Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 726 (Senator Mathias, *et al.*)
Finance

Maryland Clean Energy Center - Clean Energy Technology Funding

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This emergency bill alters the purpose of the Maryland Clean Energy Center (MCEC) to include leveraging private capital investments with public funds to "finance" the costs of acquiring or improving "projects" and makes other associated changes. The Clean Energy Technology Financing Fund (CETFF) is established in MCEC for related purposes. A total of $40.0 million is transferred from the Strategic Energy Investment Fund (SEIF) to CETFF from fiscal 2016 through 2020. Legislative intent is that MCEC conducts its financial affairs so that it is self-sufficient by fiscal 2020.

Fiscal Summary

State Effect: Nonbudgeted revenues for CETFF increase by $33.4 million in FY 2016, $2.3 million in FY 2017, $2.0 million in FY 2018, $1.3 million in FY 2019, and $1.0 million in FY 2020 due to the required transfers from SEIF. Nonbudgeted expenditures for CETFF increase by $135,400 in FY 2016, escalating to $2.3 million by FY 2020 for MCEC operating expenses, as discussed below. Nonbudgeted expenditures further increase beginning in FY 2016 and nonbudgeted revenues increase beginning as early FY 2017 as MCEC provides financing for eligible projects, but the amount cannot be reliably estimated at this time. Special fund revenues for SEIF increase beginning in FY 2016 from debt service payments made by MCEC on previously incurred debt, as discussed below. Future year expenditures for SEIF decrease by $40.0 million in total, beginning as early as FY 2018, due to the required transfers, but the timing of the expenditure decreases cannot be estimated at this time.

Local Effect: Potential meaningful.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The General Assembly finds that the State benefits from a statewide financing entity that is focused on:

- providing efficient, low-cost capital financing at scale and with substantial private-sector participation for qualifying projects;

- facilitating private investment in clean energy projects and technologies to provide significant leveraging of private capital; and

- increasing private investment in clean energy projects that are not currently able to obtain financing in traditional capital markets at a reasonable cost by providing a variety of financial tools to stimulate private investment.

The purpose of MCEC is expanded to include leveraging private capital investments with public funds to finance the costs of acquiring or improving projects. In addition to its current ability to make grants and provide equity investment, MCEC may also provide financing for clean energy technology based businesses. "Finance" means to provide for a project: a loan; a grant; an investment; a loan guarantee; debt securitization; or any other form of financial support or risk management. "Project" includes, in addition to what is specified in current law, an investment in a clean energy technology or a clean energy business.

MCEC's board is increased by adding two State government representatives. MCEC must establish a Credit Investment Advisory Committee. The committee must review and make recommendations to the board for qualifying project applicants prior to MCEC providing financing for a project from CETFF.

CETFF is established in and administered by MCEC. CETFF is not a special fund, and expenditures from the fund are not subject to the State budget process. The purposes of CETFF are to:

- evaluate and coordinate financing for qualified projects and clean energy technologies;
- provide financing for qualified projects;
- facilitate efficient tax equity markets for qualified energy projects and financing of long-term clean energy purchasing by governmental and nongovernmental not-for-profit entities; and
- secure private investment capital for project financing.

CETFF consists of (1) money transferred from SEIF; (2) money appropriated in the State budget to the fund; (3) money made available to the fund through federal programs, grants, or private contributions; (4) proceeds from the sale, disposition, lease, or rental of collateral related to a financing made from the fund; (5) repayment of financing made from the fund; and (6) other specified sources.

Expenditures from CETFF may be made only with the approval of the board. The fund may be used only for the purposes of the fund and to administer the fund and activities of MCEC.

Transfers from SEIF to Fund MCEC

Funding is provided from SEIF to MCEC in two parts. First, notwithstanding any other provision of law, by July 1, 2016, the State Treasurer must transfer $30.0 million from the unappropriated fund balance in SEIF to MCEC for deposit in and credit to CETFF.

Second, the Maryland Energy Administration (MEA) must use SEIF to provide grants to MCEC for the annual operating support and assistance as follows: $3.4 million in fiscal 2016; $2.3 million in fiscal 2017; $2.0 million in fiscal 2018; $1.3 million in fiscal 2019; and $1.0 million in fiscal 2020. Legislative intent is that the additional transfers be from unappropriated SEIF balances.

Current Law:

Maryland Clean Energy Center

MCEC was established by Chapter 137 of 2008 to generally promote and assist the development of the clean energy industry in the State; promote the deployment of clean energy technology in the State; and collect, analyze, and disseminate industry data. MCEC is authorized to make grants to or provide equity investment financing for clean energy technology-based businesses. MCEC may accept grants, loans, and donations. Among other program, MCEC administers the Maryland Clean Energy Capital Program (MCAP).

MCAP is MCEC's institutional financing program. MCAP uses tax-exempt bonds to finance energy-related projects for local governments, universities, hospitals, and other nonprofits.

Uncodified language states that it is the intent of the General Assembly that MCEC not rely on funding from appropriations made from the general fund, but that this may not be construed to limit MCEC's ability to seek and obtain funding from the Department of Economic Competitiveness and Commerce and other State units and programs for economic and community development, however funded, or from federal programs involving a requirement for matching State funds.

Background: Chapter 365 of 2014 required MCEC, in coordination with MEA, to conduct a study and make recommendations related to "green banks" and financing initiatives. Based on the analysis, MCEC, in collaboration with MEA was required to make recommendations on (1) the need for a green bank in the State; (2) the scope of such a bank; (3) possible sources of capital; (4) the method of establishment; and (5) any other relevant aspect relating to green banks deemed appropriate. An interim report was due on December 1, 2014, and a final report was due on December 1, 2015. The final report can be found on MCEC's website.

According to the report, a green bank is "... a public or quasi-public institution that finances the deployment of renewable energy, energy efficiency, and other clean energy projects in partnership with private lenders." Green banks partner with private investors on projects. Green bank financing initiatives include activities such as credit enhancements (*e.g.*, loan loss reserves, which set aside capital to cover a portion of a lender's loss), warehousing and securitization activities (*e.g.*, the green bank issuing and holding a loan until it can be sold to private investors), on-bill financing, and property assessed clean energy (known as PACE programs).

The report concluded that MCEC was in a good position to serve as Maryland's green bank. The bill generally incorporates the findings and recommendations in the report, including the recommendation that the State provide a total investment of $40.0 million as seed funds for the green bank. No funds are included in the Governor's proposed fiscal 2017 for this purpose. A detailed description of the report can be found beginning on page 30 of the 2017 operating budget analysis for MEA on the Maryland General Assembly website.

State Fiscal Effect: The bill mandates two funding streams for MCEC: a $30.0 million transfer from SEIF in fiscal 2016 and five consecutive annual transfers from SEIF beginning in fiscal 2016, as discussed above. MCEC advises that *it will run out of funding after May 2016*; as such, all expenditures discussed below are assumed to be additional/new spending.

Therefore, nonbudgeted revenues for CETFF increase by $33.4 million in fiscal 2016 due to the required transfers from SEIF for seed funding of MCEC. Nonbudgeted revenues increase by $3.4 million in fiscal 2016, $2.3 million in fiscal 2017, $2.0 million in fiscal 2018, $1.3 million in fiscal 2019, and $1.0 million in fiscal 2020 from additional required transfers.

Nonbudgeted expenditures for CETFF increase by $134,400 in fiscal 2016, escalating to $2.3 million by fiscal 2020, as MCEC hires additional staff, contracts for necessary services, and meets its financial obligations. Fiscal 2016 reflects incremental spending from the period of June 1 through June 30.

The timing and extent of the expenditures from CETFF depends on the speed with which MCEC is able to scale its operations and implement the bill. This estimate is based on a preliminary estimate provided by MCEC of its operating expenditures beginning in fiscal 2016. The estimate reflects the cost of hiring three staff in fiscal 2016, three staff in fiscal 2017, and two staff in fiscal 2018 (while retaining the current four staff), contractual services, and other operating expenses. MCEC employees are not State employees.

A portion of the above estimate is for debt service payments owed to MEA from MCEC. MCEC owes MEA $1.25 million from prior loans and, according to MEA, is 15 months in arrears on loan payments. MCEC indicates that these payments are $50,000 in fiscal 2016 (not yet paid), $64,000 in fiscal 2017, and $160,000 annually from fiscal 2018 through 2020 (payments continue thereafter). Assuming MCEC makes these payments as a result of the funding provided by bill, SEIF revenues increase correspondingly.

The above estimate does not include any expenditures for loans or other assistance – it is solely expenditures for MCEC's *operating* expenses. The Department of Legislative Services notes that MCEC's annual operating expense estimates are less than the ongoing transfers required by the bill.

Nonbudgeted expenditures further increase beginning in fiscal 2016 and nonbudgeted revenues increase beginning as early as fiscal 2017 as MCEC provides financing for eligible projects, but the amount cannot be reliably estimated at this time.

Future year expenditures for SEIF decrease by $40.0 million in total, beginning as early as fiscal 2018, due to the required transfers, but the timing of the expenditure decreases cannot be estimated at this time. It is unclear when MEA would have spent those funds in the absence of the bill.

Local Fiscal Effect: Local governments may benefit from financing provided by MCEC under the bill. The amount cannot be reliably estimated at this time. Local governments may also receive less funding from SEIF-supported programs over time due to the required transfers under the bill.

Small Business Effect: Small businesses may benefit from financing provided by MCEC under the bill. The amount cannot be reliably estimated at this time. Small businesses may also receive less funding from SEIF-supported programs over time due to the required transfers under the bill.

Additional Comments: Senate Bill 389/House Bill 469 of 2016 (The Fee, Surcharge, and Tax Reduction Act of 2016) redirect up to $10 million annually, beginning in fiscal 2017, of proceeds from the sale of allowances under the Regional Greenhouse Gas Initiative (that otherwise would be paid into SEIF) to the Environmental Trust Fund within the Department of Natural Resources.

Additional Information

Prior Introductions: None.

Cross File: HB 705 (Delegate Davis, *et al.*) - Economic Matters.

Information Source(s): Maryland Clean Energy Center, Department of Budget and Management, Maryland Energy Administration, Public Service Commission, Department of Legislative Services

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