

**Department of Legislative Services**  
 Maryland General Assembly  
 2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1070  
 Ways and Means

(Delegate M. Washington, *et al.*)

**Income Tax Credit - Renewable Energy Property**

This bill allows an individual or corporation to claim a State income tax credit for the qualified costs to construct or purchase renewable energy property for residential or commercial use. Subject to specified maximum amounts, the value of the credit is equal to 35% of the costs and increases to 50% if the property is located within a rural area, on a brownfields site, or within certain low-income communities. The Maryland Energy Administration (MEA) must administer the program and may award a maximum of \$150 million in tax credits from January 1, 2017, to December 31, 2021.

The bill takes effect July 1, 2016, and applies to tax year 2018 and beyond.

**Fiscal Summary**

**State Effect:** General fund revenues decrease by \$11.8 million in FY 2019 as a result of credits being claimed against the corporate and personal income tax. Transportation Trust Fund (TTF) revenues decrease by \$1.3 million and Higher Education Investment Fund (HEIF) revenues decrease by \$0.6 million in FY 2019. Future year revenue estimates reflect projected credit claims and credit carry forwards from previous years. Administrative costs increase by \$0.4 million in FY 2017 and by \$0.5 million in FY 2021.

(\$ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	\$0	\$0	(\$11.8)	(\$19.1)	(\$26.5)
SF Revenue	\$0	\$0	(\$1.9)	(\$3.8)	(\$5.7)
GF Expenditure	\$0.4	\$0.5	\$0.5	\$0.5	\$0.5
Net Effect	(\$0.4)	(\$0.5)	(\$14.2)	(\$23.5)	(\$32.7)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local highway user revenues distributed from the corporate income tax decrease by about \$129,300 in FY 2019 and by \$387,800 in FY 2021. Local expenditures are not affected.

**Small Business Effect:** Potential meaningful. Small businesses that purchase, produce, or invest in renewable energy property will be positively impacted.

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## Analysis

**Bill Summary:** Renewable energy property must meet the requirements of Section 48(A)(3) of the Internal Revenue Code (IRC) and includes solar, geothermal, fuel cell, microturbine, combined heat and power system property, and qualified small wind energy property. The amount of the credit is equal to 35% of the qualified costs to construct or purchase renewable energy property that is placed in service in the State. The percentage value of the credit is increased to 50% if the property is located in:

- a census tract that has a poverty rate of at least 20%;
- a census tract with a median household income that does not exceed 80% of the statewide average or, if it is located within a Metropolitan Statistical Area (MSA), no more than 80% of the greater of the MSA or statewide average;
- an area defined as a rural area by the U.S. Census Bureau; or
- a brownfields site.

The value of the credit may not exceed, for each installation of renewable energy property, \$10,500 for residential use or \$5.0 million for business use. Business use includes the sale of electricity or consuming the electricity on site for any nonresidential purpose. MEA can award a total of \$125 million in business tax credits and \$25 million in residential tax credits. Individuals and businesses seeking the tax credit must apply to MEA and submit specified information. The tax credit can be claimed beginning with the first taxable year after the renewable energy property is placed in service. The credit is ratable over four tax years for a business claiming the credit. If the value of the credit exceeds the tax liability imposed in the year, the amount of the excess can be carried forward to five tax years.

MEA must certify the value of the credit and approve tax credit applications on a first-come, first-served basis. MEA may adopt regulations to implement the bill.

The bill allows, subject to specified requirements, the credit to be transferable and for the credit to be claimed by a lessee of renewable energy property. The Comptroller is required to recapture the credit if the renewable energy property is taken out of service or moved out of State, beginning within a specified period.

**Current Law/Background:** Numerous federal, State, and local provisions provide renewable energy incentives, two of which are discussed below.

#### *Federal Renewable Energy Property Credit*

The federal energy investment tax credit program, authorized under Section 48 of the IRC, encourages the use of renewable energy. The credit is generally equal to 30% of the qualified costs of renewable energy property. Solar energy property has comprised about 90% of the qualified renewable energy property costs claimed as a credit.

#### *Renewable Energy Portfolio Standard*

Maryland's Renewable Energy Portfolio Standard (RPS) was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. Maryland's RPS operates on a two-tiered system with carve-outs for solar energy and offshore wind energy and corresponding renewable energy credits (RECs) for each tier. Electric companies (utilities) and other electricity suppliers must submit RECs equal to a percentage specified in statute each year or else pay an alternative compliance payment equivalent to their shortfall. In 2016, the requirements are 12.7% for Tier 1 renewable sources, including at least 0.7% from solar energy sources, and 2.5% from Tier 2 renewable sources. The percentage requirements gradually increase to a minimum of 20%, including 2% from solar energy sources, by 2022.

**State Revenues:** MEA may award a total of \$150.0 million in credits beginning in calendar 2017. Tax credits may be claimed in the first taxable year after the year in which the qualified property is placed in service. As a result, general fund revenues will decrease by \$11.8 million in fiscal 2019. TTF revenues will decrease by \$1.3 million and HEIF revenues will decrease by \$553,700 in fiscal 2019.

This estimate is based on the following facts and assumptions:

- the U.S. Joint Committee on Taxation estimates that about \$1.8 billion in federal tax credits for renewable energy property will be claimed annually over the next several years;
- the projected amount of federal credits is shared to Maryland and increased to reflect the combined federal and proposed State credit of up to 80%;
- about 90% of the federal credits are claimed against the corporate income tax; and
- individuals claim the tax credit in the first year following the year the property is placed in service while businesses claim the credit over the following four years.

**Exhibit 1** shows the estimated impact on State and local revenues from fiscal 2019 through 2023.

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**Exhibit 1**  
**State and Local Revenue Impacts**  
**Fiscal 2019-2023**  
**(\$ in Millions)**

	<u><b>FY 2019</b></u>	<u><b>FY 2020</b></u>	<u><b>FY 2021</b></u>	<u><b>FY 2022</b></u>	<u><b>FY 2023</b></u>
General Fund	(\$11.8)	(\$19.1)	(\$26.5)	(\$29.3)	(\$22.0)
HEIF	(0.6)	(1.1)	(1.7)	(1.9)	(1.3)
TTF	(1.3)	(2.7)	(4.0)	(4.6)	(3.2)
<i>MDOT</i>	<i>(1.2)</i>	<i>(2.4)</i>	<i>(3.7)</i>	<i>(4.1)</i>	<i>(2.9)</i>
<i>LHUR</i>	<i>(0.1)</i>	<i>(0.3)</i>	<i>(0.4)</i>	<i>(0.4)</i>	<i>(0.3)</i>
<b>Total Revenues</b>	<b>(\$13.7)</b>	<b>(\$22.9)</b>	<b>(\$32.2)</b>	<b>(\$35.7)</b>	<b>(\$26.5)</b>

HEIF: Higher Education Investment Fund  
TTF: Transportation Trust Fund  
MDOT: Maryland Department of Transportation  
LHUR: local highway user revenues

Note: Totals may not sum due to rounding.

Source: Department of Legislative Services

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Based on the requirements specified by the bill and U.S. Census Bureau estimates for 2014, about 2.0 million Maryland residents live within an area that meets the low-income area requirement, 714,000 live in a high-poverty area, and 739,200 live in a rural area. Taking into account the overlap between the areas, about 2.6 million individuals, or 45% of Maryland’s total population, live within an area that meets one of the requirements to qualify for the enhanced credit of 50%. These areas comprise about one-half of Maryland’s total land area, plus an additional amount for brownfields sites. MEA advises that most planned renewable energy facilities will likely be built within areas that qualify for the enhanced credit.

**State Expenditures:** General fund expenditures increase by \$362,000 in fiscal 2017 due to implementation costs at MEA and the Comptroller’s Office, as described below.

MEA reports that it will need one administrator and two tax administrators to implement and administer the program and will incur contracting expenses to certify eligible

properties. General fund expenditures will increase by an estimated \$330,000 in fiscal 2017, which reflects a three-month start-up period before credits can be awarded beginning on January 1, 2017, and six months of contracting expenditures. This estimate includes salaries, fringe benefits, and ongoing operating expenses.

The Comptroller's Office reports that it will incur a one-time expenditure increase of \$32,000 in fiscal 2017 to add the credit to the personal and corporate income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

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Salary and Fringe Benefits	\$215,600
Operating Expenses	<u>114,400</u>
<b>MEA Expenditures</b>	<b>\$330,000</b>
<b>Comptroller Expenditures</b>	<b><u>32,000</u></b>
<b>Total FY 2017 Expenditures</b>	<b>\$362,000</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

**Local Revenues:** Local highway user revenues will decrease by \$129,300 in fiscal 2019 and by \$308,500 in fiscal 2023, as shown in Exhibit 1.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 809 (Senator Madaleno, *et al.*) - Budget and Taxation.

**Information Source(s):** U.S. Census Bureau, Comptroller's Office, U.S. Joint Committee on Taxation, Maryland Energy Administration, Department of Legislative Services

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