

Department of Legislative Services  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 282

(Senator Middleton)

Finance

Rules and Executive Nominations

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**Renewable Energy – Tiers 1 and 2 Sources – Modifications and Compliance Fee**

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This bill removes waste-to-energy as an eligible “Tier 1” source for the purposes of the State’s Renewable Energy Portfolio Standard (RPS) and extends “Tier 2” of the RPS by two years, through 2020. The bill also reduces the Tier 2 alternative compliance payment (ACP) from \$15 per megawatt-hour to \$0.005 per megawatt-hour and expands the applicability to industrial process load. “Tier 1” percentage requirements are unchanged, which increases the total RPS percentage requirements by 2.5% to 22.9% in 2019 and to 27.5% in 2020. The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract existing before the effective date of the bill. **The bill takes effect July 1, 2018.**

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances or operations. Maryland electricity suppliers can purchase other Tier 1 renewable energy credits (RECs) for RPS compliance.

**Local Effect:** Local revenues decrease beginning as early as FY 2019 to the extent there are no other buyers for waste-to-energy RECs or prices for waste-to-energy RECs in other states are lower. The primary effect is in Montgomery County and is potentially significant. Local expenditures are not materially affected.

**Small Business Effect:** Minimal.

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## Analysis

### Current Law/Background:

#### *Maryland's Renewable Energy Portfolio Standard*

Maryland's RPS was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. It operates on a two-tiered system with carve-outs for solar energy and offshore wind energy and corresponding 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 make an ACP equivalent to their shortfall. Chapters 1 and 2 of 2017 increased the Tier 1 percentage requirements from 20% by 2022 to 25% by 2020. The Tier 2 requirement, which is in addition to Tier 1, remains constant at 2.5% each year until ending after 2018.

Tier 1 sources include wind, geothermal, solar, and several others, including waste-to-energy. Following the transfer of several sources to Tier 1, Tier 2 includes only large hydroelectric power plants. If energy sources meet other specified requirements, they are eligible for inclusion in the State RPS in perpetuity.

The costs of compliance with Tier 2 were \$4.0 million in 2014, and \$2.6 million in 2015, and \$1.4 million in 2016, the most recent year for which data is available. In 2016, 29% of Tier 2 RECs used for compliance were generated in Maryland. The remaining RECs were generated in surrounding states – primarily Pennsylvania and North Carolina. The cost of Tier 2 compliance has a negligible effect on the price of electricity.

#### *Waste-to-Energy*

There are three waste-to-energy (municipal solid waste) facilities registered with PJM Environmental Information Services, Inc., which is the regional REC trading system used for Maryland's RPS. Two of the three are owned by local governments: one by Montgomery County (78 megawatts); and one by Harford County (1.2 megawatts). There is also a privately owned facility in Baltimore City (60 megawatts). Combined, the facilities have produced about 5% of the Tier 1 RECs used for compliance with Maryland's RPS in recent years. In addition to Maryland, all three facilities are registered in Virginia (which is a voluntary RPS), and the Montgomery County and Baltimore City facilities are registered in Pennsylvania (Tier 2). According to the annual RPS reports created by the Public Service Commission, the facilities have not sold RECs to either state in recent years.

Prices for Pennsylvania Tier 2 RECs were \$0.16 in the 2016 compliance year, while one Virginia utility estimated an average REC price of \$5.79. For comparison, Maryland Tier 1 RECs used for compliance averaged \$12.53 in 2016.

**Local Revenues:** The bill removes Maryland electricity suppliers as potential purchasers of Maryland-generated waste-to-energy RECs. This removes the historic market for such RECs, and appears to leave only Pennsylvania and Virginia as potential buyers. As noted above, both Montgomery and Harford counties own waste-to-energy systems, and the bill also affects any future systems. About 400,000 RECs from the Montgomery County facility are used annually for compliance with Maryland's RPS, and about 900 RECs from the Harford County facility are used annually for the same purpose, although the amount varies. Therefore, to the extent that other state REC prices are lower, or there are no other buyers for these RECs, local government revenues decrease, potentially significantly for Montgomery County, beginning as early fiscal 2019.

Because REC prices are volatile and it is unclear what, if any, revenue Montgomery and Harford counties may receive for their waste-to-energy RECs from other states, the net revenue loss cannot be reliably estimated at this time. *For illustrative purposes only*, assuming net revenue from the sale of each REC is \$10 less than it otherwise would have been, local revenues decrease by \$4.0 million annually for Montgomery County and by \$9,000 annually for Harford County beginning in fiscal 2019. Revenue losses could exceed this amount if Maryland's Tier 1 REC prices are higher – the practical maximum is \$37.50 per REC.

**Additional Comments:** The bill is silent on the treatment of waste-to-energy RECs produced before the effective date of the bill (RECs have a lifespan of three years). To that end, Maryland electricity suppliers currently in possession of waste-to-energy RECs for the intended purpose of future RPS compliance may be required to purchase other Tier 1 RECs instead.

While the bill *technically* extends Tier 2 for two years, the ACP of \$.005 per REC, which effectively sets the maximum price, equates to a maximum Tier 2 compliance cost of about \$7,500 (1.5 million RECs x \$.005 maximum price per REC).

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 529 (Delegate Jameson, *et al.*) - Economic Matters.

**Information Source(s):** Public Service Commission; Montgomery and Harford counties; PJM Environmental Services, Inc.; Pennsylvania Public Utility Commission; Dominion Energy Virginia; Department of Legislative Services

**Fiscal Note History:**  
md/lgc

First Reader - January 25, 2018

Revised - Clarification - February 4, 2018

Third Reader - April 7, 2018

Revised - Amendment(s) - April 7, 2018

Revised - Updated Information - April 7, 2018

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