# Department of Legislative Services
Maryland General Assembly
2012 Session

## FISCAL AND POLICY NOTE

House Bill 1088 (Delegate Kramer, *et al.*)
Economic Matters

**Electricity and Gas - Energy Efficiency On-Bill Financing Program**

This bill establishes an energy efficiency on-bill financing program for residential and commercial customers in the State. The bill establishes various requirements for the Public Service Commission (PSC), the Maryland Energy Administration (MEA), and utilities.

## Fiscal Summary

**State Effect:** The overall impact on State finances is unknown; however, the bill could shift existing special funds from MEA's Jane E. Lawton Conservation Loan Program (JELLP) or, absent another funding source, require general funds to finance the new program. If the program is funded through JELLP, MEA special fund revenues from interest earnings decrease. Special fund expenditures within MEA to support the Office of the Attorney General (OAG) may increase to assist MEA with program implementation. PSC can implement the bill with existing budgeted resources.

**Local Effect:** Although the bill does not directly affect local governments, the bill could increase the workload of local governments relating to property transfers.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The stated purpose of the program is to encourage utility customers to make energy efficiency improvements to residential and commercial properties through low- or no-interest loans repaid directly to a utility on a utility bill. MEA and PSC must collaborate to ensure that implementation methods best serve the program's underlying purpose. A "utility company" must participate in the program by extending a loan to a qualifying residential or commercial customer for an energy efficiency upgrade. "Utility company" means an electric company or a gas company.

PSC must determine the terms for a utility company to receive and manage any loan funding sources provided by the State to subsidize interest-free loans available to qualifying low-income customers. The bill indentifies the following potential funding sources for the program: the EmPower Maryland surcharge and the Jane E. Lawton Conservation Loan Program.

PSC must require a utility company to establish a specific fund to account for funds used to extend interest-free loans under the program. PSC must determine the interest rate that a utility company may charge residential and commercial customers for loans extended under the program that are not subsidized by State funds.

A residential or commercial customer may obtain a loan for an energy efficiency upgrade if (1) the cost of the upgrade does not exceed $25,000 for a residential customer or $50,000 for a commercial customer; (2) PSC determines that the type of upgrade furthers the purpose of the program; and (3) the customer meets specified eligibility requirements, including the ability to pay. The bill establishes other provisions regarding the qualification for interest-free or low-interest loans.

The monthly charge on the customer's utility bill must reflect the energy savings of the energy efficiency upgrade in equal installments.

A loan remains with the property and must be paid in full at the time of a property transfer or assumed by the new property owner. A loan on rented property must be approved by the landlord or the landlord's agent.

PSC and MEA may authorize a utility company to receive a renewable energy credit (REC) in exchange for extending an interest-free loan to a customer. A utility company that extends an interest-free loan in exchange for a REC must do so without access to State loan funding sources. PSC and MEA must consider the type of energy efficiency upgrade and other factors to determine whether a utility company may receive a REC in exchange for an interest-free loan. PSC and MEA must adopt regulations that specify the appropriate number of RECs that a utility company may obtain in exchange for extending an interest-free loan under the bill.

PSC must adopt regulations to implement the program, including regulations that specify:

- eligibility requirements for an energy efficiency upgrade;
- eligibility requirements for a customer;

- income-based requirements to qualify a customer for an interest-free loan;
- funding sources that a utility company may use to extend an interest-free loan; and
- the interest rate that a utility company may charge for a low-interest loan.

MEA must adopt regulations that specify standards for conducting an energy audit. The term of the loan must be based on an energy audit conducted according to those standards.

**Current Law:**

*EmPower Maryland Initiative*

The EmPower Maryland Energy Efficiency Act of 2008 (Chapter 131) established the State goal of achieving a 15% reduction in per capita electricity consumption and peak demand by the end of 2015. Beginning with the 2008 calendar year and each year thereafter, PSC must calculate the per capita electricity consumption and peak demand for the year. PSC, to the extent it determines that cost effective energy efficiency and conservation programs are available for each affected class, must require electric companies to procure and provide customers with a cost effective demand response program that is designed to achieve targeted electricity savings and demand reduction through 2015. Customers are assessed a monthly surcharge by utilities to recover the costs of the program.

*Renewable Energy Credits*

A REC is a tradable commodity representing the renewable energy generation attributes of one megawatt-hour (MWh) of electricity. RECs are awarded to operators who generate electricity using specified renewable energy sources. A renewable on-site generator of electricity owns and may sell or transfer RECs to another party. RECs are not awarded for electricity conservation measures.

*Local Governments and Energy Efficiency*

Local governments are authorized to grant, by law, a tax credit against the county or municipal property tax imposed on a structure if the structure uses a solar energy device, a geothermal energy device, or a qualifying energy conservation device to heat or cool the structure, generate electricity to be used in the structure, or provide hot water for use in the structure.

**Background:**

*PSC Order No. 84569 — Energy Efficiency and Other Programs*

In December 2011, PSC issued Order No. 84569, which authorized specified utilities to begin transitioning into the next three-year phase of EmPower Maryland. The order describes PSC's position that the availability of financing has been a significant barrier to participation in many of the utility's EmPower Maryland programs, and that convenient, accessible financing at favorable rates is a missing link. PSC directed the parties to develop a work group to analyze financing opportunities, as well as regulatory and legislative solutions that might overcome barriers to financing programs.

*Maryland Energy Administration – Clean Energy Programs*

MEA is currently charged under State law with administering a number of programs aimed at encouraging energy efficiency projects in the State. Programs currently administered by MEA include:

- the Jane E. Lawton Conservation Loan Program – provides low-interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for projects;
- the Maryland Strategic Energy Investment Program – established to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy;
- the Residential and Commercial Clean Energy Grant Programs – provides financial assistance to install solar PV, solar water heating, geothermal heat pump, and wind turbine systems; and
- the State Agency Loan Program – provides zero-interest loans with a 1% administrative fee to State agencies for energy conservation projects.

*Jane E. Lawton Conservation Loan Program*

Chapters 466 and 467 of 2008 created JELLP by consolidating two formerly separate programs (the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program). JELLP supports energy conservation projects for nonprofits, local government agencies, and businesses through low-interest-rate loans. Through fiscal 2011, JELLP (and its predecessor programs) had provided 67 loans totaling $18.8 million to 29 local governments, 35 nonprofit organizations, and 3 businesses. These loans have produced an estimated $50.4 million in energy savings.

The proposed fiscal 2013 capital budget includes $2.5 million in PAYGO special funds for JELLP. Neither the proposed capital budget nor the Capital Improvement Program provide additional transfers into JELLP. Instead, the proposed capital budget relies on the revolving loan fund balance to support its expenditures. In the three completed fiscal years (fiscal 2009 to 2011) under which JELLP has operated, loan activity has been far below the appropriation level. In total, in these three years, JELLP has encumbered only 40.3% ($4.5 million) of the $11.2 million funds available to support the program.

*Maryland Clean Energy Center*

The Maryland Clean Energy Center (MCEC) (Chapter 137 of 2008; launched in January 2009) was established 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. MCEC is authorized to make grants to or provide equity investment financing for clean energy technology-based businesses. MCEC may accept grants, loans, and donations. A recent initiative at MCEC is the Maryland Home Energy Loan Program (MHELP). MHELP uses private capital for energy efficiency investments, and offers two interest rates – 6.99% for specified equipment installations and 9.99% for equipment upgrades only.

*Energy Efficiency On-bill Financing Programs in Other States*

A number of states have considered on-bill financing as an incentive for energy efficiency installations. In 2011, New York became the first state to pass a statewide on-bill financing program. Other states, such as Colorado and Hawaii, have also shown interest. A bill introduced in Colorado (HB11-1132 of 2011) would have authorized a public service company to enter into an on-bill financing arrangement where the company finances and completes energy efficiency improvements to residential property and applies a conservation charge on future energy bills to recover the cost. The bill was postponed indefinitely in March 2011. Hawaii's Public Utility Commission opened a docket in August 2011 to investigate the implementation of on-bill financing. The docket is still open.

**State Fiscal Effect:** The overall impact on State finances is unclear, as it is unknown to what extent State funds will be used to capitalize the program; however, the bill could have several potential impacts on State finances and operations, as discussed below.

*Capitalizing the On-bill Financing Program*

The bill identifies – but does not mandate – two sources of potential funding for the program: the EmPower Maryland surcharge and JELLP. If funds are appropriated from JELLP, the amount of funding available for MEA to provide loans under JELLP decreases. In addition, MEA currently earns interest on the JELLP revolving fund. Any decrease in the fund balance decreases the interest earned. Thus, special fund revenues for MEA could decrease, although any such decrease cannot be reliably estimated at this time. PSC advises that the EmPower Maryland surcharge is not paid into a fund used to invest in programs, but instead reimburses companies for costs already incurred. However, PSC advises that it is possible that an EmPower Maryland program could include a financing option as contemplated by the bill.

If the EmPower Maryland surcharge, JELLP, or RECs are determined unviable or insufficient sources of funding for the program established by the bill, it is assumed that general funds may be needed to capitalize the program, although any such impact is uncertain at this time.

*Administrative Costs*

OAG (Consumer Protection Division) advises that the bill has a significant operational impact on MEA's assistant Attorney General to (1) assist MEA with collaborating with PSC on program implementation; (2) research potential funding sources; (3) develop standards to determine whether a utility company may receive RECs under the program; and (4) promulgate various regulations. This additional workload could require additional staff and associated MEA special fund expenditures, but any increase in costs is uncertain at this time.

**Local Fiscal Effect:** Under the bill, a loan must remain with the real property and must be paid in full at the time of a property transfer or must be assumed by the new property owner. This may place an additional administrative burden on local governments that are charged with recording and processing property records, tracking real property liens, and processing property taxes.

**Small Business Effect:** Small businesses that qualify for low- or no-interest loans under the program for energy efficiency installations will benefit. Small businesses that install energy efficiency products or conduct energy audits may also benefit from an increase in the demand for their services.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Public Service Commission, Maryland Energy Administration, Office of the Attorney General (Consumer Protection Division), Judiciary

(Administrative Office of the Courts), Maryland Clean Energy Center, Colorado State Legislature, Hawaii Public Service Commission, Department of Legislative Services

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