

SENATE BILL 65

M5, C5

(1lr1291)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Electricity – Renewable Energy Portfolio Standard – ~~Qualifying Tier 2~~**
3 **Renewable Sources, Qualifying Biomass, and Compliance Fees**

4 FOR the purpose of altering the renewable energy portfolio standard for certain years;
5 extending the eligibility of certain Tier 2 renewable sources for purposes of the
6 renewable energy portfolio standard in certain years; altering the compliance fee for
7 a shortfall from the required percentage of energy from certain Tier 1 renewable
8 sources for the renewable energy portfolio standard in certain years; altering the
9 definition of “qualifying biomass” for purposes of excluding energy derived from
10 certain material from being eligible for meeting certain Tier 1 obligations under the
11 renewable energy portfolio standard; providing that existing obligations or contract
12 rights may not be impaired by this Act; providing for the application of this Act;
13 providing for the effective dates of this Act; making a conforming change; making
14 technical corrections; and generally relating to electricity and the renewable energy
15 portfolio standard.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, without amendments,
 2 Article – Public Utilities
 3 Section 7–701(a) ~~and~~, (s), and (t)
 4 Annotated Code of Maryland
 5 (2020 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Public Utilities
 8 Section 7–701(l) ~~and~~, 7–703(b)(16) through (25), 7–704(a), and 7–705(b)(2)
 9 Annotated Code of Maryland
 10 (2020 Replacement Volume and 2020 Supplement)

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

13 *Article – Public Utilities*

14 7–701.

15 (a) *In this subtitle the following words have the meanings indicated.*

16 (t) *“Tier 2 renewable source” means hydroelectric power other than pump storage*
 17 *generation.*

18 7–703.

19 (b) *Except as provided in subsection (e) of this section, the renewable energy*
 20 *portfolio standard shall be as follows:*

21 (16) *in 2021[,]:*

22 (I) *30.8% from Tier 1 renewable sources, including:*

23 [(i)] *1. at least 7.5% derived from solar energy; and*

24 [(ii)] *2. an amount set by the Commission under § 7–704.2(a) of*
 25 *this subtitle derived from offshore wind energy; AND*

26 (II) *2.5% FROM TIER 2 RENEWABLE SOURCES;*

27 (17) *in 2022[, 33.1%]:*

28 (I) *30.1% from Tier 1 renewable sources, including:*

29 [(i)] *1. at least [8.5%] 5.5% derived from solar energy; and*

1 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
2 this subtitle derived from offshore wind energy; AND

3 (II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

4 (18) in 2023[, 35.4%]:

5 (I) 31.9% from Tier 1 renewable sources, including:

6 [(i)] 1. at least [9.5%] 6% derived from solar energy; and

7 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
8 this subtitle derived from offshore wind energy; AND

9 (II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

10 (19) in 2024[, 37.7%]:

11 (I) 33.7% from Tier 1 renewable sources, including:

12 [(i)] 1. at least [10.5%] 6.5% derived from solar energy; and

13 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
14 this subtitle derived from offshore wind energy; AND

15 (II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

16 (20) in 2025[, 40%]:

17 (I) 35.5% from Tier 1 renewable sources, including:

18 [(i)] 1. at least [11.5%] 7% derived from solar energy; and

19 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
20 this subtitle, not to exceed 10%, derived from offshore wind energy; AND

21 (II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

22 (21) in 2026[, 42.5%]:

23 (I) 38% from Tier 1 renewable sources, including:

24 [(i)] 1. at least [12.5%] 8% derived from solar energy; and

1 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
 2 this subtitle derived from offshore wind energy, including at least 400 megawatts of Round
 3 2 offshore wind projects; AND

4 **(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;**

5 (22) in 2027[, 45.5%]:

6 **(I) 41.5% from Tier 1 renewable sources, including:**

7 **[(i)] 1. at least [13.5%] 9.5% derived from solar energy; and**

8 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
 9 this subtitle derived from offshore wind energy, including at least 400 megawatts of Round
 10 2 offshore wind projects; AND

11 **(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;**

12 (23) in 2028[, 47.5%]:

13 **(I) 43% from Tier 1 renewable sources, including:**

14 **[(i)] 1. at least [14.5%] 11% derived from solar energy; and**

15 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
 16 this subtitle derived from offshore wind energy, including at least 800 megawatts of Round
 17 2 offshore wind projects; AND

18 **(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;**

19 (24) in 2029[, 49.5%]:

20 **(I) 47.5% from Tier 1 renewable sources, including:**

21 **[(i)] 1. at least [14.5%] 12.5% derived from solar energy; and**

22 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
 23 this subtitle derived from offshore wind energy, including at least 800 megawatts of Round
 24 2 offshore wind projects; and

25 **(II) 2.5% FROM TIER 2 RENEWABLE SOURCES; AND**

26 (25) in 2030 and later[.]:

27 **(I) 50% from Tier 1 renewable sources, including:**

1 [(i)] 1. at least 14.5% derived from solar energy; and

2 [(ii)] 2. an amount set by the Commission under § 7-704.2(a) of
 3 this subtitle derived from offshore wind energy, including at least 1,200 megawatts of Round
 4 2 offshore wind projects; AND

5 **(II) 2.5% FROM TIER 2 RENEWABLE SOURCES.**

6 7-705.

7 (b) (2) If an electricity supplier fails to comply with the renewable energy
 8 portfolio standard for the applicable year, the electricity supplier shall pay into the
 9 Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State
 10 Government Article:

11 (i) except as provided in item (ii) of this paragraph, a compliance fee
 12 of:

13 1. the following amounts for each kilowatt-hour of shortfall
 14 from required Tier 1 renewable sources other than the shortfall from the required Tier 1
 15 renewable sources that is to be derived from solar energy:

16 A. 4 cents through 2016;

17 B. 3.75 cents in 2017 and 2018;

18 C. 3 cents in 2019 through 2023;

19 D. 2.75 cents in 2024;

20 E. 2.5 cents in 2025;

21 F. 2.475 cents in 2026;

22 G. 2.45 cents in 2027;

23 H. 2.25 cents in 2028 and 2029; and

24 I. 2.235 cents in 2030 and later;

25 2. the following amounts for each kilowatt-hour of shortfall
 26 from required Tier 1 renewable sources that is to be derived from solar energy:

27 A. 45 cents in 2008;

SENATE BILL 65

1 B. 40 cents in 2009 through 2014;

2 C. 35 cents in 2015 and 2016;

3 D. 19.5 cents in 2017;

4 E. 17.5 cents in 2018;

5 F. 10 cents in 2019;

6 G. 10 cents in 2020;

7 H. 8 cents in 2021;

8 I. 6 cents in 2022;

9 J. [4.5] 6 cents in 2023;

10 K. [4] 6 cents in 2024;

11 L. [3.5] 5.5 cents in 2025;

12 M. [3] 4.5 cents in 2026;

13 N. [2.5] 3.5 cents in 2027 [and 2028];

14 O. [2.25] 3.25 cents in [2029] 2028; [and]

15 P. [2.235] 2.5 cents in [2030 and later] 2029; and

16 Q. 2.25 CENTS IN 2030 AND LATER; AND

17 3. 1.5 cents for each kilowatt-hour of shortfall from required

18 Tier 2 renewable sources; or

19 (ii) for industrial process load:

20 1. for each kilowatt-hour of shortfall from required Tier 1
 21 renewable sources, a compliance fee of:

22 A. 0.8 cents in 2006, 2007, and 2008;

23 B. 0.5 cents in 2009 and 2010;

24 C. 0.4 cents in 2011 and 2012;

1 D. 0.3 cents in 2013 and 2014;

2 E. 0.25 cents in 2015 and 2016; and

3 F. except as provided in paragraph (3) of this subsection, 0.2
 4 cents in 2017 and later; and

5 2. nothing for any shortfall from required Tier 2 renewable
 6 sources.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 8 as follows:

9 **Article – Public Utilities**

10 7–701.

11 (a) In this subtitle the following words have the meanings indicated.

12 (l) (1) “Qualifying biomass” means a nonhazardous, organic material that is
 13 available on a renewable or recurring basis, and is:

14 (i) waste material that is segregated from inorganic waste material
 15 and is derived from sources including:

16 1. except for old growth timber, any of the following
 17 forest–related resources:

18 A. ~~mill~~ residue, except sawdust and wood shavings;

19 B. ~~pre~~commercial soft wood thinning;

20 ~~C.~~ ~~B.~~ slash;

21 ~~D.~~ ~~C.~~ brush; or

22 ~~E.~~ ~~D.~~ yard waste;

23 2. a pallet, crate, or dunnage;

24 3. agricultural and silvicultural sources, including tree
 25 crops, vineyard materials, grain, legumes, sugar, and other crop by–products or residues;
 26 or

27 4. gas produced from the anaerobic decomposition of animal
 28 waste or poultry waste; or

1 (ii) a plant that is cultivated exclusively for purposes of being used
2 at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

3 (2) “Qualifying biomass” includes biomass listed in paragraph (1) of this
4 subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.

5 (3) “Qualifying biomass” does not include:

6 (i) unsegregated solid waste or postconsumer wastepaper; ~~or~~

7 (ii) **BLACK LIQUOR, OR ANY PRODUCT DERIVED FROM BLACK**
8 **LIQUOR; OR**

9 **(III)** an invasive exotic plant species.

10 (s) “Tier 1 renewable source” means one or more of the following types of energy
11 sources:

12 (1) solar energy, including energy from photovoltaic technologies and solar
13 water heating systems;

14 (2) wind;

15 (3) qualifying biomass;

16 (4) methane from the anaerobic decomposition of organic materials in a
17 landfill or wastewater treatment plant;

18 (5) geothermal, including energy generated through geothermal exchange
19 from or thermal energy avoided by, groundwater or a shallow ground source;

20 (6) ocean, including energy from waves, tides, currents, and thermal
21 differences;

22 (7) a fuel cell that produces electricity from a Tier 1 renewable source
23 under item (3) or (4) of this subsection;

24 (8) a small hydroelectric power plant of less than 30 megawatts in capacity
25 that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

26 (9) poultry litter-to-energy;

27 (10) waste-to-energy;

28 (11) refuse-derived fuel; and

1 (12) thermal energy from a thermal biomass system.

2 7-704.

3 (a) (1) Energy from a Tier 1 renewable source:

4 (i) is eligible for inclusion in meeting the renewable energy portfolio
5 standard regardless of when the generating system or facility was placed in service; and

6 (ii) may be applied to the percentage requirements of the standard
7 for either Tier 1 renewable sources or Tier 2 renewable sources.

8 (2) (i) Energy from a Tier 1 renewable source under [§ 7-701(r)(1)] §
9 **7-701(S)(1)**, (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the
10 renewable energy portfolio standard only if the source is connected with the electric
11 distribution grid serving Maryland.

12 (ii) If the owner of a solar generating system in this State chooses to
13 sell solar renewable energy credits from that system, the owner must first offer the credits
14 for sale to an electricity supplier or electric company that shall apply them toward
15 compliance with the renewable energy portfolio standard under § 7-703 of this subtitle.

16 (3) Energy from a Tier 1 renewable source under [§ 7-701(r)(8)] §
17 **7-701(S)(8)** of this subtitle is eligible for inclusion in meeting the renewable energy
18 portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a
19 system or facility that is capable of generating electricity did not exist on that date.

20 (4) Energy from a Tier 2 renewable source under [§ 7-701(s)] § **7-701(T)**
21 of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard
22 ~~through 2020~~ if it is generated at a system or facility that existed and was operational as
23 of January 1, 2004, even if the facility or system was not capable of generating electricity
24 on that date.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That a presently existing
26 obligation or contract right may not be impaired in any way by this Act.

27 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That *Section 2* of this Act shall
28 take effect October 1, 2021, and shall apply to all renewable energy portfolio standard
29 compliance years beginning January 1, 2022, or later.

30 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
31 4 of this Act, this Act shall take effect June 1, ~~2020~~ 2021.