any necessary lawyers (with approval of the Attorney General), accountants, engineers, financial advisors, or other consultants.

The bill enumerates various powers of the center including the authority to:

- accept loans, grants, or assistance of any kind from the federal or State government, a local government, a college or university, or a private source;
- make grants to or provide equity investment financing for clean energy technology-based businesses;
- acquire, purchase, hold, lease as lessee or lessor, sell, transfer, license, assign, use, or dispose of various forms of property and property interests;
- fix and collect rates, rentals, fees, royalties, and charges for services and resources it provides or makes available;
- maintain offices at a place it designates in the State;
- create, own, control, or be a member of specified business entities;
- acquire, develop, improve, manage, market, license, sublicense, maintain, lease, or operate a project in the State to carry out its purposes;
- borrow money and issue bonds to finance any part of the cost of a project or for any other corporate purpose of the center;

- secure the payment of any portion of borrowing through property or revenues of the center;
- cooperate with and provide assistance to local governments, instrumentalities, and research entities in the State; and
- coordinate clean energy technology development, education, and deployment activities with federal or other public or private programs.

The bill details the bond authority of the center and related matters. The center may issue bonds for any corporate purpose, including operating expenses. Unless otherwise provided by the center, each issue of its bonds is a general obligation of the center. The bonds are not a debt, liability, or pledge of the full faith and credit of the State or a political subdivision of the State and are payable solely from money available in accordance with the bill.

The bill also contains provisions relating to the finances of the center, the handling of its money and securities, and records and reporting requirements of the center. The center is required to establish a system of financial accounting, controls, audits, and reports, and is subject to audit at any time by the State.

The bill requires that the center serve as a specified clearinghouse for information and materials relating to clean energy technology, education, and deployment in the State.

The center is not subject to State or local taxes and is not subject to specified State procurement laws and laws relating to the sale and transfer of State property and the conduct of meetings open to the public. In addition, the officers and employees of the center are not subject to laws governing the State Personnel Management System.

Maryland Clean Energy Technology Incubator Program

The program is administered by the Maryland Clean Energy Center and is intended to establish and operate incubators in the State, providing adequate physical space and programs to increase or accelerate business success in the clean energy technology field. The center must consult with specified State agencies and other appropriate governmental units in the development of the program and may award financial assistance using money from the below-described Maryland Clean Energy Fund, the federal government, the State, a governmental unit, or any person. Standards must be developed by the center for the award of financial assistance for specified purposes.

Financial assistance may be awarded to ● a local government or agency, instrumentality, or nonprofit corporation designated by a local government; ● a public or private college

or university; • the Maryland Economic Development Corporation; or • a nonprofit entity operating an incubator in the State.

Specified matching funds or in-kind contributions are required for certain types of financial assistance. In addition, approval from two-thirds of the board membership is required for certain types of financial assistance.

Maryland Clean Energy Fund

A Maryland Clean Energy Fund administered by the center is established, capitalized by proceeds from the sale of credits under RGGI and money from any other source accepted for the benefit of the fund. The money in the fund may only be used for the award of specified grants and loans, financial assistance under the incubator program, conducting clearinghouse activities, the costs of administering the fund, and other activities in furtherance of the bill, as approved by the board.

Current Law/Background: The Maryland Energy Administration recommended the establishment of a Maryland Clean Energy Center as part of its January 2008 *Strategic Electricity Plan* that identifies various strategies to address the State's energy future. MEA indicates that Maryland is beginning to transition from a carbon-based economy to a more sustainable, renewable economy and that a clean energy center could foster investment, innovation, and growth in clean energy supply and infrastructure. The strategic plan cites a University of Baltimore study's findings that Maryland supports approximately 2.3% of the total number of clean energy businesses in the United States and approximately 1.9% of all clean energy sector jobs.

A number of State-created public corporations and authorities similar in nature to the proposed center currently exist, including the Maryland Economic Development Corporation, the Technology Development Corporation, the Maryland Agricultural and Resource-Based Industry Development Corporation, the Maryland Stadium Authority, and the Maryland Health and Higher Education Facilities Authority, among others. The entities range in finances and purpose. MEDCO, for example, which was created in 1984 and serves to attract new business and expand existing businesses in Maryland had just under \$2 billion in both assets and liabilities at the end of fiscal 2007. MARBIDCO, which was created in 2004 to provide financing to agricultural and resource-based businesses, and first received State funding in fiscal 2007, had net available assets of just over \$640,000 at the end of the fiscal year.

The Healthy Air Act (Chapter 301 of 2006) required the Governor to include the State as a full participant in RGGI. In April 2007, Governor O'Malley signed RGGI, under which Maryland became the tenth state to join the Northeast and Mid-Atlantic regional climate change and energy efficiency program. The Maryland Department of the

Environment has proposed regulations that would implement the RGGI rules, including the responsibility to design and operate an allocation and auction program for emissions allowances.

State Fiscal Effect: The Maryland Clean Energy Fund established by the bill would consist of proceeds from the sale of credits under RGGI. The center is also authorized to accept funding from various sources and to borrow money and issue bonds for the cost of a project or any other corporate purpose. The extent of the financing and other activities of the center cannot be reliably estimated, but could be significant.

General/special fund expenditures are expected to increase by at least \$477,086 in fiscal 2009, reflecting minimum start-up costs for the center. Future year expenditures would depend on the course of action decided on for the center once it is established; the estimates provided in this analysis reflect annualization and inflation of only the minimum start-up costs.

RGGI Proceeds

The sale of allowances under RGGI could result in a significant increase in special fund revenues for the State but any such increase cannot be reliably estimated at this time. Revenues will vary depending on the percentage of allowances sold and the price per allowance. However, when proposing its regulations to implement RGGI, MDE estimated that proceeds could range from an estimated \$9.4 million annually to about \$262.5 million annually, which represents a range of possible revenues based on the lowest predicted allowance price (\$0.25) to the highest price (\$7). MDE now advises that allowance prices will likely run in the \$2 to \$3 range; using those prices, and other MDE assumptions regarding the number of allowances, the range of possible revenues narrows to approximately \$80 million to \$140 million annually at the start of the trading program. Currently, the first RGGI auction is scheduled to be held in June 2008. Legislative Services notes, however, that revenues from this source are not assumed in the fiscal 2008 budget or in the Governor's proposed fiscal 2009 budget.

The Healthy Air Act of 2006 does not specify where proceeds from the sale of allowances are to be deposited. Based on information provided by MDE when proposing its RGGI regulations, in the absence of legislation directing proceeds to a different fund, MDE anticipates that such proceeds would be deposited into the Maryland Clean Air Fund administered by MDE. Legislative Services notes that the Administration has introduced legislation (SB 268/HB 368 of 2008) to redirect the RGGI proceeds to a new fund within MEA.

It is unclear under the bill whether *all* of the RGGI proceeds would be redirected to the proposed fund or only that amount needed for the center. In any event, Legislative

Services notes that it is assumed the RGGI proceeds would be spent on similar or other purposes even in the absence of the bill.

Start-up Costs

Costs to establish a minimum staff and office for the center could be at least \$477,086 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring an executive director, project manager, assistant, and three legal staff from the Office of the Attorney General to establish the center. It includes salaries, fringe benefits, expenses of the board of directors, one-time start-up costs, and ongoing operating expenses (including rent):

Positions	6
Salaries and Fringe Benefits	\$379,339
Board of Directors Expenses	22,500
Equipment and Operating Expenses	<u>75,247</u>
Total FY 2009 State Expenditures	\$477,086

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses. The estimated start-up costs do not include various other expenses the center could incur such as contracting costs for accountants, engineers, or financial advisors.

Because a portion of the proceeds from the sale of allowances under RGGI are required to be used for specified purposes, MEA indicates that it is unclear at this point whether the RGGI proceeds could be used for *all* of the costs and purposes of the center. In the absence of the availability of such special funds, it is assumed that general fund expenditures could increase, perhaps significantly, to fund the center's activities if sufficient funding is not obtained from other sources.

Small Business Effect: Small businesses in the clean energy industry would benefit from greater access to financing of clean energy projects and any technical assistance provided by the center. The proposed incubator program could ease entry into the industry for small businesses or facilitate advancement of existing businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany County, Charles County, Frederick County, Wicomico County, City of Havre de Grace, Maryland Energy Administration, Office of the Attorney General, Governor's Office, Department of Business and Economic Development, Office of the Comptroller, Department of Legislative Services

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