

HOUSE BILL 368

C5, M3

8lr0230
CF SB 268

By: **The Speaker (By Request – Administration) and Delegates McHale, Hecht, Mathias, Ali, Aumann, Barve, Bobo, Bronrott, Cardin, Carr, G. Clagett, Conway, Doory, Dumais, Eckardt, Elmore, Gilchrist, Haynes, Healey, Hixson, Howard, Hucker, James, Jones, Kaiser, Krebs, Lee, Love, Manno, Mizeur, Montgomery, Morhaim, Pena-Melnyk, Riley, Rosenberg, Shewell, Sophocleus, Stein, Tarrant, and F. Turner**

Introduced and read first time: January 25, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Regional Greenhouse Gas Initiative – Maryland Strategic Energy Investment**
3 **Program**

4 FOR the purpose of repealing the Maryland Renewable Energy Fund and establishing
5 the Maryland Strategic Energy Investment Program in the Maryland Energy
6 Administration; establishing the purpose of the Program; establishing the
7 duties of the Administration under the Program; establishing the Maryland
8 Strategic Energy Investment Fund; providing that the Fund is a special,
9 nonlapsing fund not subject to a certain law; requiring the Treasurer to hold the
10 Fund and the Comptroller to account for the Fund; providing for the funding of
11 the Fund; requiring the Administration to use the Fund for certain purposes;
12 limiting the use of funds from certain compliance fees to certain purposes;
13 requiring the Fund to be invested in a certain manner; requiring the investment
14 earnings from the Fund and the repayment of principal and interest on loans
15 made from the Fund to be paid to the Fund; requiring expenditures from the
16 Fund to be made by certain appropriations or budget amendments; authorizing
17 the Administration to enter into certain contracts with certain parties for
18 certain purposes; prohibiting a person from knowingly making or causing to be
19 made certain false statements; establishing that a certain violation is a
20 misdemeanor; establishing certain penalties; providing for the transfer of
21 certain moneys from the Maryland Renewable Energy Fund to the Maryland
22 Strategic Energy Investment Fund; defining certain terms; and generally
23 relating to the Maryland Strategic Energy Investment Program.

24 BY repealing and reenacting, without amendments,
25 Article – Public Utility Companies

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7-701(a)
 2 Annotated Code of Maryland
 3 (1998 Volume and 2007 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Public Utility Companies
 6 Section 7-701(c) and 7-705(b)
 7 Annotated Code of Maryland
 8 (1998 Volume and 2007 Supplement)

9 BY repealing
 10 Article – Public Utility Companies
 11 Section 7-707
 12 Annotated Code of Maryland
 13 (1998 Volume and 2007 Supplement)

14 BY adding to
 15 Article – State Government
 16 Section 9-20B-01 through 9-20B-07 to be under the new subtitle “Subtitle 20B.
 17 Maryland Strategic Energy Investment Program”
 18 Annotated Code of Maryland
 19 (2004 Replacement Volume and 2007 Supplement)

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

22 **Article – Public Utility Companies**

23 7-701.

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

25 (c) “Fund” means the [Maryland Renewable Energy Fund established under
 26 § 7-707 of this subtitle] **MARYLAND STRATEGIC ENERGY INVESTMENT FUND**
 27 **ESTABLISHED UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.**

28 7-705.

29 (b) If an electricity supplier fails to comply with the renewable energy
 30 portfolio standard for the applicable year, the electricity supplier shall pay into the
 31 [Maryland Renewable Energy Fund established under § 7-707 of this subtitle]
 32 **MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER §**
 33 **9-20B-05 OF THE STATE GOVERNMENT ARTICLE:**

34 (1) except as provided in item (2) of this subsection, a compliance fee
 35 of:

1 (i) 2 cents for each kilowatt-hour of shortfall from required
2 Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable
3 sources that is to be derived from solar energy;

4 (ii) the following amounts for each kilowatt-hour of shortfall
5 from required Tier 1 renewable sources that is to be derived from solar energy:

- 6 1. 45 cents in 2008;
- 7 2. 40 cents in 2009 and 2010;
- 8 3. 35 cents in 2011 and 2012;
- 9 4. 30 cents in 2013 and 2014;
- 10 5. 25 cents in 2015 and 2016;
- 11 6. 20 cents in 2017 and 2018;
- 12 7. 15 cents in 2019 and 2020;
- 13 8. 10 cents in 2021 and 2022; and
- 14 9. 5 cents in 2023 and later; and

15 (iii) 1.5 cents for each kilowatt-hour of shortfall from required
16 Tier 2 renewable sources; or

17 (2) for industrial process load:

18 (i) for each kilowatt-hour of shortfall from required Tier 1
19 renewable sources, a compliance fee of:

- 20 1. 0.8 cents in 2006, 2007, and 2008;
- 21 2. 0.5 cents in 2009 and 2010;
- 22 3. 0.4 cents in 2011 and 2012;
- 23 4. 0.3 cents in 2013 and 2014;
- 24 5. 0.25 cents in 2015 and 2016; and
- 25 6. 0.2 cents in 2017 and later; and

26 (ii) nothing for any shortfall from required Tier 2 renewable
27 sources.

1 [7-707.

2 (a) There is a Maryland Renewable Energy Fund.

3 (b) The purpose of the Fund is to encourage the development of resources to
4 generate renewable energy in the State.

5 (c) Subject to oversight by the Commission, the Administration shall
6 administer the Fund.

7 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §
8 7-302 of the State Finance and Procurement Article.

9 (2) The Treasurer shall hold the Fund separately and the Comptroller
10 shall account for the Fund.

11 (e) The Fund consists of:

12 (1) compliance fees paid under § 7-705 of this subtitle;

13 (2) payments received in repayment of a loan;

14 (3) investment earnings of the Fund; and

15 (4) any other money from any other source accepted for the benefit of
16 the Fund.

17 (f) (1) (i) Subject to subparagraph (ii) of this paragraph, the Fund
18 may be used only to make loans and grants to support the creation of new Tier 1
19 renewable sources in the State.

20 (ii) Compliance fees paid under § 7-705(b)(1)(ii) of this subtitle
21 shall be accounted for separately within the Fund and may be used only to make loans
22 and grants to support the creation of new solar energy sources in the State.

23 (2) By regulation the Commission shall adopt eligibility criteria for
24 projects supported by the Fund.

25 (3) (i) The Administration shall receive and review applications for
26 loans and grants for eligible projects.

27 (ii) The Administration shall approve or disapprove applications
28 for loans and grants from the Fund.

29 (4) (i) Subject to subparagraph (ii) of this paragraph, the
30 Commission may allow the use of money of the Fund for administrative expenses
31 related to the Fund and project review and oversight.

1 (ii) The Administration and the Commission may not spend
2 more than 10% of the funds placed in the Fund for administrative expenses.

3 (g) (1) The Treasurer shall invest the money of the Fund in the same
4 manner as other State money may be invested.

5 (2) Any investment earnings of the Fund shall be credited to the Fund.

6 (h) (1) On or before February 1 of each year, the Administration, in
7 consultation with the Commission, shall report to the Governor and, in accordance
8 with § 2-1246 of the State Government Article, the General Assembly, on the status of
9 the Fund.

10 (2) The report shall include:

11 (i) all amounts received by and disbursed from the Fund;

12 (ii) all amounts used by the Administration and the Commission
13 for administrative purposes;

14 (iii) the evaluation criteria used by the Administration in
15 making loans and grants from the Fund and in selecting recipients of those loans and
16 grants;

17 (iv) the number and amounts of loans and grants made in the
18 preceding calendar year;

19 (v) the status of loans pending as of the end of the preceding
20 calendar year;

21 (vi) the allocation of disbursements for development of new solar
22 and other Tier 1 renewable sources;

23 (vii) the projected receipts of the Fund in the current calendar
24 year; and

25 (viii) plans for the use of resources of the Fund in the current
26 calendar year.]

27 **Article – State Government**

28 **SUBTITLE 20B. MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM.**

29 **9-20B-01.**

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

1 **(B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY**
2 **ADMINISTRATION.**

3 **(C) “FUND” MEANS THE MARYLAND STRATEGIC ENERGY INVESTMENT**
4 **FUND.**

5 **(D) “PROGRAM” MEANS THE MARYLAND STRATEGIC ENERGY**
6 **INVESTMENT PROGRAM.**

7 **9-20B-02.**

8 **THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM IN**
9 **THE MARYLAND ENERGY ADMINISTRATION.**

10 **9-20B-03.**

11 **THE PURPOSE OF THE PROGRAM IS TO DECREASE ENERGY DEMAND AND**
12 **INCREASE ENERGY SUPPLY TO PROMOTE AFFORDABLE, RELIABLE, AND CLEAN**
13 **ENERGY TO FUEL MARYLAND’S FUTURE PROSPERITY.**

14 **9-20B-04.**

15 **THE ADMINISTRATION SHALL:**

16 **(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;**

17 **(2) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM AND TO**
18 **ENSURE THAT FUND RESOURCES ARE UTILIZED ONLY TO CARRY OUT THE**
19 **PURPOSES OF THE PROGRAM;**

20 **(3) ATTACH SPECIFIC TERMS AND CONDITIONS TO ANY GRANT,**
21 **LOAN, OR OTHER FORM OF ASSISTANCE THAT ARE DETERMINED BY THE**
22 **ADMINISTRATION AS NECESSARY TO ENSURE THAT THE PURPOSES OF THE**
23 **PROGRAM ARE FULFILLED;**

24 **(4) DEVELOP PROCEDURES FOR MONITORING PROJECTS AND**
25 **INVESTMENTS TO VERIFY THAT FUND RESOURCES ARE BEING USED TO MEET**
26 **THE PURPOSES OF THE PROGRAM; AND**

27 **(5) PROVIDE MONEYS ANNUALLY OR AS NEEDED TO THE CLEAN**
28 **AIR FUND MANAGED BY THE DEPARTMENT OF THE ENVIRONMENT TO FUND**
29 **THE COSTS OF THE DEPARTMENT’S PROGRAMS TO REDUCE OR MITIGATE THE**
30 **EFFECTS OF CLIMATE CHANGE.**

1 **9-20B-05.**

2 (A) **THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT FUND.**

3 (B) **THE PURPOSE OF THE FUND IS TO IMPLEMENT THE STRATEGIC**
4 **ENERGY INVESTMENT PROGRAM.**

5 (C) **THE ADMINISTRATION SHALL ADMINISTER THE FUND.**

6 (D) (1) **THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
7 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

8 (2) **THE TREASURER SHALL HOLD THE FUND SEPARATELY AND**
9 **THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

10 (E) **THE FUND CONSISTS OF:**

11 (1) **ALL OF THE PROCEEDS FROM THE SALE OF ALLOWANCES**
12 **UNDER § 2-1002(G) OF THE ENVIRONMENT ARTICLE;**

13 (2) **MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
14 **PROGRAM;**

15 (3) **REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND**
16 **INTEREST ON LOANS MADE FROM THE FUND;**

17 (4) **INTEREST AND INVESTMENT EARNINGS ON THE FUND;**

18 (5) **COMPLIANCE FEES PAID UNDER § 7-705 OF THE PUBLIC**
19 **UTILITY COMPANIES ARTICLE; AND**

20 (6) **MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE**
21 **FOR THE BENEFIT OF THE FUND.**

22 (F) **THE ADMINISTRATION SHALL USE THE FUND:**

23 (1) **TO INVEST IN THE PROMOTION, DEVELOPMENT, AND**
24 **IMPLEMENTATION OF:**

25 (I) **ENERGY EFFICIENCY AND CONSERVATION PROGRAMS,**
26 **PROJECTS, OR ACTIVITIES;**

27 (II) **RENEWABLE AND CLEAN ENERGY RESOURCES; AND**

1 **(III) CLIMATE CHANGE RESEARCH AND OTHER PROGRAMS**
2 **DIRECTLY RELATED TO REDUCING OR MITIGATING THE EFFECTS OF CLIMATE**
3 **CHANGE;**

4 **(2) TO PROVIDE TARGETED PROGRAMS TO REDUCE ELECTRICITY**
5 **CONSUMPTION BY CUSTOMERS IN THE LOW-INCOME AND MODERATE-INCOME**
6 **RESIDENTIAL SECTOR;**

7 **(3) TO PROVIDE GRANTS, LOANS, AND OTHER ASSISTANCE AND**
8 **INVESTMENT AS NECESSARY AND APPROPRIATE TO IMPLEMENT THE PURPOSES**
9 **OF THE PROGRAM AS SET FORTH IN § 9-20B-03 OF THIS SUBTITLE; AND**

10 **(4) TO PAY THE EXPENSES OF THE PROGRAM.**

11 **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
12 **SUBSECTION, COMPLIANCE FEES PAID UNDER § 7-705(B) OF THE PUBLIC**
13 **UTILITY COMPANIES ARTICLE MAY BE USED ONLY TO MAKE LOANS AND**
14 **GRANTS TO SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY**
15 **SOURCES IN THE STATE.**

16 **(2) COMPLIANCE FEES PAID UNDER § 7-705(B)(1)(II) OF THE**
17 **PUBLIC UTILITY COMPANIES ARTICLE SHALL BE ACCOUNTED FOR**
18 **SEPARATELY WITHIN THE FUND AND MAY BE USED ONLY TO MAKE LOANS AND**
19 **GRANTS TO SUPPORT THE CREATION OF NEW SOLAR ENERGY SOURCES IN THE**
20 **STATE.**

21 **(H) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN**
22 **THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

23 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID**
24 **INTO THE FUND.**

25 **(3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS**
26 **MADE FROM THE FUND SHALL BE PAID INTO THE FUND.**

27 **(4) BALANCES IN THE FUND SHALL BE HELD FOR THE BENEFIT**
28 **OF THE PROGRAM, SHALL BE EXPENDED SOLELY FOR THE PURPOSES OF THE**
29 **PROGRAM, AND MAY NOT BE USED FOR THE GENERAL OBLIGATIONS OF**
30 **GOVERNMENT.**

31 **(I) EXPENDITURES FROM THE FUND SHALL BE MADE BY:**

32 **(1) AN APPROPRIATION IN THE ANNUAL STATE BUDGET; OR**

1 **(2) A BUDGET AMENDMENT IN ACCORDANCE WITH § 7-209 OF**
2 **THE STATE FINANCE AND PROCUREMENT ARTICLE.**

3 **9-20B-06.**

4 **THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD**
5 **PARTIES TO ASSIST IN THE DEVELOPMENT OF PROGRAMS AND PROJECTS THAT**
6 **WILL ADVANCE THE PURPOSES OF THE PROGRAM OR TO ADMINISTER THE**
7 **PROGRAM, INCLUDING CONTRACTS WITH THIRD PARTIES TO MAKE, SERVICE,**
8 **OR SETTLE LOANS AND OTHER ASSISTANCE OR INVESTMENTS MADE THROUGH**
9 **THE PROGRAM.**

10 **9-20B-07.**

11 **(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY**
12 **FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED**
13 **TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO A GRANT, LOAN,**
14 **OR OTHER FINANCIAL ASSISTANCE.**

15 **(B) A PERSON APPLYING FOR A GRANT, LOAN, OR OTHER FINANCIAL**
16 **ASSISTANCE THROUGH THE PROGRAM MAY NOT KNOWINGLY MAKE OR CAUSE**
17 **TO BE MADE ANY FALSE STATEMENTS FOR THE PURPOSE OF INFLUENCING ANY**
18 **ACTION OF THE ADMINISTRATION ON AN APPLICATION OR FOR THE PURPOSE**
19 **OF INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING ANY**
20 **GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE ALREADY PROVIDED.**

21 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
22 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
23 **\$50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

24 **SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Strategic**
25 **Energy Investment Fund is the successor to the Maryland Renewable Energy Fund**
26 **and any moneys remaining in the Maryland Renewable Energy Fund on the effective**
27 **date of this Act shall be transferred by the State Treasurer to the Maryland Strategic**
28 **Energy Investment Fund.**

29 **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**
30 **July 1, 2008.**