HB 119

Department of Legislative Services

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FISCAL AND POLICY NOTE
First Reader

House Bill 119 (Delegate Vogel)
Environment and Transportation

Energy Performance Contracts - Navigators, Funding, and Requirements

This bill requires the Maryland Clean Energy Center (MCEC) to hire or contract with a team of "navigators" (defined below) to assist public bodies in creating energy performance contracts (EPCs). Each fiscal year, the Governor must include an appropriation in the annual budget bill of $1.5 million from the Strategic Energy Investment Fund (SEIF) to MCEC for this purpose. Additionally, the bill renames the Jane E. Lawton Conservation Loan Program within the Maryland Energy Administration (MEA) as the Jane E. Lawton Conservation Grant and Loan Program and authorizes MEA to provide grants to public bodies under the program (under existing law, MEA may only make low- and zero-interest loans to specified entities). **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: Special fund (SEIF) expenditures increase by $1.5 million annually, beginning in FY 2027. Nonbudgeted revenues and expenditures increase correspondingly. Though not reflected in the table below, special fund expenditures and revenues under the Jane E. Lawton Conservation Fund are affected, as discussed further below, and State agencies may benefit from net energy cost savings. **This bill establishes a mandated appropriation beginning in FY 2028**.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
NonBud Rev.	$1,500,000	$1,500,000	$1,500,000	$1,500,000	$1,500,000
SF Expenditure	$1,500,000	$1,500,000	$1,500,000	$1,500,000	$1,500,000
NonBud Exp.	$1,500,000	$1,500,000	$1,500,000	$1,500,000	$1,500,000
Net Effect	($1,500,000)	($1,500,000)	($1,500,000)	($1,500,000)	($1,500,000)

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

Local Effect: Local governments may benefit from net energy cost savings resulting from assistance and grant funding under the bill.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Navigators for Energy Performance Contracts

A "navigator" is an individual who assists public bodies in creating EPCs. A "public body" includes a (1) unit of State government; (2) county; (3) municipality; (4) public institution of higher education; (5) local board of education; and (6) State or local hospital. An EPC is defined as an agreement for the provision of energy services, including electricity, heating, ventilation, cooling, steam, or hot water, in which a person agrees to design, install, finance, maintain, or manage energy systems or equipment to improve the energy efficiency of a building or facility in exchange for a portion of the energy savings.

The bill specifies that MCEC must hire or contract with navigators and assign at least one navigator to each of eight regions of the State:

- Allegany, Frederick, Garrett, and Washington counties;
- Anne Arundel, Carroll, Harford, and Howard counties;
- Baltimore City;
- Baltimore County;
- Calvert, Charles, and St. Mary's counties;
- Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;
- Montgomery County; and
- Prince George's County.

A public body must submit written notice to a navigator before entering into an EPC. Upon receiving this notice, the navigator must assist the public body with creating an EPC, including (1) applying for federal, State, or other grants or loans to create or execute EPCs; (2) reviewing and establishing energy efficiency measures to reduce the energy costs of a building; (3) reviewing and establishing clean energy projects to reduce the energy costs of a building; and (4) working with MEA to apply for grants or loans under the Jane E. Lawton Conservation Grant and Loan Program.

The bill expands the authorized uses of SEIF to include providing funding to MCEC to hire or contract with navigators. For each fiscal year, the Governor must include an appropriation of $1.5 million from SEIF to MCEC in the annual budget bill for this purpose.

Jane E. Lawton Conservation Grant and Loan Program

The bill renames the Jane E. Lawton Conservation Loan Program as the Jane E. Lawton Conservation Grant and Loan Program. It authorizes the program to make grants to public bodies in addition to low-interest and zero-interest loans to nonprofit organizations, local jurisdictions, State agencies, and eligible businesses (permissible under existing law).

To receive a grant under the program, a grantee must comply with the same application requirements specified for a borrower under existing law. The bill further specifies that if a grantee or borrower is a State hospital, their application for a grant or loan must be signed by the chief executive officer or president of the hospital.

Grants made to public bodies may be used for the same purposes as specified for loans under existing law. MEA may award grants in conjunction with, or in addition to, financial assistance provided through other State or federal programs. Additionally, a grant recipient may use the energy cost savings associated with the grant to apply for additional federal, State, or private programs that are designed to increase the energy efficiency of a building or add renewable energy to a building. MEA must coordinate with MCEC to implement these provisions, as well as work with navigators in accordance with the bill's requirements.

The bill also exempts any State agency or *public body* (rather than only a State agency) that receives a loan under the program from a documentation requirement (documentation of anticipated energy cost savings over a defined period being greater than the total cost of the project) and certain loan terms.

Jane E. Lawton Conservation Fund

In addition to its existing uses, the bill specifies that the Jane E. Lawton Conservation Fund may be used to provide grants to public bodies that apply under the Jane E. Lawton Conservation Grant and Loan Program. Each year, a portion of the money from the fund must be reserved for at least 90 days to provide loans to nonprofit organizations (as specified under existing law) and *grants to public bodies*.

Current Law:

Energy Performance Contracts

Units of State government are authorized to enter into EPCs with a maximum duration of 30 years, subject to the approval and control of the Board of Public Works (BPW) and the

Chief Procurement Officer within the Department of General Services (DGS). Prior to issuing a request for proposals (RFP) for an EPC, a unit must consult with DGS and the Chief Procurement Officer; DGS must review the RFP to ensure that it meets State energy standards and satisfies other specified conditions. The Treasurer is authorized to enter into a capital lease consistent with current law to finance an EPC. Before approving an EPC, BPW must ensure that projected annual energy savings under the contract will exceed the projected annual capital lease payments or payments to the contractor under the contract. It must also determine, based on a review by DGS, whether the proposed energy technology is appropriate for the time period covered by the contract.

Energy Consumption in State-owned Buildings

Chapter 423 of 2024 codified and implemented the requirements of the Governor's Executive Order 01.01.2023.07, which requires that the State reduce energy consumption in State-owned buildings by 20% by 2031 compared with a fiscal 2018 baseline.

Strategic Energy Investment Fund

MEA administers SEIF, which, among other revenue sources, receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative and alternative compliance payment revenues through the State's renewable energy portfolio standard. Additionally, SEIF will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

MEA is required to use SEIF for specified uses, including investing in the promotion, development, and implementation of (1) cost-effective energy efficiency and conservation programs, projects, or activities; (2) renewable and clean energy resources; (3) climate change programs directly related to reducing or mitigating the effects of climate change; and (4) demand response programs that are designed to promote changes in electric usage by customers. SEIF must also be used to provide targeted programs, projects, activities, and investments to reduce electricity consumption by customers in low-income and moderate-income residential sectors, and to provide supplemental funds for low-income energy assistance administered by the Department of Human Services.

Jane E. Lawton Conservation Loan Program

The stated purpose of the Jane E. Lawton Conservation Loan Program is to provide financial assistance in the form of low-interest and zero-interest loans to nonprofit organizations, local jurisdictions, State agencies, and eligible businesses for projects to (1) promote energy conservation; (2) reduce consumption of fossil fuels; (3) improve energy efficiency; (4) enhance energy-related economic development and stability in the nonprofit, commercial, and industrial sectors; and (5) reduce greenhouse gas emissions.

To receive a loan under the program, a prospective borrower must file an application with MEA containing specified information. Loan proceeds disbursed to a borrower under the program may be used for the costs of (1) implementing projects (including the costs of all necessary technical assessments, studies, surveys, plans and specifications, and start-up, architectural, engineering or other special services); (2) procuring necessary technology, equipment, licenses, or materials; and (3) construction, rehabilitation, or modification (including the purchase and installation of any necessary machinery, equipment, or furnishings).

A borrower other than a State agency must document that the anticipated energy cost savings over a defined period (according to a methodology acceptable to MEA) are greater than the total cost of the project to the borrower. Loans made to a borrower other than a State agency must (1) be repayable by the borrower from specified revenues; (2) bear interest at a rate that MEA determines to be necessary and reasonable for the project; and (3) be repayable in accordance with a schedule set by MEA. Additionally, a borrower other than a State agency must provide specified assurances for the repayment of a loan.

Jane E. Lawton Conservation Fund

The Jane E. Lawton Conservation Loan Program is funded through the Jane E. Lawton Conservation Fund, which may be used to (1) pay the expenses of the program; (2) provide loans to eligible borrowers and projects; and (3) enhance the credit of a financing offered by eligible banks and other financial institutions for projects. Each year, a portion of the money from the fund that is available for financial assistance under the program must be reserved for at least 90 days to provide loans to nonprofit organizations.

State Fiscal Effect:

Strategic Energy Investment Fund

Special fund expenditures increase by $1.5 million annually, beginning in fiscal 2027, due to the bill’s requirement that the Governor include in the annual budget bill an appropriation of $1.5 million from SEIF to MCEC. The fiscal 2027 appropriation is discretionary since a funding mandate must be enacted prior to July 1 of the year before the fiscal year to which the mandate applies (in this case, prior to July 1, 2025, in order for the funding mandate to apply to fiscal 2027), but this analysis assumes that MCEC is provided funding from SEIF in fiscal 2027.

While this bill does not expressly reallocate other, existing SEIF revenues/spending to satisfy the annual funding requirement for MCEC, the net impact on annual SEIF expenditures may be less than $1.5 million if MEA correspondingly reduces other SEIF spending to implement the bill.

Maryland Clean Energy Center

Nonbudgeted revenues and expenditures for MCEC (a nonbudgeted entity) increase by $1.5 million annually, beginning in fiscal 2027, reflecting the annual appropriations from SEIF and MCEC's use of the funding to hire or contract with navigators to assist public bodies in creating EPCs. This analysis assumes that MCEC spends the full $1.5 million from SEIF in each fiscal year.

Jane E. Lawton Conservation Grant and Loan Program

Special fund expenditures from the Jane E. Lawton Conservation Fund, and revenues to the fund from loan repayments, are expected to be affected, whether in fiscal 2027 or in future fiscal years, by the bill's authorization for grants to public bodies to be made from the fund (and the requirement that a portion of the annual funding be reserved for those grants) in addition to loans. The extent of the impact on expenditures from, and revenues to, the fund is dependent in part on MEA's allocation of funding between grants and loans – funding allocated toward grants does not get repaid to the fund, reducing (1) ongoing revenues for the program from loan repayments and (2) eventually fund expenditures if the fund is not otherwise replenished with other State funding. The extent and timing of the bill's impact on special fund expenditures from, and revenues to, the fund cannot be reliably estimated at this time.

For context, at the end of fiscal 2025, the Jane E. Lawton Conservation Fund had a closing balance of $13.0 million and the fund's fiscal 2025 revenues and expenditures were $969,500 and $1.7 million, respectively. The fiscal 2026 budget, and the fiscal 2027 budget as introduced, authorize $5.0 million of expenditures under the program in each fiscal year. MEA advises that there is currently an outstanding balance of $6.3 million of loans made from the program that will be repaid over time.

State Agencies as Public Bodies Receiving Grants and Assistance

State agencies, as public bodies under the bill, may benefit from (1) assistance, from navigators hired under the bill, in creating EPCs, and the future net energy cost savings from those contracts over time, and (2) the availability of grants (as opposed to loans) from the Jane E. Lawton Conservation Loan Program for energy conservation projects, allowing agencies to retain more of the energy cost savings (rather than use the savings to repay a loan) and, as suggested under the bill, potentially use the savings for additional energy conservation efforts.

Local Fiscal Effect: Similar to State agencies, local governments, as public bodies under the bill, may benefit from (1) assistance, from navigators hired under the bill, in creating EPCs, and the future net energy cost savings from those contracts over time, and (2) the availability of grants (as opposed to loans) from the Jane E. Lawton Conservation Loan Program for energy conservation projects, allowing local governments to retain more of the energy cost savings (rather than use the savings to repay a loan) and, as suggested under the bill, potentially use the savings for additional energy conservation efforts.

Small Business Effect: Small businesses that provide goods or services for energy conservation projects may meaningfully benefit to the extent the bill increases projects undertaken by public bodies under the bill, with the assistance of navigators and/or grant funding from the Jane E. Lawton Conservation Grant and Loan Program. Small businesses that might benefit in the future from loans under the Jane E. Lawton Conservation Loan Program in the absence of the bill may have less access to such financing under the bill as a portion of the funding is used for grants (for which small businesses are not eligible), reducing loan repayment revenues to support the program over time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Montgomery and Wicomico counties; City of Frostburg; Maryland Municipal League; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary’s College of Maryland; Department of Budget and Management; Department of General Services; Board of Public Works; Maryland Energy Administration; Anne Arundel County Public Schools; Frederick County Public Schools; St. Mary’s County Public Schools; Department of Legislative Services

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