HB 1173

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1173 (Delegate Kramer, *et al.*)
Economic Matters

Small Business Energy Assistance Act

This bill authorizes the Public Service Commission (PSC) to establish a Small Commercial Energy Efficiency On-Bill Financing Program and establishes various requirements for "advances" and loans made under the program. Under the program, small commercial electric and gas customers are able to obtain advances from utilities and third-party loans for qualifying energy efficiency upgrades and repay them through monthly utility bills. The bill specifies the mechanisms for utilities to offer advances and establishes a framework for utilities to work with third-party lenders to offer loans. The bill also requires PSC to adopt specified regulations to implement the program. The bill applies to gas or electric companies other than electric cooperatives.

The bill takes effect January 1, 2014.

Fiscal Summary

State Effect: The overall impact on State finances is unknown, as the bill does not mandate that PSC implement the program and also does not mandate a particular funding source for the program. However, the bill specifies that the EmPower Maryland surcharge or other nonutility funds may be used to support the program. Therefore, existing special funds that otherwise would have been used for energy conservation programs may instead be used to capitalize the program. To the extent special funds are insufficient, general fund expenditures may increase to capitalize the program. PSC can implement the bill with existing staff.

Local Effect: Meaningful for local governments to the extent they are eligible for advances or loans made under the program as small commercial customers.

Small Business Effect: Meaningful for small businesses that are small commercial customers and qualify for energy efficiency advances or loans made under the program.

Analysis

Bill Summary: The stated purpose of the program is to encourage small commercial customers to make energy efficiency upgrades through (1) advances of nonutility funds repaid to a utility company or (2) loans repaid to a third-party lender through the customer's utility bill through a meter conservation charge. "Small commercial customer" means a nonresidential electric company customer with a monthly demand of less than 60 kilowatts or a natural gas company customer as determined by PSC for each utility company. The meter conservation charge on the utility bill must be a separate item and may include the financing costs of the loan.

"Advance" means funding provided by nonutility sources including an energy efficiency cost recovery surcharge to small commercial customers to offset up-front, net-rebate costs of energy efficiency upgrades that will be recovered in full by the utility through the meter conservation charge established under the program for a preset number of billing cycles and remitted by the utility to the nonutility funding source.

The bill specifies that it is the intent of the General Assembly that (1) the program promote access to affordable financing for small commercial customers for energy efficiency upgrades; (2) PSC implement the program to ensure that it promotes access to affordable financing for small commercial customers; and (3) PSC ensures that the utility capital is not used to finance an advance made under the program or to support loans offered by third-party lenders.

PSC may direct a utility company to participate in the program; however, PSC must consider the cost impact on ratepayers and the implementation challenges of an individual utility when deciding whether and how a utility company may participate in the program.

A utility company must participate in the program by making available (1) advances to small commercial customers or (2) loans by arrangement with a third-party lender that will extend loans to small commercial customers for energy efficiency upgrades. An advance or loan made under the program is repaid through the customer's utility bill through a meter conservation charge. An energy efficiency upgrade on rented property must be approved by the landlord or the landlord's agent.

A small commercial customer may obtain an advance for an energy efficiency upgrade if PSC determines that the type of upgrade is within the scope of the energy efficiency program previously approved by PSC for the utility company. A utility company may not be required to screen for credit-related eligibility for advances made available to small commercial customers under the program.

Similarly, a small commercial customer may obtain a loan for an energy efficiency upgrade under the program if (1) PSC determines that the type of upgrade is within the scope of the program as approved by PSC for the utility company and (2) the customer meets eligibility requirements approved by PSC.

A utility company may issue a request for proposals to third-party lenders for the purpose of providing loans under the program, subject to specified conditions. The terms of a loan must be consistent with specified provisions.

PSC must adopt regulations to implement the program, including (1) eligibility requirements for an energy efficiency upgrade; (2) eligibility requirements for a customer; (3) reasonable limits for advances and loans; (4) the authority for the utility to terminate service for nonpayment of the meter conservation charge; (5) the authority of a utility to recover specified costs; (6) funding sources that a utility company may use to make advances available; and (7) the range of interest rates and terms that a third-party lender may impose for a loan.

Current Law:

EmPower Maryland

Chapter 131 of 2008 (HB 374) 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 (the EmPower Maryland surcharge) by electric companies to recover the costs of the program.

Strategic Energy Investment Fund

Chapters 127 and 128 of 2008 (SB 268/HB 368) created the Maryland Strategic Energy Investment Program, and the implementing Strategic Energy Investment Fund (SEIF), to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. The fund is administered by the Maryland Energy Administration (MEA).

Currently, the fund's primary source of revenue is proceeds from the sale of carbon dioxide (CO_2) allowances under the Regional Greenhouse Gas Initiative. Money received by SEIF from the CO_2 auctions is required by statute to be allocated across various energy programs, including those that support energy efficiency and conservation, electricity assistance for low-income individuals, and renewable and clean energy. The fund may also receive money as appropriated in the State budget and from payments paid under the State Renewable Energy Portfolio Standard for noncompliance, among others.

Background: The up-front costs of installing renewable energy and energy efficiency measures can be a barrier against consumers adopting such measures. In a recent PSC Order (No. 84569) relating to utilities' implementation of programs under the State's EmPower Maryland program, the commission stated that "access to financing is critical for many consumers who must invest thousands of dollars to achieve significant energy savings in their homes and businesses." The commission also noted that "investments can often pay for themselves in a matter of years if financing rates are affordable." The commission found that the lack of convenient, accessible financing at favorable rates was a missing link in the utilities' programs and ordered a work group to be convened to analyze financing options and legislative or regulatory solutions.

The work group submitted its proposal to the commission in January 2013. The proposal would integrate the Maryland Home Energy Loan Program (MHELP) into electric company residential programs. MHELP is an off-bill, unsecured loan program administered by the Maryland Clean Energy Center with funds made available through MEA from the American Recovery and Reinvestment Act of 2009. The program provides affordable and accessible financing to Maryland residents for qualifying energy efficiency improvements.

State Fiscal Effect: The overall impact on State finances is unclear as it is unknown to what extent State funds will be used to fund the program, or whether PSC will choose to establish the program. The bill does not mandate a particular funding source for the program; however, the bill specifies that the EmPower Maryland surcharge or other nonutility funds may be used to support the program. The EmPower Maryland surcharge is not paid into a fund used to invest in programs, but instead reimburses utilities for costs already incurred. The EmPower Maryland surcharge is largely not included in the State budget; however, the Governor's proposed fiscal 2014 budget includes funding from the surcharge for weatherization projects funded through the Department of Housing and Community Development. The Department of Legislative Services assumes that any use of the Empower Maryland surcharge to fund the program established under the bill has no effect on these weatherization funds.

In addition to the EmPower Maryland surcharge, various funds for the purposes of energy efficiency and conservation are administered by MEA, such as SEIF, as discussed above.

Therefore, to implement the program, it is possible that MEA special funds that otherwise would have been used for existing energy conservation programs could be redirected and used as a funding source for advances made by utilities under the program. To the extent special funds are insufficient, general fund expenditures may increase to capitalize the program. However, the amounts cannot be reliably estimated at this time. PSC can implement the bill with existing staff.

Additional Information

Prior Introductions: A bill establishing a similar financing program, HB 1088 of 2012, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Public Service Commission, Department of Legislative Services

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