Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 658 (Delegates Niemann and Holmes)
Economic Matters

Public Service Commission - Sustainable Energy Utilities

This bill enables the Public Service Commission (PSC), to authorize a sustainable energy utility (SEU) to provide "sustainable energy products" to residential property owners under qualified contracts in accordance with specified conditions. PSC must, by regulation or by order, establish specific terms of the authorization of an SEU. PSC must also establish specific requirements for a qualified contract and ensure that the savings to the property owner outweigh the cost of the qualified contract. An SEU may bill property owners subject to a contract directly and enforce payment. Qualified contracts must be entered into the land records in each county and may constitute a lien against the property. A person who acquires property subject to a qualified contract assumes the obligation to pay the SEU in accordance with the rate and payment schedules in the contract. PSC must adopt implementing regulations.

Fiscal Summary

State Effect: Special fund expenditures from the Public Utility Regulation Fund increase by $108,800 in FY 2012 for PSC to hire two additional staff to oversee a new form of utility. Future year expenditures reflect annualization and inflation. Revenues are not materially affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	$0	$0	$0	$0	$0
SF Expenditure	108,800	137,000	143,900	151,200	158,900
Net Effect	($108,800)	($137,000)	($143,900)	($151,200)	($158,900)

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

Local Effect: Minimal or none.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill is intended to promote energy conservation and the use of renewable energy by providing a secure form of long-term financing to facilitate the installation of "sustainable energy products" on residential property. A "sustainable energy product" is a product that, when installed on residential property, provides energy savings or generates energy from a renewable source.

PSC must, by order or regulation, establish specific terms of the authorization of an SEU. These terms must include the territory; products to be offered; rate of return; required minimum levels of capitalization; and mechanisms for independent quality control.

In order to be authorized to operate as an SEU, PSC must determine that the person has demonstrated capacity to provide sustainable energy products that the person would be authorized to provide and that the cost of the products provided would be repaid within at least 20 years after the date of installation. PSC may limit the authorization of an SEU to a particular territory or specified energy products. PSC may also authorize more than one SEU to operate in a particular territory or to offer specified energy products.

PSC must authorize SEUs to enter into qualified contracts with individual residential property owners or groups of residential property owners and directly bill each party subject to the contract. PSC must, by order or regulation, establish specific requirements for a qualified contract to be offered by an SEU. Terms and conditions must contain (1) schedules and rates for repayment; (2) eligibility requirements reflecting a property owner's ability to repay; (3) timeframes for recordation and related notice; and (4) any terms and conditions required to create and enforce a lien. PSC must also develop mechanisms for quality control and mechanisms to ensure that the savings to the property owner under a qualified contract outweigh the cost of the qualified contract.

An SEU may not enter into a qualified contract unless, for each property subject to the contract, specified financial and tax conditions are met.

Each contract must be recorded in the land records of the county in which the property is located and the SEU must notify any party that holds a mortgage or deed of trust on the property at the time the qualified contract becomes effective. An SEU may collect payments in arrears, including the principal, interest, late charges, costs of collection, and reasonable attorney's fees, by imposition of a lien on property subject to the contract. A person who acquires property subject to a qualified contract assumes the obligation to pay the SEU in accordance with the rate and payment schedules in the contract.

PSC may revoke an SEU's authorization under specified conditions and must adopt regulations to implement the bill.

Current Law: PSC exercises jurisdiction over electric distribution companies and electricity suppliers. Other than an electric company providing standard offer service or a municipal cooperative serving its own customers, electricity suppliers operating in Maryland must first apply for and meet and abide by applicable standards (*e.g.*, financial integrity, accurate consumer information) before PSC issues a license to operate in the State.

A lien on a property may be created by a contract if the contract expressly provides for creation of a lien and describes the party entitled to establish and enforce the lien and the property against which the lien may be imposed. Generally, liens against real property take priority in the order in which they are recorded.

Background: Residential homeowners that seek to install photovoltaic solar (PV) or other renewable generating systems have a number of options for financing the purchase and installation of the equipment. In addition to conventional financing, which includes a cash purchase or borrowing through a home equity loan, several models for financing solar energy systems and reducing their upfront costs have evolved in the marketplace.

According to the U.S. Department of Energy, third-party financing models, such as residential power purchase agreement (PPA) financing, are increasing in popularity. Under a residential PPA, a third party (usually a solar company or its investors) owns and operates a PV system located on the homeowner's roof. The homeowner enters into a contract with this third party to buy all of the electricity generated by the PV system over an extended period of time, typically up to 20 years. The third party, as owner of the system, is responsible for all operations and maintenance of the PV system. Third-party financing mechanisms can be attractive for homeowners because they can reduce the risk and complexity involved in owning and operating a renewable generating system.

This model of financing may also apply to installation of a sustainable energy project that offers energy savings instead of producing energy. Under this scenario, the customer may enter into a contract to pay the third party based on the estimated energy savings resulting from the project.

State Fiscal Effect: Special fund expenditures from the Public Utilities Regulation Fund increase by $108,839 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring one accountant and one regulatory economist to perform analyses, develop and implement regulations, and oversee a new form of utility. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$96,794
Equipment	3,915
Operating Expenses	8,130
FY 2012 MEA Administrative Expenditures	**$108,839**

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

The bill allows for the imposition of a lien on any property that is subject to a contract and requires contracts to be recorded in the land records' offices of the circuit courts in which the property is located. The Judiciary may experience an increase in recordings of land records and liens established, but the overall impact is absorbable within existing budgeted resources.

Small Business Effect: Creating a third-party financing mechanism for property owners to install sustainable energy products provides an additional way to finance the purchase and installation of such equipment. If additional property owners are able to install sustainable energy products as a result of the bill, small businesses involved with the manufacturing, distribution, and installation of sustainable energy products stand to benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of People's Counsel, Public Service Commission, U.S. Department of Energy, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2011
ncs/lgc

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510