HB 908

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 908 (Delegate Clippinger, *et al.*)
Economic Matters Education, Energy, and the Environment

Electricity - Community Solar Energy Generating Systems Program and Property Taxes

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This bill makes the Community Solar Energy Generating Systems Pilot Program permanent and renames the program accordingly, makes various specified changes to program requirements, and requires the Public Service Commission (PSC) to convene a stakeholder workgroup and alter and/or adopt related regulations. The bill also extends the availability of the personal property tax exemption for certain community solar generating systems to those approved by PSC through 2025. A full-time position must be established at PSC to focus only on implementing and administering the (now permanent) program. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by $264,900 in FY 2024. Future years reflect annualization, additional consultant expenses in FY 2025, and the elimination of one-time costs. Special fund revenues increase correspondingly from assessments imposed on public service companies. The effect on electricity prices is discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	$264,900	$297,500	$206,100	$215,100	$226,200
SF Expenditure	$264,900	$297,500	$206,100	$215,100	$226,200
Net Effect	$0	$0	$0	$0	$0

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

Local Effect: Local government revenues potentially decrease beginning in FY 2026, as discussed below. Expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Program Made Permanent

The Community Solar Energy Generating Systems Pilot Program is made permanent instead of ending after seven years (but no sooner than December 31, 2024). The name of the program is modified accordingly, along with other related conforming changes.

Changes to Program Requirements

The bill makes several changes to program requirements, affecting system requirements, project size and location, and customer billing, among others. Changes include, but are not limited to:

- A community solar energy generating system must, in addition to meeting all current requirements, serve at least 40% of its kilowatt-hour output to "low-to-moderate income (LMI) subscribers" unless the system is wholly owned by the subscribers to the system. An LMI subscriber is one that is low-income, moderate-income, or resides in a census tract that is an overburdened and underserved community, as those terms are further defined. Existing systems with different LMI percentage requirements under the pilot program maintain those percentages going forward.
- "Subscription coordinator" – essentially a person who markets the systems or performs various administrative actions – is defined and incorporated into relevant provisions.
- Project siting requirements are modified by (1) expanding the types of system installations exempt from the prohibition against building community solar energy generating systems on contiguous parcels of land and (2) establishing a general 5 megawatt (MW) aggregate capacity limit for all community solar energy generating systems on the same or adjacent parcels of land. New exemptions include systems located in areas zoned for industrial use and on multilevel parking structures. There is also a 10 MW aggregate limit for certain agricultural projects and projects serving LMI customers.
- A subscriber organization or subscription coordinator may elect for a subscriber or a community solar energy generating system represented by the subscriber organization or subscription coordinator to participate in consolidated billing. Related administrative processes and requirements are specified, including authorizing an electric company or electricity supplier to charge a limited fee for consolidated billing.

- Generally, a subscriber organization or subscription coordinator may not charge a subscription rate that is more than the monetary value of the bill credit on a bill issued by the electric company to the subscriber (the limit is 90% of the monetary bill credit for an LMI subscriber). A similar prohibition is established under consolidated billing, although there is no separate LMI limit specified.
- The developer of a community solar energy generating system with a generating capacity of more than 1 MW must ensure that workers are paid at least the prevailing wage rate, unless the system is subject to a project labor agreement, as specified (the requirement applies only to projects that have not received a queue position in the pilot program before January 1, 2025).

Public Service Commission Regulations, Workgroup, and Position

PSC is required to revise certain pilot program regulations by January 1, 2025, and adopt new regulations by July 1, 2025, as specified. PSC must convene a stakeholder workgroup to provide recommendations regarding the regulations. PSC must also approve electric company tariff modifications that are consistent with the regulations within six months of those regulation deadlines.

Among other requirements, revised regulations must:

- remove all program categories, project generating capacity limits, yearly programmatic and electric company specific capacity limits, and sunset dates so that the total number and capacity of community solar energy generating systems is subject only to the overall statutory limitation (3,000 MWs) for all net metering projects;
- authorize all community solar energy generating systems, including those constructed during the pilot program, to operate and generate subscription credits until the solar energy generating system is decommissioned;
- allow a subscriber organization or subscription coordinator to verify the income of a prospective subscriber for eligibility as an LMI subscriber under the program through a variety of methods, including self-attestation and provision of specified documentation; and
- require all electric companies to use bill credits applied as a reduction in metered kilowatt-hours or monetary bill credits that provide not less than the value to the subscriber of the credit had it been applied to the subscriber's bill as a reduction in metered kilowatt-hours.

Among other requirements, new PSC regulations must (1) implement consolidated billing by electric companies and establish other specified billing/crediting requirements; (2) implement data exchange protocols for electric companies, subscriber organizations, and subscription coordinators; and (3) impose specific timing requirements for application of bill credits to subscriber bills and application of rollover credits.

Relatedly, PSC must also consider and implement methodologies to allow the tenants of master-metered residential facilities to participate in the program and benefit directly from any associated electric bill savings, although there is no specific requirement to adopt regulations.

Finally, the bill requires a position identification number to be created in PSC for a full-time position that will focus only on implementing and administering the Community Solar Energy Generating Systems Program.

Personal Property Tax Exemption Extended

Under current law, a community solar generating system that meets certain requirements and is approved by PSC on or before December 31, 2025, is eligible for a personal property tax exemption; however, a local government may not accept an application for the exemption after December 31, 2024. The bill removes the limitation on the local government accepting applications, effectively extending eligibility by a minimum of one year.

Current Law:

Net Metering – Generally

Net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period. PSC must require electric utilities to develop and make net metering tariffs available to eligible customer-generators. The generating capacity of an eligible customer-generator for net metering may be up to 2 MWs. Eligible energy sources are solar, wind, biomass, micro combined heat and power, fuel cell, and certain types of hydroelectric. There is a statewide net metered capacity limit of 3,000 MWs.

Community Solar Energy Generating Systems

Chapters 346 and 347 of 2015 required PSC to establish a three-year Community Solar Energy Generating System Pilot Program, subject to specified conditions. Chapters 461 and 462 of 2019 extended the pilot program through December 31, 2024.

A community solar energy generating system, as defined in statute, is a system that, in addition to other requirements:

- has a generating capacity that does not exceed 5 MWs as measured by the alternating current rating of the system's inverter;
- has at least two subscribers, but no limit to the maximum number of subscribers; and
- credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering.

Subscribers must be in the same electric service territory as the system. Investor-owned electric companies must participate in the program; large electric cooperatives and municipal utilities may choose to participate. PSC regulations increase authorized capacity additions each year.

Personal Property Tax Exemption

A community solar energy generating system that is placed in service after June 30, 2022, and has been approved by PSC on or before December 31, 2025, is exempt from the county and municipal personal property tax through the life cycle of the system if the system (1) provides at least 50% of the energy it produces to low- to moderate-income customers at a cost that is at least 20% less than the amount charged by the electric company that serves the area where the community solar energy generating system is located and (2) is used for agrivoltaics or is installed on a rooftop, brownfield, parking facility canopy, landfill, or clean fill. However, the supervisor of a county or a municipality may not accept an application from a property owner for the exemption after December 31, 2024.

State Fiscal Effect: PSC advises that it requires additional staff and consultant services to implement the bill. Accordingly, special fund expenditures for PSC increase by $264,895 in fiscal 2024, which accounts for a 90-day startup delay. This estimate reflects the cost of hiring two regulatory economists to participate in workgroups, draft regulations, and evaluate utility tariffs, among other duties related to general program administration. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $100,000 for consultant services to provide technical and policy analysis and recommendations.

Positions	2.0
Salaries and Fringe Benefits	$145,952
Contractual Services	100,000
Other Operating Expenses	18,943
Total FY 2024 State Expenditures	**$264,895**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Fiscal 2025 also reflects an additional $100,000 in consultant costs.

PSC advises that it may ask for prevailing wage documentation for community solar projects that are larger than 2 MW during the Certificate of Public Convenience and Necessity process. PSC does not typically have a significant oversight role in projects smaller than that, since they are not considered generating stations.

Special fund revenues increase correspondingly from assessments imposed on public service companies.

Local Revenues: Personal property tax revenues for those local governments that assess personal property potentially decrease beginning in fiscal 2026 to the extent that eligible community solar energy generating systems apply for and receive a personal property tax exemption after the current December 31, 2024 deadline. Eligible systems must be approved by PSC on or before December 31, 2025, so the increased period of eligibility to apply is at least one year. The effect on any particular local government cannot be estimated at this time, although the State Department of Assessments and Taxation advises that no systems have applied for or received the exemption as of March 20, 2023. There is no effect for any systems that are approved by local governments on or before December 31, 2024, as the exemption applies for the lifecycle of the projects.

Small Business Effect: The bill makes permanent the Community Solar Energy Generating Systems Pilot Program and makes several other changes to overall program requirements, many of which offer additional flexibility compared to the pilot program. Small businesses benefit from the continuation of the program and the opportunity to build more solar capacity under the program going forward. Conversely, some changes may have operational effects, increase expenditures, or reduce revenues for small businesses. For example, developers of community solar energy generating systems with capacities of more than 1 MW must ensure that workers are paid at least the prevailing wage, unless the system is subject to a project labor agreement. Additionally, a subscriber organization or subscription coordinator, which may be a small business, is generally limited in the amount it may charge an LMI subscriber.

Additional Comments (Electricity Prices): PSC advises that the bill puts upward pressure on electricity prices, which are paid by the State government, local governments, and small businesses. The amount cannot be determined at this time; the statutory cap on statewide net metering capacity has a limiting effect – although that cap has been raised in the past.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 613 (Senator Brooks, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Public Service Commission; State Department of Assessments and Taxation; Department of Legislative Services

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