

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3185
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: MARCH 20, 2023

SUMMARY

Synopsis: Provides CBT credit for development of anaerobic digestion facilities that process food waste.

Type of Impact: Maximum State revenue loss of \$15 million.

Agencies Affected: Department of Environmental Protection.
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2024 – FY 2037</u>
State Revenue Loss	Maximum of \$15 million

- The Office of Legislative Services (OLS) notes that providing corporation business tax credits for the development and construction of an anaerobic digestion facility that processes food waste will result in a maximum State revenue loss of \$15 million. This revenue loss may be incurred over a period beginning in FY 2024 and ending in FY 2037.

BILL DESCRIPTION

The bill provides eligible taxpayers with a credit against their corporation business tax liabilities for costs incurred during the development of an anaerobic digestion facility. The bill defines an “anaerobic digester” as a device that promotes the decomposition of organic material into simple organics and gaseous biogas products, in the absence of elemental oxygen, by means of controlling temperature and volume, and that includes a methane recovery system.

The tax credit would be available for a total of seven privilege periods. The bill limits the amount of the tax credit to the lesser of: (1) 50 percent of the costs incurred to develop and construct the anaerobic digestion facility, or (2) \$250,000. The bill limits the cumulative total of tax credits that may be awarded to \$15 million. The bill allows a taxpayer to carry forward any amount of unused tax credit for up to seven privilege periods following the privilege period for which the tax credit was awarded.

In order to receive a tax credit, the bill requires a taxpayer to submit an application to the Department of Environmental Protection that provides: (1) the anaerobic digestion facility

developed by the taxpayer is eligible for the tax credit; and (2) the amount of the tax credit. The application must include a receipt demonstrating the cost of the development and construction of the anaerobic digestion facility, a certification that the anaerobic digestion facility will be used to process food waste, and any other information determined relevant by the department.

Finally, the bill requires the Department of Environmental Protection to prepare and submit to the Governor, State Treasurer, and State Legislature a report that, at a minimum, summarizes the effectiveness of the tax credit in incentivizing the development and construction of anaerobic digestion facilities that process food waste in the State. The report must be submitted not later than six years following the effective date of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS recognizes that the provision of credits against the corporation business tax for costs incurred during the development and construction of an anaerobic digestion facility will result in a loss of State revenues not to exceed \$15 million. The cost of an anaerobic digestion facility will vary depending on its size, design, and features.

If the bill is enacted in calendar year 2023, credits may be awarded in tax years 2024 through 2030. However, the bill also allows unused tax credits to be carried forward for up to seven privilege periods following the privilege period in which the credit was first allowed. In this scenario, a tax credit first allowed in tax year 2030 may be carried forward through tax year 2037. In all, any revenue losses resulting from the bill may be incurred over a period of fourteen tax years.

In January 2021, the U.S. Environmental Protection Agency published a survey of anaerobic digestion facilities processing food waste in the United States. The survey noted that there are three types of food digesters: (1) stand-alone digesters primarily built to process food waste; (2) on-farm digesters that co-digest food waste; and (3) digesters at water resource recovery facilities that co-digest food waste.

According to the Environmental Protection Agency report and OLS research, there are eight food digesters located in New Jersey. The report indicates there are two stand-alone digesters (one located in Upper Deerfield Township and another located in the City of Newark) and four co-digesters located at water resource recovery facilities (operated by the Landis Sewerage Authority, the Joint Meeting of Essex and Union Counties, the Rahway Valley Sewerage Authority, and the Village of Ridgewood Water Pollution Control Authority). OLS research indicates there is a dedicated food waste anaerobic digestion facility located on Duck Island in the City of Trenton (operated by Trenton Biogas) and an organic waste anaerobic digester located in the City of Linden (operated by Linden Renewable Energy, LLC).

Section: *Revenue, Finance, and Appropriations*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).