Maryland Energy
ADMINISTRATION
Powering Maryland's Future

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*
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January 24, 2014

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, Maryland 21401

Re: SB 481 Tax Holiday/Tax Credit Task Force

Gentlemen: Attached please find the above-referenced Report.

Please do not hesitate to contact me with any questions.

Sincerely,

Abigail Ross Hopper
Director

SB 481 Tax Holiday/Tax Credit Task Force Report

Background

In 2013, Senate Bill 481 created a Task Force to study the implementation of tax benefits for emergency preparedness equipment. The legislation took effect on June 1, 2013. In August, a chair was appointed and members selected and confirmed. The Task Force held three meetings throughout the fall. The first meeting of the Task Force was held on September 17, 2013 in Annapolis. Task Force members were informed of current State tax holiday programs and laws, set out a scope of work to be completed, and established Working Groups to study the key issues outlined in the legislation. During the second meeting, on October 17, 2013 in Baltimore, the Task Force reviewed Working Group reports and came to a consensus on major issues. The third and final meeting was held on November 14, 2013 in Annapolis. Task Force members reviewed a draft report and provided feedback on the impacts of a proposed tax holiday or tax credit on citizens, businesses, and the State budget.

Task Force Areas of Focus

The SB 481 legislation required the Task Force to consider both an income tax credit to purchase electric generators and a tax-free period (tax holiday) for emergency preparedness equipment. Specifically, it outlined four areas of focus related to these two options, listed below:

1. Which members of the population would benefit from the implementation of either a tax credit or a tax holiday?

2. How would individuals with physical difficulties, elderly individuals, and other individuals who are dependent on a consistent supply of power for medical purposes benefit from the implementation of either a tax credit or tax holiday?

3. What are the costs of establishing a tax credit or tax holiday and would commercial establishments also benefit from either option?

4. Recommendations regarding the implementation of a tax credit or tax holiday, including:
    i. Qualifications for the tax credit;
    ii. The amount of the credit to be granted; and
    iii. The length of a tax-free period for emergency preparedness equipment

The Task Force assigned a Working Group to each of these four areas.

Task Force Findings

Working Group I: Which members of the population would benefit from the implementation of either a tax credit or a tax holiday?

When evaluating which members of the population would benefit from the implementation of either a tax credit or a tax holiday, this Working Group considered various groups of citizens. First, the group looked at those 47,000 Marylanders residing in long term care facilities (such as nursing homes) that are regulated by the State.

With a few exceptions, those facilities are already required to have back-up power generation. The only exceptions are assisted living facilities with 49 beds or less and in-patient hospice facilities. However, the Working Group learned that all of the in-patient hospice facilities voluntarily have back-up generators in place. The assisted living facilities number 1,441 and of these, 1,335 have 49 beds or less. Of the 49-bed or less facilities, 1,289 have 16-beds or less and, 66 have 17-49 beds.

The Working Group and the Task Force members felt that citizens living in assisted living facilities with 49 beds or less would stand to benefit from back-up power generators if the facilities took advantage of the tax credit. In addition, focusing on this type of critical care facility would serve to narrow the impact of a tax credit on the State budget.

The Working Group also considered seniors living in the 22 congregant high-rise housing facilities for seniors in the State. These high-rise facilities are governed by building codes that require back-up power generation for the elevators and evacuation lighting for a period of several hours. Therefore, neither these citizens nor the buildings themselves would benefit from a tax credit to purchase a generator.

A population that is increasing and could benefit from the implementation of a tax credit for generators are citizens who are "aging in place." Specifically individuals who are living independently in the community, as well as low and moderate income individuals could benefit. There are 1.2 million people over age 60 in Maryland, representing approximately 20 percent of the State's population. Those over age 65 represent 13 percent of the population.

The Working Group also considered which citizens would benefit from a tax holiday. The group agreed that a tax holiday could be beneficial to all citizens.

Working Group II: What are the costs of establishing a tax credit or tax holiday?

This Working Group collected information from the Comptroller's Office to frame the impact of a tax holiday or tax credit on the State budget. For context, the group gathered information on the two other tax holidays currently authorized in the State. The tax holiday for the purchase of Energy Star appliances has an estimated $700,000 annual impact on State revenues while the tax holiday for school supplies and clothing has an estimated $5 million annual impact on the State.

To estimate the revenue impact of a tax holiday for emergency preparedness supplies, the group looked at information provided by the Commonwealth of Virginia, which currently has such a tax holiday in place. For emergency supplies (less than $60 in value), the impact is estimated to be $1.1 million during the first tax year, with cost estimates increasing annually if the program gains in popularity.

The Working Group also looked at the impact of a tax holiday for the purchase of generators. The revenue impact estimates are based on a set of assumptions regarding the size of the market and the replacement period for commercial and residential generator owners. For the first tax year, the revenue impact for a generator sales tax holiday is estimated to be $8.5 million, with the majority of sales being for replacement generators. Together, a tax holiday for generators and emergency preparedness supplies would amount to an estimated $9.6 million for the first tax year.

The number of generator purchases this represents in a baseline, first-year (2014) estimate is:
Residential: 5,287 new portable or standby generators
Residential: 10,815 replacement generators
Commercial: 2,489 new generators
Commercial: 2,477 replacement generators

Total: 21,068 generators

The Working Group also considered the revenue impact of a tax credit for generators, again based on a set of assumptions regarding size of the market and the replacement period for commercial and residential generator owners. A tax credit for individuals purchasing generators, at 50 percent of cost of the generator with a cap of $250, is estimated to be $15.3 million for the first tax year. If the cap were raised to $500, the impact would be $27.9 million in the first tax year.

If the tax credit were extended to commercial establishments, where the average cost of the generators is much higher, the impact to the State budget increases. According to the Comptroller's Office, a tax credit for the commercial sector worth up to 50 percent of the cost of the generator with no cap would have a $40.9 million revenue impact for the first tax year. Because a $500 cap for commercial generators would provide little to no incentive for a commercial unit purchase (with an estimated average hardware cost of $35,000, though costs may be significantly higher and no installation charges were included) and therefore fewer generators would be purchased, the revenue impact for a capped commercial credit decreases to $4.2 million in the first tax year.

The Task Force was specifically interested in facilities that serve vulnerable populations. According to the Maryland Department of Health and Mental Hygiene (DHMH), there are 1,335 assisted living facilities with 49 or less beds that are exempt from having back-up power generation. There is no information available at this time to determine how many of the assisted living facilities of this size already have back-up power generators.

In recognition of the wide range of assisted living facility sizes, 2 to 49 beds, the Work Group asked the Comptroller's Office to provide cost estimates for back-up power generators costing $15,000 and $30,000. It is expected that generators of this size will be most applicable to assisted living facilities. Based on certain assumptions and estimates by the Comptroller's Office, the estimated revenue impact to the State for a tax credit for back-up power generators for assisted living facilities of this size would be $3.4 million in the first tax year, with the impact decreasing over the remaining years. If an uncapped credit up to 50 percent of the hardware cost of a generator credit were in place for five years, the Comptroller's Office estimates that the 5-year cumulative impact to revenues would be $6.95 million. This translates into 884 new generators being installed over five years at assisted living facilities.

It is important to note that many of the assisted living facilities are likely incorporated as non-profits. This is relevant for two reasons. First, the credit will have to be either refundable or applicable to the non-profit's employee withholding taxes. If the credit is refundable, the non-profit would receive its benefit when it files a return, which would not be until the end of its fiscal year. If the credit is applicable to income tax withholding, then the non-profit would receive the full benefit sooner, though it may take several pay periods (assuming 35 employees with an average pay of $35,000, it would likely take 7 bi-weekly pay periods). A second consideration is whether these facilities, even with the tax credit, will have the requisite capital to purchase and install a generator (installation could potentially double the cost).

While there is no doubt that many different commercial entities benefit from a tax credit for generators, the Task Force was cognizant of the substantial impact that such a credit could have on State revenues.

Working Group III: How would individuals with physical difficulties, elderly individuals, and other individuals who are dependent on a consistent supply of power for medical purposes benefit from the implementation of either a tax credit or tax holiday?

The third Working Group researched the current utility regulations, requirements, and procedures used to identify vulnerable populations in their customer base, in order to better understand how these individuals might benefit from a tax credit or a tax holiday.

There are four separate definitions used by the Public Service Commission (PSC) to identify vulnerable populations. These categories are: 1) individuals with a serious illness; 2) those on life-support equipment; 3) the elderly; and, 4) individuals with handicaps. All of these definitions are codified under COMAR 20.31.01.02. Recently, the PSC completed the Staff Report of the Derecho Vulnerable Individuals Work Group, which contains detailed information on the procedures utilities use to identify vulnerable populations, how the lists are maintained, and how the information may be shared with State emergency responders in the event of an energy emergency. The report may be accessed on the PSC website.

Currently, the utilities follow COMAR 20.31.03.01 requiring all gas and electric utilities to follow strict guidelines when terminating services, including several steps for vulnerable populations to appeal and/or temporarily suspend termination with proof of life safety issues. This information has been held confidentially by the utilities, but following the Derecho, the PSC determined that there is a need for State emergency response agencies to have this information as well.

On an annual basis, utilities send a form to identified individuals to verify that they are indeed vulnerable. The PSC has recommended that the utilities revise this form to include a box that individuals can check to allow the utility to share contact information with State agencies during an emergency. It is expected that more vulnerable individuals will participate in this program which will make it easier for local emergency responders to check on them during an extended power outage.

It should be noted that this is a self-identification process and with increasing numbers of citizens "aging in place" there is the potential for even more vulnerable individuals to be unidentified by either the utilities or the State. In this respect, it will become more important for utilities to take a proactive role in promoting self-identification of vulnerable individuals for their safety. These vulnerable individuals stand to benefit the most from a tax credit for backup electric generators and it will be important to the State to be able to identify these eligible individuals.

Working Group IV: Would commercial establishments also benefit from tax credits or tax holidays?

The final Working Group focused on whether and how to target a program to commercial establishments and the private sector.

As noted above, if the tax credit were extended to commercial establishments where the average cost of the generators is much higher, the impact to the State budget increases. According to the Comptroller's Office, a tax credit for the commercial sector worth up to 50 percent of the cost of the generator with no cap would have a $40.9 million revenue impact for the first tax year. Because a $500 cap for commercial generators would provide little to no incentive for a commercial unit purchase (estimated average hardware cost of $35,000, though costs may be significantly higher and no installation charges were included), the revenue impact for a capped commercial credit would be $4.2 million in the first tax year.

The Task Force was cognizant of the significant impact that the extension of tax credits to all commercial establishments would have on State revenues. Therefore the Working Group recommended limiting the credit to those providing services for critical or life-safety needs.

Task Force Findings:

1. ***Which members of the population would benefit from the implementation of either a tax credit or a tax holiday?***

Findings: The Task Force believes that all citizens of Maryland would benefit from a tax credit or tax holiday. Persons of lesser means stand to benefit more by paying less for emergency preparedness equipment, supplies, or generators that they may not otherwise be able to afford. However, lower income persons may not be able to afford the expense of a generator even with a tax credit because their taxes are not substantial and even the reduced cost of the generator still may be prohibitive.

This does not negate the desire of Maryland for its citizens to be prepared in the event of an emergency. In this respect, much like the back-to-school tax holiday and Energy Star appliance tax holiday, a tax holiday has proven to create the desired buying behavior.

In this respect, the Task Force finds that a tax holiday with a price limit on eligible items would generate interest among all citizens to purchase emergency preparedness supplies and equipment. The promotion of the tax holiday by government, emergency response agencies, and the commercial retail community will serve to increase awareness of and interest in the program.

2. ***How would individuals with physical difficulties, elderly individuals, and other individuals who are dependent on a consistent supply of power for medical purposes benefit from the implementation of either a tax credit or tax holiday?***

Findings: The Task Force finds that there is a growing population of elderly who require or will require power for medical purposes. Many of these individuals will be "aging in place" and not necessarily living in nursing homes or similar facilities. In this respect, it will become increasingly important to identify these individuals in the event of a major power outage and be prepared to address their needs. Public safety agencies and emergency responders are not privy to the names or addresses of these vulnerable customers unless the utility provides this private information (upon prior approval by the PSC). Based on reports from several major State utilities, this number currently is estimated to be over 6,000 people. Note: This database is specifically related to customers who are considered medically vulnerable and who may be unable to pay their utility bill. This database does not include vulnerable customers who have the ability to pay their utility bills.

A tax credit or holiday would provide these vulnerable customers with the ability to have a back-up generator or other emergency preparedness equipment, making them more resilient to major power outages or emergencies that could otherwise have negative consequences on their ability to continue living in place and/or strain the resources of emergency responders. However, it is anticipated that a low or no-interest loan would be more beneficial and attractive to low income, vulnerable persons.

3. ***What are the costs of establishing a tax credit or tax holiday and would commercial establishments also benefit from either option?***

Findings: It is the finding of the Task Force that commercial establishments would benefit from an income tax credit to purchase electric generators and would likely take advantage, to a lesser degree, of a tax holiday for emergency preparedness supplies. The Task Force, however, is very cognizant of the impact of such policies on State revenues. The analysis by the Comptroller's Office provided detailed estimates on the cost of the tax credit to the State if there was no cap, a cap of $250, and a cap of

$500. The least impact to the State revenues, which would limit the credit to $250 for residential customers, would be $15.3 million. If the tax credit were extended to commercial customers, the impact increases marginally to $17.5 million as a $250 tax credit cap does little to incentivize the purchase of new commercial scale generators. Current owners of generators, who plan to replace them, are most likely to take advantage of the tax credit.

To minimize the impact of a tax credit on the State budget, the Task Force believes it necessary to focus the tax credit on the most critical facilities, such as assisted living facilities with 49 beds or less (which currently are not required to have back up generation, only emergency evacuation plans). There are 1,441 assisted living facilities in the State and 1,335 have 49-beds or less. Based on certain assumptions and estimates by the Comptroller's Office, the estimated revenue impact to the state for a tax credit for back-up power generators would be $3.4 million in the first tax year, with the impact decreasing over the remaining years. If an uncapped credit for up to 50 percent of the hardware cost of a generator credit were in place for five years, the Comptroller's Office estimates that the 5-year cumulative impact to State revenue would be $6.95 million. This translates into 884 new generators being installed over five years at assisted living facilities.

4. ***Recommendations regarding the implementation of a tax credit or tax holiday, including:***
   - ***i. Qualifications for the tax credit;***
   - ***ii. The amount of the credit to be granted; and,***
   - ***iii. The length of a tax-free period for emergency preparedness equipment***

Findings: The Task Force has given considerable thought to the importance of creating a more resilient State by utilizing tax credits and tax holidays for citizens and businesses to acquire the necessary emergency preparedness supplies, equipment, and generators. At this time, there are three states (Virginia, Alabama, and Louisiana) that currently have a tax holiday for emergency preparedness supplies, equipment, and generators. In addition, the State of Maryland has experience using tax holidays to ensure that its citizens are properly outfitted with back-to-school supplies, and to encourage the purchase of energy efficient appliances to reduce the State's demand for energy.

According to the Maryland Retail Association, the back to school tax holiday is now the second largest shopping period in the State. This is a good indication that a sales tax holiday, with appropriate timing and promotion by the State and retailers, could be successful in influencing emergency resiliency.

The Task Force, taking into account both the importance of an emergency resiliency program and its impact to the State's revenues, offers the following recommendations:

1. **After careful consideration of the budget outlook for the State and ensuring that the policy not prove detrimental to the other important budget priorities, the General Assembly should consider enacting a refundable tax credit for back-up power generators purchased by assisted living facilities with 49 beds or less.**

2. **The tax credit for assisted living facilities should be limited to 50 percent of the cost of the generator without a cap.**

3. **The length of the period of the tax credit should not exceed five (5) years to allow for adequate participation in the program.**

4. **After careful consideration of the budget outlook for the State and ensuring that the policy not prove detrimental to the other important budget priorities, the General Assembly**

should consider enacting a tax holiday for emergency resiliency products and supplies with a selling price of $60.00 or less for a period of one week prior to the official start of Hurricane Season (June 1st). The tax holiday should expire five (5) years from the passage of the legislation.

Members of SB 481 Task Force

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