

HOUSE BILL 1145

C8, C5

8lr0880

By: **Delegates Walkup, Bates, Eckardt, Elmore, George, Gilchrist, Haddaway, McConkey, and Rudolph**

Introduced and read first time: February 7, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Renewable Energy Infrastructure Loan Program**

3 FOR the purpose of establishing a Renewable Energy Infrastructure Loan Program in
4 the Maryland Energy Administration; establishing the purposes of the Program;
5 establishing the duties of the Administration in relation to the Program;
6 prohibiting a loan from being granted to any person other than a local
7 governmental entity; providing certain authority for the Administration in
8 relation to administering loans under the Program; authorizing a county to
9 accept a loan as a deposit in a certain revolving loan fund for certain purposes
10 and under certain circumstances; authorizing the Administration to make loans
11 at certain rates; requiring the Administration to submit certain loans to the
12 Board of Public Works for approval, under certain circumstances; establishing
13 the Renewable Energy Infrastructure Fund; providing for the administration,
14 funding sources, and accounting of the Fund; authorizing the Fund to be used
15 for certain purposes; authorizing a local governmental entity to trade certain
16 electricity on a certain energy market under certain circumstances; requiring
17 the Administration to review certain information and submit a certain annual
18 report to the Governor and to the General Assembly by a certain date; requiring
19 money from the Energy Overcharge Restitution Fund to be expended for certain
20 renewable energy infrastructure loans; defining certain terms; and generally
21 relating to the Renewable Energy Infrastructure Loan Program.

22 BY repealing and reenacting, with amendments,
23 Article – State Finance and Procurement
24 Section 7–315
25 Annotated Code of Maryland
26 (2006 Replacement Volume and 2007 Supplement)

27 BY adding to
28 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–20B–01 through 9–20B–08 to be under the new subtitle “Subtitle 20B.
2 Renewable Energy Infrastructure Loan Program”
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2007 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – State Finance and Procurement**

8 7–315.

9 (a) There is an Energy Overcharge Restitution Fund.

10 (b) (1) The Fund is a continuing, nonlapsing fund that is not subject to
11 the provisions of § 7–302 of this subtitle.

12 (2) There shall be credited to the Fund:

13 (i) all federal fund revenues consisting of refunds received by
14 the State from any source as a direct or indirect result of litigation or administrative
15 proceedings prosecuted by the U.S. Department of Energy to redress violations of
16 federal petroleum pricing regulations under the Emergency Petroleum Allocation Act,
17 15 U.S.C. §§ 751 through 756, and the Energy Policy and Conservation Act, 15 U.S.C.
18 §§ 757 through 760H; and

19 (ii) all special fund revenues received and accepted as a gift
20 under § 2–201 of this article that are expressly given for the purpose of energy
21 assistance or weatherization for individuals in this State.

22 (3) Revenues received by the State as a result of claims representing
23 purchases by the State are excluded from the Fund.

24 (c) The Treasurer shall:

25 (1) invest and reinvest the Fund in the same manner as other State
26 funds; and

27 (2) credit any investment earnings to the Fund.

28 (d) Expenditures from the Fund shall be made by:

29 (1) an appropriation in the annual State budget; or

30 (2) a budget amendment in accordance with § 7–209 of this title,
31 provided that any budget amendment shall be submitted to and approved by the
32 Legislative Policy Committee prior to the expenditure or obligation of funds.

1 (e) In accordance with the provisions of subsection (f) of this section, the
2 Director of the Maryland Energy Administration or the designee of the Director shall:

3 (1) administer the Fund;

4 (2) develop plans, prepare and submit proposals to the Governor for
5 Fund use, and undertake any action that is necessary to obtain for the Fund all energy
6 overcharge refunds and judgment awards to which the citizens of the State have a
7 legal entitlement;

8 (3) assess and determine the respective needs of the citizens of the
9 State and develop recommendations for the allocation and disbursement of funds in
10 accordance with those needs pursuant to the provisions of subsection (f) of this section;

11 (4) conduct public hearings at least twice a year at times and places
12 the Director or the designee of the Director determines; and

13 (5) perform other duties as may be assigned by the Governor.

14 (f) (1) The Fund shall be expended subject to any restrictions on its use or
15 other limitations on its allocation that are:

16 (i) expressly provided by statute; or

17 (ii) required as a condition of the acceptance of funds.

18 (2) The Fund shall be expended:

19 (i) for emergency energy assistance provided under § 6–307(a)
20 of the Human Services Article;

21 (ii) for energy assistance programs provided under § 6–307(b) of
22 the Human Services Article;

23 (iii) for energy assistance and weatherization programs provided
24 under § 4–211(c) of the Housing and Community Development Article and Title 9,
25 Subtitle 20 of the State Government Article;

26 (iv) for energy extension service and low income home energy
27 programs provided under 42 U.S.C. §§ 7001 through 7011 and 8621 through 8629;

28 (v) for other energy assistance or weatherization programs
29 meeting the federal restitutive objectives governing the distribution of overcharge
30 refunds to the states;

31 (vi) for any other program within the definition of “energy
32 conservation programs” as provided by Pub. L. No. 97–377, 96 Stat. 1830, § 155 (1982)

1 and subsequent amendments, including the State Energy Efficiency Programs
2 Improvement Act of 1990, Pub. Law No. 101-440;

3 (vii) for energy efficiency and economic development loans
4 provided under Title 9, Subtitle 20A of the State Government Article;

5 **(VIII) FOR RENEWABLE ENERGY INFRASTRUCTURE LOANS**
6 **PROVIDED UNDER TITLE 9, SUBTITLE 20B OF THE STATE GOVERNMENT**
7 **ARTICLE;**

8 [(viii)] **(IX)** for community energy loans provided under Title 9,
9 Subtitle 21 of the State Government Article; or

10 [(ix)] **(X)** for any other purpose required as a condition of their
11 acceptance.

12 (3) In addition to the provisions of paragraph (2) of this subsection,
13 priority shall be given to the energy assistance and weatherization programs.

14 (4) Disbursements from the Fund to programs funded by the State or
15 with federal funds administered by the State shall be used solely to supplement, and
16 not to supplant, funds otherwise available for such programs under federal or State
17 law.

18 **Article - State Government**

19 **SUBTITLE 20B. RENEWABLE ENERGY INFRASTRUCTURE LOAN PROGRAM.**

20 **9-20B-01.**

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY**
24 **ADMINISTRATION.**

25 **(C) "FUND" MEANS THE RENEWABLE ENERGY INFRASTRUCTURE**
26 **FUND.**

27 **(D) "LOCAL GOVERNMENTAL ENTITY" INCLUDES:**

28 **(1) A COUNTY;**

29 **(2) A MUNICIPAL CORPORATION;**

1 (3) A SPECIAL DISTRICT THAT IS ESTABLISHED BY STATE LAW
2 AND THAT OPERATES WITHIN A SINGLE COUNTY;

3 (4) A SPECIAL DISTRICT THAT IS ESTABLISHED BY A COUNTY
4 UNDER PUBLIC GENERAL LAW;

5 (5) AN OFFICE, BOARD, OR DEPARTMENT THAT IS ESTABLISHED
6 IN A COUNTY UNDER STATE LAW AND THAT IS FUNDED, UNDER STATE LAW, AT
7 LEAST IN PART BY THE COUNTY GOVERNING BODY; AND

8 (6) A SCHOOL SYSTEM.

9 (E) “PROGRAM” MEANS THE RENEWABLE ENERGY INFRASTRUCTURE
10 LOAN PROGRAM.

11 (F) “PROJECT” INCLUDES:

12 (1) A SELF-SUSTAINING EMERGENCY ENERGY UNIT;

13 (2) METHANE REMOVAL IMPLEMENTATION AT LANDFILLS; AND

14 (3) OTHER RENEWABLE ENERGY PROJECTS AS APPROVED BY THE
15 ADMINISTRATION.

16 (G) “RENEWABLE ENERGY RESOURCE” HAS THE MEANING STATED IN §
17 1-101(AA) OF THE PUBLIC UTILITY COMPANIES ARTICLE.

18 **9-20B-02.**

19 THERE IS A RENEWABLE ENERGY INFRASTRUCTURE LOAN PROGRAM IN
20 THE MARYLAND ENERGY ADMINISTRATION.

21 **9-20B-03.**

22 THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE
23 IN THE FORM OF LOANS TO LOCAL GOVERNMENTAL ENTITIES TO PROMOTE:

24 (1) THE DEVELOPMENT AND USE OF RENEWABLE ENERGY
25 RESOURCES IN THE STATE;

26 (2) SELF-SUSTAINING BUILDINGS AND EMERGENCY GENERATING
27 UNITS THAT USE RENEWABLE ENERGY RESOURCES; AND

1 (3) THE INFRASTRUCTURE FOR RENEWABLE ENERGY
2 GENERATION IN THE STATE.

3 **9-20B-04.**

4 **THE ADMINISTRATION SHALL:**

5 (1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;

6 (2) CONSULT WITH THE DEPARTMENT OF THE ENVIRONMENT
7 AND THE PUBLIC SERVICE COMMISSION TO DEVELOP METHODS TO OVERSEE
8 AND PROMOTE RENEWABLE ENERGY INFRASTRUCTURE PROJECTS;

9 (3) ADOPT REGULATIONS TO ENSURE THAT LOANS ARE PROVIDED
10 ONLY TO PROJECTS THAT CARRY OUT THE PURPOSES OF THE PROGRAM;

11 (4) ATTACH SPECIFIC TERMS TO ANY LOAN THAT IT CONSIDERS
12 NECESSARY TO ENSURE THAT THE PURPOSES OF THE PROGRAM ARE
13 FULFILLED; AND

14 (5) DEVELOP AN OUTREACH CAMPAIGN TO:

15 (I) INFORM SCHOOLS AND OTHER LOCAL GOVERNMENT
16 AGENCIES ABOUT THE PROGRAM; AND

17 (II) ENCOURAGE LOCAL GOVERNMENTAL ENTITIES TO
18 PARTICIPATE IN THE PROGRAM.

19 **9-20B-05.**

20 (A) IN ORDER TO FINANCE RENEWABLE ENERGY INFRASTRUCTURE
21 PROJECTS THE ADMINISTRATION MAY:

22 (1) MAKE, PURCHASE, AND PARTICIPATE IN MAKING LOANS;

23 (2) PURCHASE LOCAL OBLIGATIONS ISSUED TO FINANCE
24 INFRASTRUCTURE PROJECTS; AND

25 (3) PROVIDE ANY OTHER FORM OF FINANCIAL ASSISTANCE
26 OTHER THAN GRANTS.

27 (B) ALL TRANSACTIONS UNDER SUBSECTION (A) OF THIS SECTION
28 SHALL BE EVIDENCED BY INSTRUMENTS CONTAINING THE TERMS AND

1 CONDITIONS NECESSARY TO SECURE PAYMENT OF ALL OBLIGATIONS AND
2 CHARGES DUE THE ADMINISTRATION.

3 (C) A LOAN FROM THE PROGRAM MAY BE GRANTED AT A
4 BELOW-MARKET INTEREST RATE.

5 (D) A LOAN UNDER THE PROGRAM MAY BE GRANTED ONLY TO A LOCAL
6 GOVERNMENTAL ENTITY FOR THE PURPOSES ESTABLISHED UNDER THIS
7 SUBTITLE.

8 (E) (1) A LOAN UNDER THE PROGRAM MAY BE DEPOSITED INTO A
9 REVOLVING LOAN FUND OF A COUNTY'S ECONOMIC DEVELOPMENT COMMISSION
10 IF THE COUNTY APPROVES THE TRANSACTION AND PROJECT FOR THE LOCAL
11 GOVERNMENTAL ENTITY.

12 (2) IF A COUNTY ACCEPTS A LOAN UNDER PARAGRAPH (1) OF
13 THIS SUBSECTION, THE FUNDS DEPOSITED FROM THE PROGRAM MAY BE USED
14 ONLY FOR PURPOSES OF PROVIDING CAPITAL FOR RENEWABLE ENERGY
15 INFRASTRUCTURE PROJECTS UNDER THIS SUBTITLE.

16 (F) SUBJECT TO AN AGREEMENT WITH HOLDERS OF ITS BONDS, NOTES,
17 OR OTHER OBLIGATIONS, THE ADMINISTRATION MAY CONSENT TO A
18 MODIFICATION OF A LOAN, LOCAL OBLIGATION, COMMITMENT, INSTRUMENT,
19 OR AGREEMENT THAT THE ADMINISTRATION HOLDS, OR TO WHICH IT IS A
20 PARTY, AS TO:

21 (1) INTEREST RATE;

22 (2) TIME OF PAYMENT OF ANY INSTALLMENT OF PRINCIPAL OR
23 INTEREST;

24 (3) SECURITY; OR

25 (4) ANY OTHER TERM.

26 (G) (1) IN CONNECTION WITH ANY SECURITY THAT IT RECEIVES OR
27 OWNS, INCLUDING A LOCAL OBLIGATION, THE ADMINISTRATION MAY:

28 (I) SUE TO PROTECT OR ENFORCE ITS RIGHTS UNDER ANY
29 LAW OR AGREEMENT; OR

30 (II) ACQUIRE OR TAKE POSSESSION OF THE SECURITY.

1 **(2) IF THE ADMINISTRATION BEGINS AN ACTION UNDER**
2 **PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION MAY:**

3 **(I) ADMINISTER THE SECURITY;**

4 **(II) PAY THE PRINCIPAL AND INTEREST ON ANY**
5 **OBLIGATION INCURRED IN CONNECTION WITH THE SECURITY;**

6 **(III) DISPOSE OF THE SECURITY; AND**

7 **(IV) OTHERWISE HANDLE THE SECURITY SO AS TO PROTECT**
8 **THE ADMINISTRATION'S INTERESTS.**

9 **(H) TO THE EXTENT REQUIRED BY REGULATIONS ADOPTED BY THE**
10 **ADMINISTRATION AND APPROVED BY THE BOARD OF PUBLIC WORKS, THE**
11 **ADMINISTRATION SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS FOR**
12 **APPROVAL A PROPOSED LOAN OR EXPENDITURE FROM THE FUND THAT WILL**
13 **BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS.**

14 **9-20B-06.**

15 **(A) THERE IS A RENEWABLE ENERGY INFRASTRUCTURE FUND.**

16 **(B) THE ADMINISTRATION SHALL ADMINISTER THE FUND.**

17 **(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
18 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

19 **(2) THE STATE TREASURER SHALL HOLD THE FUND AND THE**
20 **COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

21 **(3) MONEY IN THE FUND MAY NOT REVERT OR BE TRANSFERRED**
22 **TO THE GENERAL FUND OF THE STATE.**

23 **(D) THE FUND CONSISTS OF:**

24 **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
25 **PROGRAM, INCLUDING MONEY APPROPRIATED TO THE ENERGY OVERCHARGE**
26 **RESTITUTION FUND;**

27 **(2) ANY OTHER MONEY FROM ANY OTHER PUBLIC OR PRIVATE**
28 **SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND;**

29 **(3) INTEREST AND INVESTMENT EARNINGS OF THE FUND;**

1 (4) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND
2 INTEREST ON LOANS MADE FROM THE FUND; AND

3 (5) MONEY RECEIVED FROM THE SALE OF STATE GENERAL
4 OBLIGATION BONDS.

5 (E) THE FUND MAY BE USED ONLY TO:

6 (1) PAY THE EXPENSES OF THE PROGRAM; AND

7 (2) PROVIDE LOANS FOR ELIGIBLE PROJECTS UNDER THE
8 PROGRAM.

9 (F) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE
10 FUND IN THE SAME MANNER THAT OTHER STATE MONEY MAY BE INVESTED.

11 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID
12 INTO THE FUND.

13 (3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS
14 MADE FROM THE FUND SHALL BE PAID INTO THE FUND.

15 **9-20B-07.**

16 (A) A PROJECT IMPLEMENTED BY A LOCAL GOVERNMENTAL ENTITY
17 UNDER THE PROGRAM, SUCH AS A SELF-SUSTAINING EMERGENCY GENERATING
18 UNIT, THAT GENERATES ELECTRICITY IN EXCESS OF THE AMOUNT NEEDED FOR
19 SUSTAINING THE UNIT, MAY OFFER THE EXTRA ELECTRICITY FOR TRADE
20 THROUGH MARKETS OPERATED BY PJM INTERCONNECTION, LLC.

21 (B) A LOCAL GOVERNMENTAL ENTITY THAT TRADES ELECTRICITY
22 UNDER SUBSECTION (A) OF THIS SECTION SHALL USE THE PROCEEDS TO REPAY
23 LOAN OBLIGATIONS ACQUIRED UNDER THIS SUBTITLE.

24 **9-20B-08.**

25 (A) ON OR BEFORE JULY 1, 2009, THE ADMINISTRATION SHALL ADOPT
26 REGULATIONS TO IMPLEMENT THIS SUBTITLE.

27 (B) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE ADMINISTRATION
28 SHALL REVIEW AND REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §
29 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON

1 **THE AMOUNT OF RENEWABLE ENERGY GENERATED IN THE STATE FROM THE**
2 **PROJECTS IMPLEMENTED UNDER THIS SUBTITLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2008.