

HOUSE BILL 1076

M4, C5, P1

4r1952
CF SB 521

By: **Delegates Conway, Arentz, Cane, Eckardt, Haddaway-Riccio, Otto, Proctor, Rudolph, and Smigiel**

Introduced and read first time: February 6, 2014

Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Agriculture – Poultry Litter – Energy-Generating Cooperative Program

FOR the purpose of establishing a Poultry Litter Energy-Generating Cooperative Program; prohibiting the rates and structure of the Program from being used for distributed generation from other sources of energy; requiring the State Department of Agriculture to consult with the Energy-Generating Cooperative Advisory Committee on the administration of the Program; providing for the credit structure for the energy generated from an energy-generating cooperative; providing for the allocation of unsubscribed energy; requiring an energy-generating cooperative to pay a certain infrastructure use and distribution rate to an electric company; authorizing a cooperative organization to contract with a third party for certain purposes; prohibiting the Department, the Public Service Commission, and an electric company from changing the terms of a contract entered into under this Act; establishing the Energy-Generating Cooperative Advisory Committee; providing for the membership, staffing, duties, meetings, and structure of the Committee; prohibiting members of the Committee from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Committee to assist the Department with the development and implementation of the Program; requiring the Committee to create two subcommittees and specifying the duties of each subcommittee; requiring the Committee to make a certain report to the Department; requiring the Department, in coordination with the Maryland Energy Administration, to make a certain report to the General Assembly on or before a certain date; providing for the regulation of electricity from a certain source in a certain manner; requiring the Administration to meet certain requirements of this Act; defining certain terms; stating certain findings of the General Assembly; and generally relating to energy-generating cooperatives.

BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Agriculture

Section 10–2001 through 10–2009 to be under the new subtitle “Subtitle 20.
Poultry Litter”

Annotated Code of Maryland

(2007 Replacement Volume and 2013 Supplement)

BY adding to

Article – Public Utilities

Section 7–306.1

Annotated Code of Maryland

(2010 Replacement Volume and 2013 Supplement)

BY adding to

Article – State Government

Section 9–2009

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

Preamble

WHEREAS, The State of Maryland produces nearly 500,000 tons of poultry litter every year; and

WHEREAS, Poultry litter has nearly equivalent levels of phosphorus and nitrogen, but many crops require significantly less phosphorus than nitrogen, and application of poultry litter may result in phosphorus–saturated soils; and

WHEREAS, High levels of phosphorus in the Chesapeake Bay lead to algae blooms, oxygen–deprived environments, poor water quality, degraded habitats, and low populations of many species of fish and shellfish; and

WHEREAS, In order to meet the Environmental Protection Agency’s Chesapeake Bay Total Maximum Daily Load, the State of Maryland must reduce phosphorus loads to the Chesapeake Bay by 14.9% below 2010 levels by 2025; and

WHEREAS, Poultry litter is a beneficial resource that can be used to generate clean energy, helping the State achieve its renewable energy portfolio standard; and

WHEREAS, Utilizing poultry litter as an energy source will reduce the overall cost of energy for farmers who raise poultry; now, therefore,

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

Article – Agriculture

SUBTITLE 20. POULTRY LITTER.

10-2001.

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

(B) “COMMISSION” MEANS THE PUBLIC SERVICE COMMISSION.

(C) “COMMITTEE” MEANS THE ENERGY-GENERATING COOPERATIVE ADVISORY COMMITTEE.

(D) “COOPERATIVE MEMBER” MEANS A RETAIL CUSTOMER OF AN ENERGY-GENERATING COOPERATIVE WHO:

(1) OWNS A SUBSCRIPTION TO THE COOPERATIVE;

(2) HAS A RESIDENCE OR PLACE OF BUSINESS THAT IS LOCATED IN THE SAME ELECTRIC COMPANY SERVICE TERRITORY AS THE COOPERATIVE CUSTOMER’S ORGANIZATION; AND

(3) HAS IDENTIFIED ONE OR MORE INDIVIDUAL METERS OR ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE ATTRIBUTED.

(E) (1) “COOPERATIVE ORGANIZATION” MEANS AN ORGANIZATION WHOSE SOLE PURPOSE IS TO BENEFICIALLY OWN OR OPERATE AN ENERGY-GENERATING COOPERATIVE FOR A COOPERATIVE MEMBER.

(2) “COOPERATIVE ORGANIZATION” MAY BE ANY FOR-PROFIT OR NONPROFIT ENTITY ORGANIZED UNDER STATE LAW.

(F) (1) “ENERGY-GENERATING COOPERATIVE” MEANS A RENEWABLE ENERGY FACILITY THAT:

(I) GENERATES ELECTRICITY FROM THE ANAEROBIC DECOMPOSITION OF POULTRY LITTER;

(II) CREDITS ITS GENERATED ELECTRICITY TO ITS COOPERATIVE MEMBERS;

(III) IS LOCATED IN THE SAME ELECTRIC COMPANY SERVICE TERRITORY AS ITS COOPERATIVE MEMBERS;

(IV) HAS AT LEAST TWO COOPERATIVE MEMBERS;

(V) DOES NOT UTILIZE MORE THAN 20,000 TONS OF POULTRY LITTER IN A SINGLE YEAR; AND

(VI) MAY BE OWNED BY ANY PERSON, INCLUDING A PUBLIC SERVICE COMPANY OR A COOPERATIVE ORGANIZATION.

(2) “ENERGY-GENERATING COOPERATIVE” DOES NOT INCLUDE A RENEWABLE ENERGY FACILITY THAT BURNS POULTRY LITTER TO GENERATE ENERGY.

(G) “PROGRAM” MEANS THE POULTRY LITTER ENERGY-GENERATING COOPERATIVE PROGRAM.

(H) “POULTRY LITTER” MEANS THE FECAL AND URINARY EXCRETIONS OF POULTRY, INCLUDING WOOD SHAVINGS, SAWDUST, STRAW, RICE HULLS, AND OTHER BEDDING MATERIAL FOR THE DISPOSITION OF MANURE.

(I) “SUBSCRIPTION” MEANS AN INTEREST IN AN ENERGY-GENERATING COOPERATIVE.

10-2002.

THE GENERAL ASSEMBLY FINDS THAT ENERGY-GENERATING COOPERATIVES THAT USE POULTRY LITTER AS AN ENERGY SOURCE ALLOW RESIDENTS AND BUSINESSES INCREASED ACCESS TO RENEWABLE ELECTRICITY WHILE ENCOURAGING PRIVATE INVESTMENT IN RENEWABLE RESOURCES, STIMULATING IN-STATE ECONOMIC GROWTH, ENHANCING CONTINUED DIVERSIFICATION OF THE STATE’S ENERGY RESOURCE MIX, AND PROTECTING THE CHESAPEAKE BAY BY REDUCING THE NUTRIENT LOAD ENTERING THE BAY.

10-2003.

DUE TO THE NATURE AND COMPLEXITY OF ANAEROBIC DECOMPOSITION OF POULTRY LITTER, THE RATES AND STRUCTURE OF THE PROGRAM ESTABLISHED IN THIS SECTION MAY NOT BE USED FOR DISTRIBUTED GENERATION FROM OTHER SOURCES OF ENERGY.

10-2004.

(A) THERE IS A PROGRAM ON ENERGY-GENERATING COOPERATIVES ADMINISTERED BY THE DEPARTMENT.

(B) THE DEPARTMENT SHALL CONSULT WITH THE COMMITTEE ON THE ADMINISTRATION OF THE PROGRAM.

10-2005.

(A) THE COOPERATIVE ORGANIZATION SHALL NOTIFY THE ELECTRIC COMPANY OF THE CREDIT AMOUNT TO BE POSTED ON EACH COOPERATIVE MEMBER'S BILL.

(B) AN ELECTRIC COMPANY SHALL CREDIT KILOWATT-HOURS TO A COOPERATIVE MEMBER ON A MONTHLY BASIS FOR THE COOPERATIVE MEMBER'S PORTION OF THE ENERGY-GENERATING COOPERATIVE.

(C) IF ELECTRICITY GENERATED BY THE ENERGY-GENERATING COOPERATIVE IS NOT FULLY ALLOCATED TO COOPERATIVE MEMBERS, THE ELECTRIC COMPANY SHALL RECEIVE THE REMAINING UNSUBSCRIBED ENERGY AT NO COST.

10-2006.

(A) THE ENERGY-GENERATING COOPERATIVE SHALL PAY AN INFRASTRUCTURE USE AND DISTRIBUTION RATE TO THE ELECTRIC COMPANY.

(B) THE INFRASTRUCTURE USE AND DISTRIBUTION RATE PAID BY THE ENERGY-GENERATING COOPERATIVE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE 25% OF THE DISTRIBUTION RATE NORMALLY CHARGED BY THE ELECTRIC COMPANY TO A CUSTOMER OF THE SAME CLASS AS THE SUBSCRIBER.

10-2007.

(A) A COOPERATIVE ORGANIZATION MAY CONTRACT WITH A THIRD PARTY FOR THE THIRD PARTY TO FINANCE, BUILD, OWN, OR OPERATE AN ENERGY-GENERATING COOPERATIVE.

(B) THE DEPARTMENT, THE COMMISSION, AND THE ELECTRIC COMPANY MAY NOT CHANGE THE TERMS OF THE CONTRACT.

10-2008.

(A) THERE IS AN ENERGY-GENERATING COOPERATIVE ADVISORY COMMITTEE.

(B) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

(4) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE;

(5) THE CHAIR OF THE PUBLIC SERVICE COMMISSION, OR THE CHAIR'S DESIGNEE; AND

(6) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF THE ELECTRIC UTILITY INDUSTRY;

(II) ONE REPRESENTATIVE OF THE POULTRY INDUSTRY;

(III) ONE POULTRY FARMER; AND

(IV) ONE REPRESENTATIVE OF THE ENVIRONMENTAL COMMUNITY.

(C) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, AND THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE, SHALL COCHAIR THE COMMITTEE.

(D) THE STATE UNITS REPRESENTED ON THE COMMITTEE SHALL PROVIDE STAFF FOR THE COMMITTEE.

(E) A MEMBER OF THE COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE COMMITTEE SHALL:

(1) ASSIST THE DEPARTMENT WITH THE DEVELOPMENT AND IMPLEMENTATION OF THE PROGRAM;

(2) CREATE A SUBCOMMITTEE ON ENVIRONMENT AND A SUBCOMMITTEE ON ENERGY FROM AMONG MEMBERS OF THE COMMITTEE;

(3) REPORT TO THE DEPARTMENT ON THE SUBCOMMITTEES' RECOMMENDATIONS UNDER SUBSECTION (G) OF THIS SECTION IN ORDER TO ASSIST THE DEPARTMENT WITH THE REPORT REQUIRED UNDER § 10-2009 OF THIS SUBTITLE; AND

(4) MEET AT LEAST ONCE EACH YEAR TO EVALUATE THE PERFORMANCE OF THE PROGRAM AND MAKE RECOMMENDATIONS FOR IMPROVEMENTS TO THE PROGRAM.

(G) (1) THE SUBCOMMITTEE ON ENVIRONMENT ESTABLISHED UNDER SUBSECTION (F)(2) OF THIS SECTION SHALL EVALUATE AND MAKE RECOMMENDATIONS TO THE COMMITTEE ON:

(I) THE MOST EFFICIENT, COST-EFFECTIVE, AND ENVIRONMENTALLY SOUND METHODS FOR UTILIZING POULTRY LITTER;

(II) WHETHER ANAEROBIC DECOMPOSITION OF POULTRY LITTER IS AN APPROPRIATE METHOD TO REDUCE THE STATE'S NUTRIENT LOAD TO THE CHESAPEAKE BAY;

(III) THE POTENTIAL FOR REDUCED AIR EMISSIONS FROM ANAEROBIC DECOMPOSITION OF POULTRY LITTER; AND

(IV) ANY OTHER ISSUE THE COMMITTEE DETERMINES IS NECESSARY.

(2) THE SUBCOMMITTEE ON ENERGY ESTABLISHED UNDER SUBSECTION (F)(2) OF THIS SECTION SHALL EVALUATE AND MAKE RECOMMENDATIONS TO THE COMMITTEE ON:

(I) A TARIFF STRUCTURE FOR POULTRY LITTER ENERGY-GENERATING COOPERATIVES THAT ALLOWS AN ELECTRIC COMPANY TO RECOVER FOR DISTRIBUTION COSTS AND ADMINISTRATIVE COSTS WHILE ENCOURAGING POULTRY LITTER ENERGY-GENERATING COOPERATIVES BY CONSIDERING:

- LOSSES;
- DEFERRALS;
- REACTIVE SUPPORT;
1. AVOIDED TRANSMISSION AND DISTRIBUTION LINE
 2. TRANSMISSION AND DISTRIBUTION UPGRADE
 3. AVOIDED INTERCONNECTION COSTS;
 4. ANCILLARY SERVICES AND VOLT-AMPERE
 5. REDUCED LAND COSTS;
 6. DEMAND CHARGE MANAGEMENT; AND
 7. ELECTRIC SERVICE RELIABILITY;

(II) A CREDIT MECHANISM TO OPERATE THE ENERGY-GENERATING COOPERATIVE AT LEAST COST;

(III) WHETHER AN ENERGY-GENERATING COOPERATIVE AND ITS COOPERATIVE MEMBERS SHOULD BE COMPENSATED FOR AVOIDED TRANSMISSION AND DISTRIBUTION COSTS;

(IV) THE SIZE AND NUMBER OF ENERGY-GENERATING COOPERATIVES THAT THE STATE CAN SUPPORT; AND

(V) ANY OTHER ISSUE THAT THE COMMITTEE DETERMINES IS NECESSARY.

10-2009.

ON OR BEFORE DECEMBER 31, 2015, THE DEPARTMENT, IN COORDINATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) A TARIFF STRUCTURE THAT ENCOURAGES POULTRY LITTER ENERGY-GENERATING COOPERATIVES AND ALLOWS AN ELECTRIC COMPANY TO RECOVER FOR DISTRIBUTION COSTS;

(2) AN APPROPRIATE CREDIT MECHANISM THAT ALLOWS THE ENERGY-GENERATING COOPERATIVE TO BE OPERATED AT LEAST COST;

(3) WHETHER AN ENERGY-GENERATING COOPERATIVE AND ITS COOPERATIVE MEMBERS SHOULD BE COMPENSATED FOR AVOIDED TRANSMISSION AND DISTRIBUTION COSTS;

(4) THE AMOUNT AND TYPE OF NECESSARY OVERSIGHT;

(5) THE SIZE AND NUMBER OF ENERGY-GENERATING COOPERATIVES THAT THE STATE CAN SUPPORT; AND

(6) THE MOST EFFICIENT, COST-EFFECTIVE, AND ENVIRONMENTALLY SOUND METHODS FOR UTILIZING POULTRY LITTER.

Article – Public Utilities

7-306.1.

THE REGULATION OF ELECTRICITY GENERATED BY ENERGY-GENERATING COOPERATIVES AS DEFINED IN § 10-2001 OF THE AGRICULTURE ARTICLE SHALL BE GOVERNED UNDER TITLE 10, SUBTITLE 20 OF THE AGRICULTURE ARTICLE.

Article – State Government

9-2009.

THE ADMINISTRATION SHALL COMPLY WITH THE REQUIREMENTS THAT APPLY TO IT UNDER TITLE 10, SUBTITLE 20 OF THE AGRICULTURE ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2014.