HB 1543

Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1543 (Delegate Fraser-Hidalgo, *et al.*)

Economic Matters and Environment and Transportation

Environment – Climate Crisis and Education Act

This bill establishes the Climate Crisis Initiative in the Maryland Department of the Environment (MDE) and requires the State to reduce greenhouse gas (GHG) emissions to 70% of 2006 levels by 2030, by 100% of 2006 levels by 2040, and be net-negative thereafter. As a funding source, the bill establishes various pollution fees on fossil fuels, electricity, and certain new vehicle sales and registrations. Revenues from the fees are deposited into three MDE special funds created by the bill and used for administrative expenses (5%) and other specified purposes. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by at least $10.0 million in FY 2021 for initial implementation costs, likely repaid in FY 2022 as special fund revenues become available. Special fund revenues and expenditures increase primarily from GHG fee revenues and associated expenditures beginning in FY 2022. State expenditures (all funds) increase significantly due to higher energy and fuel prices beginning in FY 2022, discussed below. Any net effect on Kirwan Initiative spending is not shown but is discussed below.

($ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	$0	$10.0	$0	$0	$0
SF Revenue	$0.2	$922.7	$1,299.9	$1,607.2	$1,914.5
GF Expenditure	$10.0	$0	$0	$0	$0
SF Expenditure	$0.2	$922.7	$1,299.9	$1,607.2	$1,914.5
GF/SF/FF Exp.	$0	-	-	-	-
Net Effect	($10.0)	$10.0	(-)	(-)	(-)

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

Local Effect: Local expenditures for energy and fuel increase significantly beginning in FY 2022; local revenues and expenditures may increase from funds received under the bill.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Climate Crisis Initiative – Generally

The Climate Crisis Initiative provides for:

- the establishment of GHG reduction goals;
- the establishment of a Climate Crisis Council;
- the assessment of GHG pollution fees;
- funding for education under the recommendations of the Commission on Innovation and Excellence in Education, commonly known as the "Kirwan Initiative";
- the assessment of a fee on the sale or registration of new high-emission vehicles;
- benefits to households and employers in the State to mitigate the impact of fees under the initiative; and
- the funding of activities for GHG reduction and sequestration, improvements in resiliency, and the promotion of a just economic transition in the State.

The Secretary of the Environment must (1) administer the schedule of GHG pollution fees and (2) delegate the collection of the fees, distribution of benefits, and any other appropriate functions to the Comptroller. The collection of the fee must begin upon the adoption of all rules necessary for collection, but not later than January 1, 2022, for emissions occurring in the second half of 2021.

The bill establishes several other requirements for MDE, the Comptroller, the Public Service Commission (PSC), the Department of Human Services, the Department of Commerce, the Maryland Department of Labor, and the Maryland Department of Transportation, including several reporting requirements, consultation on various aspects of the initiative, and the adoption of regulations.

Greenhouse Gas Pollution Fees

The bill establishes a fee on (1) all fossil fuels brought into the State for combustion in the State; (2) all electricity used in the State that is generated by fossil fuels; and (3) specified new high-emissions vehicles sold or registered in the State. The fees are calculated based on relevant carbon dioxide (CO_2) or CO_2-equivalent emissions, subject to related requirements, and with various exclusions and reductions, as specified.

GHG pollution fees begin July 31, 2021, and increase each year until 2030, at which point they stay level. For nontransportation fuels, the fee starts at $15 per ton of CO_2 equivalent emissions and increases to $60 in 2030 and after. For transportation fuels, the fee starts at $10 and increases to $37 in 2030 and after. The bill specifies that these fees may not be passed through as a direct cost to (1) an end user of a fossil fuel or (2) a customer of an electric or gas company. However, that general prohibition does *not* prohibit an electric or gas company from passing through such a fee on the commodity distributed to a customer to the extent that PSC approves the fee as a prudently incurred cost of distribution.

The fee on high-emission vehicles begins in 2022 and is $1.25 times the U.S. Environmental Protection Agency's pollution rating for the vehicle; the threshold for the application of the vehicle fee decreases over time.

Fee Revenue Distributions

Revenues from the fees are deposited into the Kirwan Initiative Fund; the Household and Employer Benefit Fund; and the Climate Crisis Infrastructure Fund, as discussed further below. Each fund is administered by MDE, may be used for administrative costs, and must be used for specified purposes. The Kirwan Fund receives the first $350 million annually of GHG pollution fees each year. The Benefit Fund then receives 50% of the total GHG pollution fee revenue, or all remaining revenues after the Kirwan distribution, whichever is less. The Infrastructure Fund receives any remaining money from the GHG pollution fees, plus the vehicle fees.

The Kirwan Initiative Fund

The Kirwan Initiative Fund, in addition to any other funds, receives the first $350 million annually of GHG pollution fees each year. The stated purpose of the fund is to support education in the State under legislation and regulations that implement the recommendations of the Kirwan Initiative. The fund may only be used for this purpose and for MDE administrative costs.

Household and Employer Benefit Fund

The Household and Employer Benefit Fund, in addition to any other funds, consists of 50% of the total GHG pollution fee revenue, or all remaining revenues after the Kirwan distribution, whichever is less. The stated purposes of the fund are to (1) provide a high degree of protection for low- and moderate-income households in the State and (2) protect energy intensive trade-exposed employers in the State. Generally, the fund must be used to pay benefits, for which there are two separate accounts: (1) the Household Benefit Account, which consists of 80% of the money in the fund; and (2) the Employer Benefit Account, which consists of 20% of the money in the fund. Money must be distributed through the two benefit accounts to households and businesses, subject to various requirements, exclusions, and potential timing changes, as specified. Leftover funds are transferred to the Infrastructure Fund.

Money distributed from the Household Benefit Account is not taxable income and, to the extent feasible, must be excluded from household income for the purposes of determining eligibility for, or the level of, any form of public assistance.

Climate Crisis Infrastructure Fund

The Climate Crisis Infrastructure Fund, in addition to any other funds, consists of (1) remaining proceeds of the GHG pollution fees after required distributions to the Kirwan Fund and the Benefit Fund and (2) 100% of the fees assessed on new high-emission vehicle sales and registrations.

The stated purpose of the fund is to invest in initiatives that improve the health and welfare of the citizens of the State for specified purposes related to clean energy and resiliency. Thirty percent of the money must be used to benefit low- and moderate-income residents, with priority given to historically pollution-burdened and underserved communities. Wherever feasible, investments must also be designed to create local economic development and employment in the State. Funds received from the fees on high-emissions vehicles must be used to (1) provide rebates on the sale of electric vehicles; (2) purchase electric transit and school buses; and (3) expand electric vehicle infrastructure.

Current Law: A "carbon dioxide equivalent" is the measurement of a given weight of GHG that has the same global warming potential, measured over a specified period of time, as one metric ton of carbon dioxide.

Maryland's Healthy Air Act and Greenhouse Gas Emissions Reduction Act

The Healthy Air Act of 2006 established emission limits for nitrogen oxides, sulfur dioxide, and mercury from specified electric generating facilities in the State. The Act also addressed CO_2 emissions by requiring the Governor to include the State in the Regional Greenhouse Gas Initiative (RGGI), a cap-and-trade program established in conjunction with other northeastern and mid-Atlantic states. Each state limits CO_2 emissions from electric power plants, issues CO_2 allowances, and establishes participation in CO_2 allowance auctions. A single CO_2 allowance represents a limited authorization to emit one ton of CO_2.

The Greenhouse Gas Emissions Reduction Act, originally enacted in 2009 and made permanent and expanded in 2016, was enacted in light of Maryland's particular vulnerability to the impacts of climate change. Under the Act, the State must develop plans, adopt regulations, and implement programs to reduce GHG emissions by 25% from

2006 levels by 2020 and must further reduce GHG emissions by 40% from 2006 levels by 2030; the 2030 reduction requirement terminates December 31, 2023.

Transportation and Climate Initiative of the Northeast and Mid-Atlantic States

The Transportation and Climate Initiative (TCI) of the Northeast and Mid-Atlantic States is a regional collaboration that seeks to improve transportation, develop the clean energy economy, and reduce carbon emissions from the transportation sector. There are 13 participating jurisdictions, mostly the same as RGGI participants.

In December 2018, nine of the member states (including Maryland) announced the intent to design a regional low-carbon transportation policy proposal that would (1) cap and reduce carbon emissions from the combustion of transportation fuels and (2) invest proceeds from the program into a low-carbon and more resilient transportation infrastructure. More information on the current status of the policy can be found on TCI's website.

Kirwan Commission

Chapters 701 and 702 of 2016 established the Commission on Innovation and Excellence in Education ("Kirwan Commission") to, among other charges, review the findings of a consultant's study on adequacy of education funding and its related studies and make recommendations on the funding formulas. Legislation in 2018 and 2019 implemented preliminary and interim recommendations of the commission. SB 1000/HB 1300 of 2020 largely reflect the final recommendations of the commission. The most up-to-date and detailed information can be found in the fiscal and policy note for that legislation; as introduced, State expenditures due to the legislation were estimated to exceed $1.0 billion annually by fiscal 2025.

State Fiscal Effect:

Greenhouse Gas Pollution Fees and Associated Expenditures

Special fund revenues from the GHG pollution fees increase by an estimated $922.6 million in fiscal 2022, increasing to more than $1.9 billion by fiscal 2025, as shown in **Exhibit 1**. Revenues continue to increase in future years. This estimate is based on the increasing GHG pollution fees established by the bill beginning July 31, 2021. Adjustments are made for imported electricity, the costs of RGGI allowances, and a calendar year to fiscal year conversion. To the extent that the collection of fees is delayed, special fund revenues and expenditures are similarly delayed.

This estimate does *not* include any revenues from the high-emissions vehicle fee, as the Department of Legislative Services is unable to reliability estimate revenue associated with that provision at this time. Revenues from that fee accrue to the Infrastructure Fund.

Exhibit 1
Revenue Generated by the Fees and the Allocation of Funds
Fiscal 2022-2025
($ in Millions)

		FY 2022	FY 2023	FY 2024	FY 2025
Total Fees Collected		**$922.6**	**$1,299.7**	**$1,607.0**	**$1,914.3**
Kirwan Fund		**$350.0**	**$350.0**	**$350.0**	**$350.0**
Administrative Costs*	5%	17.5	17.5	17.5	17.5
Available for Kirwan Initiative	95%	332.5	332.5	332.5	332.5
Benefit and Infrastructure Funds		**$572.6**	**$949.7**	**$1,257.0**	**$1,564.3**
Administrative Costs*	5%	28.6	47.5	62.9	78.2
Available for Programmatic Uses	95%	543.9	902.3	1,194.2	1,486.1

*Each fund is authorized to use *up to* 5% of revenues for administrative costs. To the extent that administrative costs are less, particularly for the Kirwan Fund, available programmatic funds increase. Generally, revenues from all fees except for the high-emissions vehicle fee are split 50/50 between the Benefit Fund and the Infrastructure Fund after the allocation to the Kirwan Fund. This estimate does not include any revenues from the high-emissions vehicle fee; revenues from that fee accrue to the Infrastructure Fund. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

For the purposes of this fiscal and policy note, it is assumed that all revenues collected from the GHG pollution fees are expended in the same year they are received. As a result, special fund expenditures increase correspondingly. However, it is possible that, at least initially, MDE may carry a significant fund balance until the initiative is fully established.

As noted earlier, up to 5% of the money in each fund may be used for administration. Due to many unknown factors, the total administrative costs to implement the initiative cannot be reliably estimated at this time, as discussed below. However, Exhibit 1 shows the amounts available for projects/benefits in each fund assuming the full 5% is used to cover administrative costs (MDE administrative costs for the Kirwan Fund are the most likely to be less than 5%).

This analysis assumes that these expenditures are sufficient to meet the enhanced GHG emission reduction requirements established under the bill. To the extent this is not the case, State expenditures further increase.

Administrative Costs for MDE and the Comptroller

Although the bill authorizes the use of special funds to cover administrative costs, it is a near certainty that MDE and the Comptroller incur costs prior to collecting any fees. Therefore, general fund expenditure increase by a minimum of $10.0 million in fiscal 2021 to initially cover costs prior to special funds being made available for repayment in fiscal 2022. This is a conservative estimate based on information provided by MDE and the Comptroller, as discussed below.

MDE is broadly responsible for administering the schedule of fees but must delegate the collection of fees, distribution of benefits, and any other appropriate functions to the Comptroller. The combined administrative costs as initially estimated by MDE and the Comptroller range from approximately $9.2 million to $12.0 million annually, reflecting information technology costs and the need for roughly 120 staff; however, both agencies expressed significant difficulties in determining costs associated with administration. Costs are substantial due to the breadth of the affected entities, the complex system of fees and benefits established by the bill, and the overall amount of funds being administered. Due to these complexities, this analysis assumes that all 5% of available funding for administrative costs is used by MDE and the Comptroller. To the extent that less is spent on administrative costs, more funding is available each year for programmatic purposes.

Administrative Costs for the Public Service Commission

Under the bill, PSC must annually review electricity supplier’s calculations, open a docket, make determinations on the calculations of fees, as specified, and issue various orders. PSC advises that it requires additional technical and legal resources to do so. Total costs for PSC staff and related costs are $138,500 in fiscal 2021 and escalate over time to $181,000 by fiscal 2025. Special fund revenues increase correspondingly from assessments imposed on public service companies, as authorized under current law.

Other Agencies

It is assumed that the various agencies identified in the bill that are required to consult with MDE on various activities and/or participate in the Climate Crisis Council can do so with existing budgeted resources. To the extent this is not the case, State expenditures further increase.

Effect of Kirwan Fund Expenditures

To the extent that available funds in the Kirwan Fund are used to supplant other State expenditures related to the Kirwan Initiative each year, other general/special fund expenditures may decrease. However, this analysis does not reflect any such savings. Depending on MDE's administrative costs and final Kirwan funding requirements paid for by this bill, if any, State expenditures would be offset by $332.5 million to $350.0 million annually beginning in fiscal 2022.

State Expenditures for Gas/Electricity and Fuel

As noted above, the bill specifies that, generally, GHG pollution fees may not be passed through as a direct cost to (1) an end user of a fossil fuel or (2) a customer of an electric or gas company. Despite this general prohibition, the bill still increases production costs in the energy sector, which will affect commodity output and/or prices as the affected companies seek to maximize revenues: output will likely fall, and prices will likely rise. Therefore, State expenditures (all funds) increase significantly beginning in fiscal 2022 due to higher energy and fuel prices. The actual amount of this increase is unknown; however, based on the usage of electricity alone, the increase in State expenditures could exceed $22 million annually by fiscal 2025 if the full cost increase to the electricity sector is applied in the State.

To the extent any State agencies, as employers, receive any benefits from the Employer Benefit Account, or receive funds from the Infrastructure Account, some portion of the anticipated increase in expenditures may be offset.

Local Fiscal Effect: Local government expenditures increase significantly beginning in fiscal 2022 due to higher energy and fuel prices, for the reasons discussed above. To the extent any local governments, as employers, receive any benefits from the Employer Benefit Account, or receive funds from the Infrastructure Account, some portion of the anticipated increase in expenditures may be offset.

Small Business Effect: Small businesses throughout the State incur a significant increase in expenditures due to higher energy and fuel prices, for the reasons discussed above. As employers, however, some small businesses are slated to receive benefits under the bill. In addition, small businesses that provide services and products related to reducing GHG emissions likely see a meaningful increase in the demand for their services as a result of the significant funding available for these types of projects under the bill.

Additional Information

Prior Introductions: SB 702 of 2019, a similar bill, received a hearing from the Senate Finance Committee, but no further action was taken. Its cross file, HB 1235, received an unfavorable report from the House Economic Matters Committee. HB 939 of 2018, a similar bill, received an unfavorable report from the House Economic Matters Committee.

Designated Cross File: SB 912 (Senator Kramer) - Budget and Taxation and Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment; Comptroller's Office; Maryland State Department of Education; Department of Budget and Management; Department of General Services; Department of Housing and Community Development; Department of Human Services; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Public Service Commission; Department of Commerce; Baltimore City; Prince George's County; City of Annapolis; Maryland Association of Counties; Regional Greenhouse Gas Initiative; Transportation and Climate Initiative; Department of Legislative Services

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