

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 317 (Senator Brooks, *et al.*)
Budget and Taxation

Income Tax - Credit for Energy Efficiency Upgrades - Passive Houses

This bill creates a nonrefundable State income tax credit for the eligible costs incurred for an energy efficiency upgrade to a specified residential building that uses components certified by the Passive House Institute and brings the building into compliance with criteria established by the institute. The owner of a single-family residence or a multifamily rental property can claim a tax credit equal to 10% of the total eligible costs incurred during the tax year, not to exceed \$2,000.

The Maryland Energy Administration (MEA) must approve tax credit applications and, in consultation with the Comptroller, adopt regulations implementing the bill. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: State revenues may decrease beginning in FY 2024 due to credits claimed against the income tax. General fund expenditures for MEA increase by \$362,300 in FY 2024 and by \$377,500 in FY 2028. General fund expenditures for the Comptroller's Office increase by \$63,000 in FY 2024 for one-time implementation costs.

Local Effect: Local highway user revenues decrease to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: An energy efficiency upgrade is an improvement made on or after July 1, 2023, to a component of the duct system or envelope of a building and includes

(1) additional insulation; (2) energy efficient windows and storm windows; (3) weather stripping and caulking; and (4) duct sealing and insulation.

A taxpayer may not claim the tax credit in a year in which the Governor declares a state of emergency and (1) declares that economic disruption is expected or is the cause of the emergency or (2) orders the general cessation of business operations in one or more political subdivisions. If the taxpayer is unable to claim the tax credit due to these conditions being met, the credit can be carried forward to the next tax year.

The tax credit program is not subject to termination.

Current Law: No exact State tax credit exists for these types of expenditures; however, numerous federal and State programs provide grants, loans, rebates, and/or tax credits for qualified energy efficiency expenditures.

On March 25, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency in an effort to control and prevent the spread of COVID-19. The state of emergency was renewed for most of calendar 2021. Most recently, Governor Hogan declared a state of emergency on January 4, 2022, to control and prevent the spread of COVID-19. The state of emergency ended on February 4, 2022. There is no state of emergency currently in effect in Maryland. There is, however, a federal public health emergency in effect through mid-April 2023.

State Revenues: Tax credits may be awarded beginning with tax year 2023. Based on an analysis of similar legislation, general fund revenues may decrease by an average of \$9.1 million annually beginning in fiscal 2024.

Tax credits may not be claimed in a year in which the Governor declares a state of emergency and certain conditions are met. To the extent these conditions are met in calendar 2023, tax credits awarded will be carried forward to calendar (tax year) 2024. Accordingly, general fund revenue losses may not occur in fiscal 2024 and would be correspondingly higher in fiscal 2025.

This estimate also assumes that tax credits are claimed against the personal income tax. To the extent tax credits are claimed against the corporate income tax, a portion of tax credits claimed will decrease Transportation Trust Fund and Higher Education Investment Fund revenues.

State Expenditures: The bill requires MEA to administer the tax credit program established by the bill. As a result, MEA's general fund expenditures increase by approximately \$362,300 in fiscal 2024. This estimate reflects the cost of hiring 1 program manager and 3 energy specialists to approve tax credit applications, issue tax credit

certificates, and perform related tasks, including potential site visit verifications, beginning July 1, 2023. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	4
Salaries and Fringe Benefits	\$331,575
Other Operating Expenses	30,696
Total FY 2024 Expenditures	\$362,271

Future year expenditures reflect salaries with annual increases and employee turnover as well as ongoing operating expenses.

The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of \$63,000 in fiscal 2024 to add the tax credit to the income tax forms. This includes data processing changes to the income tax return processing and imaging systems and systems testing.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 45 and HB 58 of 2022, SB 198 and HB 74 of 2021, and HB 1364 of 2020.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Energy Administration; Department of Legislative Services

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