Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 47 (Delegate Ross)
Ways and Means

Income Tax - Credit for Low Impact Development

This bill creates a State income tax credit for qualifying low impact development techniques that replicate the predevelopment hydrologic and water quality regime of a building site. The amount of the tax credit is equal to 5% of the eligible expenses incurred and cannot exceed the tax liability for that year. Any unused amount can be carried forward 10 tax years. The bill provides for an application and certification process, and requires the Maryland Department of the Environment and the Comptroller's Office to adopt implementing regulations. MDE is authorized to award a total of $9 million in credits. The credit is available for qualifying expenses incurred before January 1, 2018.

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by $947,300 annually beginning in FY 2010. Transportation Trust Fund revenues could decrease by $40,700 annually beginning in FY 2010. Higher Education Investment Fund (HEIF) revenues could decrease by $12,000 annually beginning in FY 2010. Estimated revenue losses reflect the maximum amount of credits being awarded and the application process established by the bill. General fund expenditures could increase by $172,200 in FY 2009 due to implementation costs at MDE and the Comptroller's Office. Future year expenditures reflect inflation and ongoing costs.
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(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	$0	($947,300)	($947,300)	($947,300)	($947,300)
SF Revenue	0	(52,700)	(52,700)	(52,700)	(52,700)
GF Expenditure	172,200	132,200	138,800	145,700	153,000
Net Effect	($172,200)	($1,132,200)	($1,138,800)	($1,145,700)	($1,153,000)

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

Local Effect: Local highway user revenues could decrease by $12,200 annually beginning in FY 2010. Expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill creates a tax credit program for qualifying low impact development (LID) techniques. MDE can award $1 million in credits annually in tax year 2009 through 2017. MDE must, by regulation, adopt the LID standards and criteria that must be met for a project to qualify. These standards must be consistent with the Low Impact Advisory Committee created by the bill. The advisory committee must:

- study LID techniques and practices and compare the costs and benefits of LID techniques to conventional stormwater management technology; and
- develop minimum criteria for building projects eligible for the tax credit.

MDE is required to provide staff to the committee, which includes representatives of MDE, the environmental community, the construction industry, academia, and county and municipal governments. The committee is required to report its recommendations by October 1, 2008. A member of the advisory committee may not receive compensation but is entitled to reimbursement for expenses under standard State travel regulations.

Beginning in 2011, MDE and the Comptroller must report specified information about the tax credit to the Governor and the General Assembly by April 1 of each year.

Current Law: No similar State income tax credit exists for low impact development technique expenses, although these expenses can typically be deducted for federal income tax purposes, which typically results in a lower federal and State income tax liability.

Background: LID techniques are an innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed decentralized micro-scale controls. The goal of LID is to replicate a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source. Techniques are based on the premise that stormwater management should not be seen as stormwater disposal. Instead of conveying and managing/treating stormwater in large, costly end-of-pipe facilities located at the bottom of drainage areas, LID addresses stormwater through small, cost-effective landscape features located at the lot level. These landscape features, known as

Integrated Management Practices (IMPs), are the building blocks of LID. Almost all components of the urban environment have the potential to serve as an IMP. This includes not only open space, but also rooftops, streetscapes, parking lots, sidewalks, and medians.

Development of LID principles began with the introduction of bioretention technology in Prince George's County in the mid-1980s. LID was pioneered to help Prince George's County address the growing economic and environmental limitations of conventional stormwater management practices. LID is said to allow for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies. Today, bioretention is just one of the LID techniques available to users. Other techniques, such as permeable pavers, tree box planters, and disconnected downspouts help users control pollutants, reduce runoff volume, manage runoff timing, and address a number of other ecological concerns.

State Revenues: Tax credits could be claimed beginning in tax year 2009. As a result, general fund revenues could decrease by $947,300 annually beginning in fiscal 2010. TTF revenues could decrease by $40,700 annually beginning in fiscal 2010 and HEIF revenues could decrease by $12,000. This estimate assumes that the maximum amount of credits will be awarded in each year and that one-fifth of tax credits would be claimed against the corporate income tax.

State Expenditures: General fund expenditures would increase by $172,200 in fiscal 2009, which includes implementation costs for MDE and the Comptroller's Office, as described below. Future year estimates are adjusted for inflation and reflect ongoing operating costs.

Maryland Department of the Environment

MDE reports that it would need six employees to administer the tax credit program and staff the committee, resulting in additional expenditures of $288,900 in fiscal 2009. Legislative Services estimates that, based on the requirements of the bill and existing State tax credit programs, MDE would only need one water resources engineer and one natural resources planner. Accordingly, general fund expenditures could increase by an estimated $138,179 in fiscal 2009, which accounts for the bill's July 1, 2008 effective date and the requirement that the committee created by the bill report its findings by October 1, 2008. It includes salaries, fringe benefits, and ongoing operating expenses. Future year expenditures reflect • (1) 4.4% annual increases in salaries and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Salaries and Fringe Benefits	$128,329
Operating Expenses	9,850
FY 2009 MDE Administrative Expenditures	**$138,179**

Any expense reimbursements for committee members are assumed to be minimal and absorbable within existing budgeted resources.

Comptroller's Office

The Comptroller's Office reports that it would incur a one-time general fund expenditure increase of $34,000 in fiscal 2009 to add the tax credit to the income tax forms. This estimate includes costs for data processing changes to the SMART income tax return processing and imaging systems, and systems testing.

Additional Information

Prior Introductions: HB 1024 of 2007, an identical bill, was not reported from the House Ways and Means Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 31, 2008
ncs/hlb

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