

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 398

(Senator King, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Sale of Electricity Generated by Solar Energy and Residential
Wind Energy Equipment - Exemption

This bill exempts the sale of electricity generated by solar energy equipment or residential wind energy equipment for use in residential property owned by an eligible customer-generator from the State sales and use tax.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: None. The bill is not expected to significantly affect State operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The sales and use tax does not apply to (1) a sale of electricity, steam, or artificial or natural gas for use in residential condominiums; (2) a sale of electricity, steam, or artificial or natural gas that is delivered under a residential or domestic rate schedule on file with the Public Service Commission (PSC); (3) a sale of coal, firewood, heating oil, or propane gas or similar liquefied gas for use in residential property that contains no more than four units, cooperative housing, condominiums, or other similar residential living arrangements; or (4) a sale of electricity through three or more bulk meters for use in a nonprofit planned retirement community of more than 2,000 housing cooperative or condominium units if ownership of units is restricted by age, any unit is

served by an individual meter, and on or before July 1, 1979, at least three bulk meters served the community.

The sales and use tax also does not apply to the sale of geothermal equipment, residential wind energy equipment, or solar energy equipment. Solar energy equipment is equipment that uses solar energy to heat or cool a structure, generates electricity to be used in a structure or supplied to the electric grid, or provides hot water for use in a structure. Solar energy equipment does not include equipment that is part of a nonsolar energy system or that uses any type of recreational facility or equipment as a storage medium. Residential wind energy equipment is equipment installed on residential property that uses wind energy to generate electricity for a residential structure.

An eligible customer-generator means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, fuel cell, or wind electric generating facility that is (1) located on the customer's premises or contiguous property; (2) interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (3) intended primarily to offset all or part of the customer's own electricity requirements.

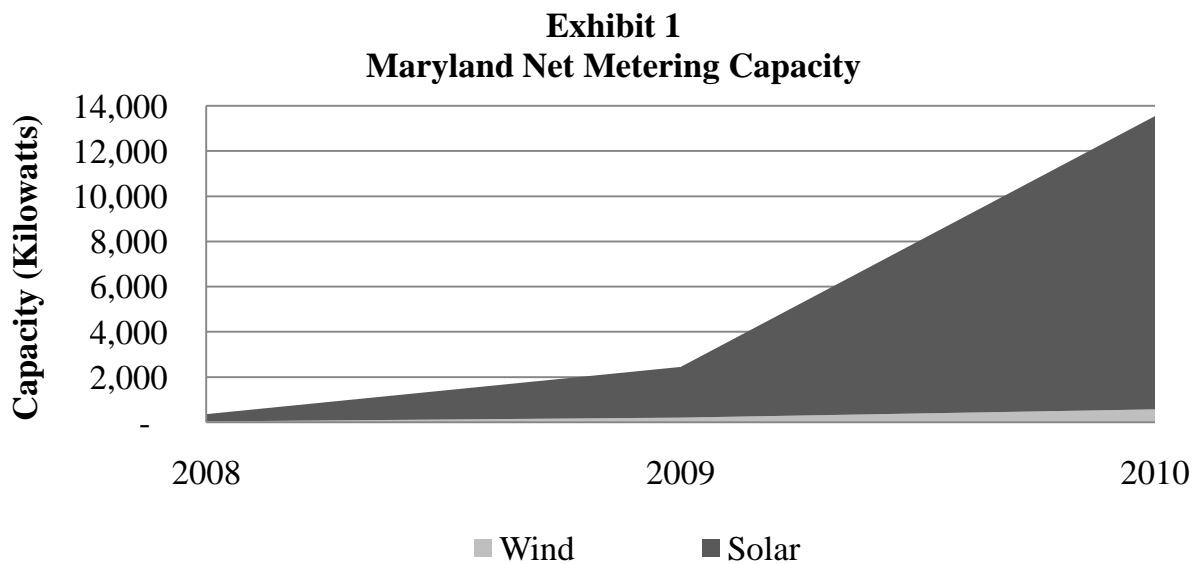
Background: Net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period. The generating capacity of an eligible customer-generator for net energy metering may not exceed two megawatts.

Chapter 438 of 2010 altered the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis and established the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation. The Act also required PSC to (1) establish a working group to address issues relating to the pricing mechanisms for different hours and seasons, meter aggregation, and the transfer of generation credits or aggregation of generation among separate accounts; and (2) adopt implementing regulations. Regulations to implement Chapter 438 have been proposed but have not yet been adopted.

PSC is required to submit a report on the status of net energy metering to the General Assembly by February 1 of each year. This report must contain the amount of generating capacity owned by eligible customer-generators in the State, the type of energy resource used in generation, a recommendation regarding whether the generating capacity limit of the net metering program should be altered, and other pertinent information.

The 2011 annual report on net energy metering has not yet been submitted to the General Assembly by PSC. The most recent data reported by PSC on net energy metering is provided in **Exhibit 1**. During calendar 2009, the amount of statewide generation increased from 2,453 kilowatts to 13,549 kilowatts. This represents only 0.9% of the current statewide limit of 1,500 megawatts for total net energy metering capacity. As of January 2010, the majority of net metering in the State was from solar generation. The generation sources are likely to have changed in the past 12 months, as additional generation sources have become eligible for net energy metering (micro combined heat and power and fuel cell) and additional grants have been provided for solar and small wind installations. **Exhibit 2** shows the amount of net metering for each utility as of January 2010.

For some installations of solar panels on residential structures, rather than selling these panels to customers due to the potentially high material and installation costs, the company installing the panels and the customer enter into an agreement whereby the customer purchases the electricity generated from the solar panels, rather than purchasing the solar equipment. It is unclear whether the sale of electricity under this type of arrangement would be subject to or exempt from the State sales and use tax, as the electricity is not delivered under a residential or domestic rate schedule on file with PSC.



Source: Public Service Commission

Exhibit 2
January 2010 Net Metering Capacity
(Kilowatts)

<u>Electric Utility</u>	<u>Solar</u>	<u>Wind</u>	<u>Utility Total</u>
A & N Electric Cooperative	-	-	-
Baltimore Gas and Electric Company	4,996	91	5,087
Choptank Electric Cooperative	75	82	157
Delmarva Power and Light Company	2,362	127	2,489
Easton Utilities	-	-	-
Hagerstown Municipal Light Company	1	-	1
Town of Thurmont	-	-	-
Town of Berlin	-	-	-
Potomac Electric Power Company	3,111	-	3,111
Potomac Edison Company	2,127	273	2,400
Williamsport Light	-	-	-
Southern Maryland Electric Cooperative	300	4	304
Somerset Electric Cooperative	-	-	-
Total	12,972	577	13,549

Source: Public Service Commission

State Fiscal Effect: The sale of electricity to residential customers is exempt from the State sales and use tax if the electricity is provided under a residential or domestic rate schedule on file with PSC. Electricity generated from solar or wind energy equipment that is owned by an individual would not be subject to the sales and use tax, as it is generated by equipment that is owned by the individual. The bill is intended to provide individuals who receive electricity generated by solar or wind energy equipment, whether the equipment is owned by them or by another person, the same sales tax exemption for the purchase of electricity as if it were provided to them under a rate schedule on file with PSC. Because the State does not currently collect sales tax on the residential sale of electricity, there should be no effect on State sales tax revenues.

Additional Information

Prior Introductions: None.

Cross File: HB 502 (Delegate Barve, *et al.*) - Ways and Means.

Information Source(s): Comptroller's Office, Maryland Energy Administration, Public Service Commission, Department of Legislative Services

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