HB 1653

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1653 (Delegate Arentz, *et al.*)
Economic Matters

Solar Electric Generating Facility Decommissioning and Restoration - Security - Fund

This bill requires the Public Service Commission (PSC) to establish a surcharge on specified commercial solar facilities located in the State to ensure that adequate funds exist to decommission the facilities and to restore the sites on which the facilities are located to their pre-operating condition. Facilities may also post a bond or other security in lieu of paying the surcharge. The Maryland Solar Electric Generating Facility Decommissioning and Restoration Fund is established in PSC to collect the associated revenues and to make disbursements for decommissioning and site restoration.

Fiscal Summary

State Effect: General fund expenditures increase by $268,400 in FY 2019 and by about $150,000 annually thereafter. Special fund expenditures increase by $66,000 in FY 2019 and by about 85,000 annually thereafter for PSC administrative costs; special fund revenues increase correspondingly. Additional significant special fund revenues from surcharges and significant expenditures for decommissioning/restoration activities are not reflected below. General fund revenues increase minimally from investment earnings.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	-	-	-	-	-
SF Revenue	$66,000	$81,900	$84,200	$87,200	$90,200
GF Expenditure	$268,400	$145,700	$150,000	$155,400	$161,000
SF Expenditure	$66,000	$81,900	$84,200	$87,200	$90,200
Net Effect	($268,400)	($145,700)	($150,000)	($155,400)	($161,000)

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

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Solar photovoltaic facilities that have the capacity to produce at least two megawatts of electricity and are designed to produce electricity for sale on the wholesale market must pay the surcharge. The surcharge, which may be established based on the output or production capacity of the facility, must be reviewed by PSC at regular intervals and may be adjusted based on that review. In lieu of a surcharge, the facility may post a bond or other security acceptable to PSC.

Revenue from the surcharges, bonds, or securities accrues to the Maryland Solar Electric Generating Facility Decommissioning and Restoration Fund. The revenue from the surcharge is collected by the Comptroller, while any bond or other security is collected by PSC. The surcharge, bond, or other security paid by a facility must be separately accounted for within the fund. Any investment earnings of the fund are credited to the fund and split evenly among facility accounts.

Disbursements from the fund for decommissioning or site restoration may be paid only from the account created for that facility. No more than 10% of the money in the fund may be used for administrative expenses related to the fund, including project review and oversight. PSC must administer the fund and must adopt related regulations.

By February 1 each year, PSC must report to the Governor and General Assembly on (1) the amounts received by and disbursed from the fund during the prior calendar year; (2) the evaluation criteria used to make disbursements from the fund; (3) the projected receipts of the fund in the current calendar year; and (4) planned uses of the fund in the current calendar year.

Current Law/Background: Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line (project) unless a certificate of public convenience and necessity (CPCN) is first obtained from PSC. "Generating station" is not defined in statute. However, the PSC definition in regulation excludes a facility with up to two megawatts of capacity if it meets other specified requirements.

The CPCN application process involves notifying specified stakeholders, public hearings, and the consideration of recommendations by State and local government entities and the project's effect on various aspects of the State infrastructure, economy, and environment. There are conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement; a common exemption applies to many solar facilities.

PSC advises that the Power Plant Research Program (PPRP) in the Department of Natural Resources includes a decommissioning plan requirement as part of the recommended conditions for a CPCN. For example, in a PSC order approving a CPCN under Case No. 9434, the applicant was required to submit a decommissioning plan to PSC and PPRP for review, which had to address the site conditions after decommissioning. Construction was prohibited until the applicant addressed all subsequent comments from PSC and PPRP. The applicant was also required to "implement a financial mechanism to ensure that decommissioning costs are not borne" by the State and/or local government. Decommissioning cost estimates were required to be determined by a third-party consultant.

As of March 2018, there were 42 solar facilities in the State with capacities of at least two megawatts. The facilities have a combined capacity of 314 megawatts. Solar installations have grown rapidly in recent years.

State Fiscal Effect:

Comptroller

General fund expenditures for the Comptroller increase by $268,439 in fiscal 2019, which reflects the bill's October 1, 2018 effective date. This estimate reflects the cost of hiring one revenue field auditor and one revenue administrator to administer and collect the surcharge. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$107,721
One-time Programming Expense	150,000
Other Operating Expenses	10,718
Total FY 2019 Comptroller Expenditures	**$268,439**

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

Public Service Commission

Special fund administrative expenditures for PSC increase by $66,016 in fiscal 2019, which reflects the bill's October 1, 2018 effective date. This estimate reflects the cost of hiring one engineer to conduct site surveys, ongoing monitoring, and post-decommissioning inspections. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$58,782
Operating Expenses	7,234
Total FY 2019 PSC Administrative Expenditures	**$66,016**

Future year administrative expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Special fund revenues increase beginning in fiscal 2019 from surcharges and/or bonds/securities. The amount cannot be reliably estimated at this time but is likely significant. PSC is authorized to use 10% of the revenue for administrative expenses associated with the bill. It is assumed that revenues are sufficient to cover PSC's above costs. To the extent this is not the case, special fund revenues increase as necessary to cover any remaining costs from assessments imposed on public service companies.

In addition to PSC's administrative costs, special fund expenditures increase significantly beginning as early as fiscal 2019 to pay for decommissioning and site restoration activities.

Although the bill indicates that investment earnings of the new special fund are credited to the fund and split evenly among facility accounts, the bill does not amend § 6-226 of the State Finance and Procurement Article to exempt the fund from existing law that requires all investment earnings and interest from special funds to accrue to the general fund. Thus, general fund revenues increase minimally from interest earned on the new special fund.

Small Business Effect: Small businesses that own or operate commercial solar facilities with capacities of at least two megawatts must pay the surcharge or post a bond or other security, which increases overall costs associated with the facilities.

Additional Comments: It is not clear how "revenue" from a posted bond or security could accrue to the Maryland Solar Electric Generating Facility Decommissioning and Restoration Fund.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Public Service Commission; Department of Legislative Services

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