HB 838

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 838 (Delegate G. Clagett)
Ways and Means

Property Tax - Electric Generating Facilities

This bill repeals specified provisions of law enacted by Chapter 2 of the 2007 special session that authorizes county governments to increase the percentage of the assessment of specified machinery or equipment used to generate electricity, steam, or hot or chilled water that is subject to the county property tax. The bill also limits a specified payment in lieu of taxes (PILOT) agreement between a county government and the owner of an electric generating facility.

The bill takes effect June 1, 2008.

Fiscal Summary

State Effect: None.

Local Effect: Local property tax revenues could decrease by $15 million in FY 2009 and by $5 million in FY 2011. County expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Current Law: Machinery and equipment used to generate electricity for sale is subject to county or municipal property tax on 50% of its value. Counties are authorized to increase the percent of the equipment and machinery that is subject to taxation to 65% in fiscal 2009. This percentage decreases five percentage points per year until it returns to 50% in fiscal 2012. Counties are also authorized to enter into agreements with the owners of electricity-generating facilities for payments in lieu of taxes. Each year, Washington County is required to pay the Town of Williamsport 35% of any property tax revenue received from an increase in the assessment percentage on electricity-generating equipment or a negotiated payment in lieu of taxes.

Background: Legislation enacted in 1999 restructured Maryland's electric utility tax system. As part of the legislation, a personal property tax exemption for electricity-generating equipment was phased in at 25% in fiscal 2001 and 50% in fiscal 2002 and thereafter, and State grants were provided to counties to partially offset the loss of local revenue that would result from the exemption. Numerous proposals to eliminate the State grants have been considered since 2002 but have been unsuccessful. The grants have, however, been reduced for cost containment purposes by the Board of Public Works; grants were cut by $4.4 million in fiscal 2004 and by $1.0 million in fiscal 2008. Chapter 2 of the 2007 special session repealed these grants entirely, as shown in **Exhibit 1**.

Exhibit 1
Electric Utility Generating Equipment Property Tax Grants
Grant Amounts Eliminated by Chapter 2 of the 2007 Special Session

County	Grant Amount	Percent of Total	Per Capita Amount
Anne Arundel	$7,820,202	25.5%	$15.31
Baltimore City	453,421	1.5%	0.71
Baltimore	1,794,835	5.9%	2.28
Calvert	6,096,574	19.9%	69.34
Charles	2,522,612	8.2%	18.17
Dorchester	187,442	0.6%	5.97
Garrett	11,907	0.0%	0.40
Harford	860,767	2.8%	3.60
Montgomery	2,765,553	9.0%	2.98
Prince George's	7,744,806	25.3%	9.15
Washington	357,082	1.2%	2.52
Total	**$30,615,201**	**100.0%**	**$7.00**

Source: Department of Legislative Services

Local Fiscal Effect: The bill reduces the percentage of equipment and machinery that is subject to taxation from 65% to 50% in fiscal 2009, from 60% to 50% in fiscal 2010, and from 55% to 50% in fiscal 2011. The bill also limits a PILOT agreement to 50% of any real and personal property tax not subject to the current exemption for electric generating facilities. Because most property of an electric generating plant is classified as personal property, the bill would primarily limit the PILOT agreement to machinery and equipment used to generate electricity for sale. Assuming a county grants a PILOT agreement that covers 50% of the taxes due, the taxable status of the property becomes 25% taxable and 75% tax exempt.

On a statewide basis, the taxable portion of machinery and equipment used to generate electricity for sale produces approximately $50 million in county property tax revenue annually as shown in **Exhibit 2**. **Exhibit 3** shows the estimated impact on local revenues and local PILOT agreements for each of the three fiscal years affected by the bill. Local revenues could decrease by $15 million in fiscal 2009, $10 million in fiscal 2010, and $5 million in fiscal 2011. This estimate assumes that the assessments on electric generating facilities remain constant. The maximum PILOT agreement that can be negotiated by a local government is also reduced as shown in Exhibit 3. **Exhibit 4** shows the electric generating plants in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Montgomery County, Baltimore City, Public Service Commission, Office of People's Counsel, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2008
ncs/hlb

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Exhibit 2
Estimated Local Revenues – Electric Generating Facilities
50% of Personal Property Base Taxable

County	Electric Generating Personal Property Base	County Tax Rate	Estimated Personal Property Tax Revenue
Anne Arundel	$425,998,020	$2.2300	$9,499,756
Baltimore City	26,765,160	5.6700	1,517,585
Baltimore	63,588,070	2.7500	1,748,672
Calvert	607,357,800	2.2300	13,544,079
Charles	460,990,110	2.5700	11,847,446
Dorchester	7,295,150	2.2400	163,411
Garrett	1,594,920	2.5000	39,873
Harford	81,664,030	2.7050	2,209,012
Montgomery	123,252,370	1.5670	1,931,365
Prince George's	356,661,670	2.4000	8,559,880
Washington	8,616,670	5.5300	476,502
Total	**$2,163,783,970**		**$51,537,580**

Source: State Department of Assessments and Taxation

Exhibit 3
Estimated Impact of Local Revenues and PILOT Agreements

Current Law – Revenue Estimate

Fiscal	Percent Taxable	Estimated Revenues	PILOT Agreement	Maximum Exemption
2008	50%	$50,000,000	n/a	$0
2009	65%	65,000,000	100%	65,000,000
2010	60%	60,000,000	100%	60,000,000
2011	55%	55,000,000	100%	55,000,000
2012	50%	50,000,000	100%	50,000,000

HB 838 – Revenue Estimate

Fiscal	Percent Taxable	Estimated Revenues	PILOT Agreement	Maximum Exemption
2008	50%	$50,000,000	n/a	$0
2009	50%	50,000,000	50%	25,000,000
2010	50%	50,000,000	50%	25,000,000
2011	50%	50,000,000	50%	25,000,000
2012	50%	50,000,000	50%	25,000,000

Exhibit 4
Electric Generating Plants

County	Company	Generation Site
Allegany	AES	Warrior Run
Anne Arundel	Constellation	Brandon Shores; Wagner
Baltimore City	Constellation	Westport; Philadelphia Road
Baltimore City	Trigen	Inner Harbor
Baltimore City	Wheelabrator	BRESCO
Baltimore	Constellation	Riverside; Notch Cliff; Crane
Baltimore	Eastern Landfill	Eastern Landfill
Calvert	Constellation	Calvert Cliffs
Cecil	CED Rock Springs	Rock Springs
Charles	Mirant	Morgantown
Dorchester	NRG	Vienna
Garrett	Brookfield Power	Deep Creek
Harford	Constellation	Perryman
Harford/Cecil	Excelon	Susquehanna
Montgomery	Mirant	Dickerson
Prince George’s	Mirant	Chalk Point
Prince George’s	Panda	Brandywine
Prince George’s	SMECO	Chalk Point peaking plant
Somerset	A & N	Smith Island
Somerset	Conectiv Delmarva	Crisfield peaking plant
Washington	Allegheny Energy	R. Paul Smith

Source: State Department of Assessments and Taxation