Climate Law & Policy Project

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Committee: Economic Matters
Testimony on: HB0033 Climate Crisis and Education Act
Organization: Climate Law & Policy Project
Submitted by: Donald M. Goldberg, Executive Director
Position: Favorable
Hearing Date: February 18, 2021

Dear Chairman and Members of the Committee:

Climate Law & Policy Project strongly supports HB33 and urges the Committee to issue a favorable report.

HB33 would place a fee on fossil fuel combusted in the State to incentivize the reduction of fossil fuel CO^2 emissions. The fee would escalate gradually, providing business and regulatory certainty to energy companies for future planning. It will make renewable sources of energy more economical, incentivizing energy companies to increase renewable generation in their portfolio.

If adopted, HB33 will generate billions of dollars for investment in clean energy infrastructure and education, while providing benefits (rebates) to protect Maryland's low- and moderate-income households and energy-intensive trade-exposed businesses.

While we believe HB33 would significantly advance efforts to meet the State's greenhouse gas reduction goals, we would suggest some modifications that would make the bill even stronger.

Modify revenue distribution. Whatever revenue distribution is ultimately decided by the General Assembly, it is essential that low- and middle-income households be adequately protected from economic impacts of the fee. As currently written, HB33 distributes revenue to the Benefit and Infrastructure funds only after $350 million has been distributed to the Kirwan Fund. It may be several years before the fee raises enough revenue to fully fund the Benefit Fund and several more before sufficient money is provided to the Infrastructure Fund. We recommend a reordering of distribution so that all funds receive a fair proportion of revenue. We recommend the first 50% of revenue go to the Benefit Fund (divided 40% to households / 10% to employers), which was the intent of the bill in previous years. 75% of the remaining revenue should to go education, up to a maximum of $350 million, and the rest to the Infrastructure Fund.

Add a carveout for Regional Greenhouse Gas Initiative (RGGI) allowances. The 2020 CCEA contained a carve-out for money paid for RGGI allowances. We assume the omission of this provision in 2021 was an oversight, since a similar carve-out for Transportation and Climate Initiative (TCI) allowances has been retained. If the RGGI carve-out is not reinstated, in-state generators will be subject to double pricing, further undercutting their competitiveness in PJM markets.

Apply the fee to electricity. HB33 does not directly assess a fee on electricity. As a result, electricity generators in the State will pay the fee based on the amount and type of fossil fuel they combust, while electricity imported into the State (approximately 45% of consumption), will be exempt from the fee. This could drive Maryland generators to other PJM states, costing Maryland jobs with no corresponding reduction in emissions (Maryland counts emissions from imported electricity in its inventory). We also

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note that assessing the fee directly on electricity would substantially increase revenue that can be invested in clean energy, transportation, and schools.

Eliminate the restriction on passing the fee to end-use consumers. We understand that the no-pass-through provision is popular, but we believe this provision has two very important negative consequences: (1) it reduces or eliminates the price signal to incentivize end users (e.g., vehicle owners) to reduce consumption, and (2) it appears to have serious and perhaps fatal financial consequences for small, local fuel distributors, who often operate on tight margins. For example, according to last year's testimony, some gas stations are the first point of sale in the State for gasoline and diesel, meaning they would pay the fee but could not pass it along to their customers. It is our understanding that gas stations make about 1-2% profit on fuel sales. Most of their revenue comes from sale of ancillary products and services. A $10 fee (the fee on transportation fuels in 2022) would raise gas prices by about $0.09, which is roughly 3% of the retail cost and exceeds their profit margin. Putting these companies in financial jeopardy could make the bill vulnerable to a takings challenge.

While we believe our recommendations, if adopted, would make the bill stronger, we support the bill even if it is not modified and urge a favorable report on HB33.