

HOUSE BILL 1128

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3lr1813
CF SB 699

By: **Delegates Stein, Clippinger, Anderson, Barkley, Bobo, Cardin, Eckardt, Glenn, Hucker, Lafferty, Luedtke, McIntosh, A. Miller, Mitchell, Morhaim, Pendergrass, B. Robinson, S. Robinson, Rosenberg, Tarrant, and M. Washington**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity – Community Energy–Generating Facilities – Pilot Program**

3 FOR the purpose of establishing a pilot program on community energy–generating
4 facilities under the authority of the Public Service Commission; requiring the
5 Commission to adhere to certain guidelines in conducting the pilot program;
6 authorizing the Commission to assess an administrative fee; stating the
7 effectiveness of contracts entered into during the pilot program; prohibiting the
8 Commission or an electric company from changing the terms of a contract
9 entered into during the pilot program; limiting the amount of electricity that
10 may be generated in certain years of the pilot program; stating when the pilot
11 program will terminate; requiring the Commission to make a certain report to
12 the General Assembly on or before a certain date; authorizing the Commission
13 to adopt consumer protection regulations for the pilot program; requiring the
14 Commission to notify the General Assembly and the Department of Legislative
15 Services when a pilot tariff is adopted under this Act; defining certain terms;
16 stating certain findings of the General Assembly; providing for the termination
17 of this Act; and generally relating to a pilot program for community
18 energy–generating facilities.

19 BY adding to

20 Article – Public Utilities

21 Section 7–306.1

22 Annotated Code of Maryland

23 (2010 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Public Utilities2 **7-306.1.**

3 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
4 **MEANINGS INDICATED.**

5 **(2) (I) “COMMUNITY ENERGY-GENERATING FACILITY” MEANS**
6 **A RENEWABLE ENERGY FACILITY THAT:**

7 **1. GENERATES ELECTRICITY FROM BIOMASS, SOLAR,**
8 **FUEL CELL, WIND, OR CLOSED CONDUIT HYDRO;**

9 **2. CREDITS ITS GENERATED ELECTRICITY TO THE**
10 **BILL OF THE SUBSCRIBERS TO THE FACILITY;**

11 **3. IS LOCATED IN THE SAME ELECTRIC COMPANY**
12 **SERVICE TERRITORY AS ITS SUBSCRIBERS;**

13 **4. HAS AT LEAST TWO SUBSCRIBERS;**

14 **5. HAS A GENERATING CAPACITY THAT DOES NOT**
15 **EXCEED 2 MEGAWATTS; AND**

16 **6. MAY BE OWNED BY ANY PERSON, INCLUDING A**
17 **SUBSCRIBER ORGANIZATION.**

18 **(II) A COMMUNITY ENERGY-GENERATING FACILITY IS NOT**
19 **AN ELECTRIC COMPANY, AN ELECTRIC SUPPLIER, OR A GENERATING STATION.**

20 **(3) “SUBSCRIBER” MEANS A RETAIL CUSTOMER OF AN ELECTRIC**
21 **COMPANY WHO OWNS A SUBSCRIPTION AND HAS IDENTIFIED ONE OR MORE**
22 **INDIVIDUAL METERS OR ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE**
23 **ATTRIBUTED.**

24 **(4) “SUBSCRIBER ORGANIZATION” MEANS AN ORGANIZATION**
25 **WHOSE SOLE PURPOSE IS TO OWN OR OPERATE A COMMUNITY**
26 **ENERGY-GENERATING FACILITY OR THE SUBSCRIBERS OF THE COMMUNITY**
27 **ENERGY-GENERATING FACILITY.**

28 **(5) “SUBSCRIPTION” MEANS AN INTEREST IN A COMMUNITY**
29 **ENERGY-GENERATING FACILITY.**

1 **(6) “UNSUBSCRIBED ENERGY” MEANS ANY COMMUNITY**
2 **ENERGY-GENERATING FACILITY OUTPUT THAT IS NOT ALLOCATED TO A**
3 **SUBSCRIBER.**

4 **(B) THE GENERAL ASSEMBLY FINDS THAT COMMUNITY RENEWABLE**
5 **ENERGY GENERATION ALLOWS RESIDENTS AND BUSINESSES INCREASED**
6 **ACCESS TO RENEWABLE ELECTRICITY WHILE ENCOURAGING PRIVATE**
7 **INVESTMENT IN RENEWABLE RESOURCES, STIMULATING IN-STATE ECONOMIC**
8 **GROWTH, AND ENHANCING CONTINUED DIVERSIFICATION OF THE STATE’S**
9 **ENERGY RESOURCE MIX.**

10 **(C) THERE IS A PILOT PROGRAM ON COMMUNITY ENERGY-GENERATING**
11 **FACILITIES ADMINISTERED BY THE COMMISSION.**

12 **(D) THE COMMISSION SHALL ADHERE TO THE FOLLOWING GUIDELINES**
13 **IN CONDUCTING THE PILOT PROGRAM:**

14 **(1) AN ELECTRIC COMPANY SHALL CREDIT A SUBSCRIBER ON A**
15 **MONTHLY BASIS FOR THE SUBSCRIBER’S PORTION OF THE COMMUNITY**
16 **ENERGY-GENERATING FACILITY;**

17 **(2) THE SUBSCRIBER ORGANIZATION SHALL HAVE THE**
18 **RESPONSIBILITY OF DETERMINING THE CREDIT AMOUNT TO BE POSTED ON**
19 **EACH SUBSCRIBER’S BILL;**

20 **(3) CREDITS SHALL BE CARRIED FORWARD ON THE SUBSCRIBER’S**
21 **BILL FOR A PERIOD OF NO LONGER THAN 12 MONTHS, AFTER WHICH THE**
22 **ELECTRIC COMPANY SHALL PAY EACH ELIGIBLE SUBSCRIBER FOR THE DOLLAR**
23 **VALUE OF ANY ACCRUED NET EXCESS GENERATION REMAINING;**

24 **(4) THE DOLLAR VALUE OF NET EXCESS GENERATION SHALL BE**
25 **EQUAL TO THE GENERATION OR COMMODITY PORTION OF THE RATE THAT THE**
26 **ELIGIBLE SUBSCRIBER WOULD HAVE BEEN CHARGED BY THE ELECTRIC**
27 **COMPANY AVERAGED OVER THE PREVIOUS 12-MONTH PERIOD MULTIPLIED BY**
28 **THE NUMBER OF KILOWATT-HOURS OF NET EXCESS GENERATION;**

29 **(5) THE COMMISSION SHALL DETERMINE THE MAXIMUM AMOUNT**
30 **OF NET EXCESS GENERATION THAT A SUBSCRIBER MAY BE CREDITED;**

31 **(6) ELECTRICITY GENERATED BY THE COMMUNITY**
32 **ENERGY-GENERATING FACILITY SHALL BE VALUED AT A RATE SET BY THE**
33 **COMMISSION TO CORRESPOND TO THE AVERAGE RETAIL VALUE OF**
34 **ELECTRICITY FOR THE SUBSCRIBER’S CUSTOMER CLASS;**

1 **(7) THE COMMISSION SHALL DETERMINE A TRANSMISSION AND**
2 **DISTRIBUTION RATE THAT TAKES INTO CONSIDERATION OPERATION,**
3 **MAINTENANCE, REDUCED LINE LOSS, AND THE BENEFITS OF DISTRIBUTED**
4 **GENERATION;**

5 **(8) THE TRANSMISSION AND DISTRIBUTION RATE SHALL BE**
6 **INCORPORATED INTO THE VALUE OF ELECTRICITY GENERATED BY THE**
7 **COMMUNITY ENERGY-GENERATING FACILITY;**

8 **(9) ALL RATE CLASSES SHALL BE ALLOWED TO PARTICIPATE IN**
9 **THE PILOT PROGRAM;**

10 **(10) ALL COSTS ASSOCIATED WITH INTERCONNECTION ARE THE**
11 **RESPONSIBILITY OF THE OWNER OR OPERATOR OF THE COMMUNITY**
12 **ENERGY-GENERATING FACILITY;**

13 **(11) ANY UNSUBSCRIBED ENERGY SHALL BE PURCHASED UNDER**
14 **THE ELECTRIC COMPANY'S PROCESS FOR PURCHASING THE OUTPUT FROM**
15 **QUALIFYING FACILITIES AT AVOIDED COST;**

16 **(12) NET EXCESS GENERATION PROCEDURES UNDER § 7-306 OF**
17 **THIS SUBTITLE SHALL APPLY TO ALL NET EXCESS GENERATION CREATED BY A**
18 **SUBSCRIBER;**

19 **(13) A SUBSCRIBER ORGANIZATION MAY CONTRACT WITH A THIRD**
20 **PARTY FOR THE THIRD PARTY TO FINANCE, BUILD, OWN, OR OPERATE A**
21 **COMMUNITY ENERGY-GENERATING FACILITY;**

22 **(14) AN ELECTRIC COMPANY MAY ASSESS A FAIR AND REASONABLE**
23 **FEE, SUBJECT TO APPROVAL BY THE COMMISSION, FOR THE ADMINISTRATION**
24 **OF THIS PILOT PROGRAM; AND**

25 **(15) A MUNICIPAL UTILITY OR COOPERATIVE UTILITY MAY**
26 **PARTICIPATE IN THE PROGRAM.**

27 **(E) (1) A CONTRACT ENTERED INTO DURING THE PILOT PROGRAM**
28 **SHALL REMAIN IN EFFECT FOR THE DURATION OF THE CONTRACT.**

29 **(2) NEITHER THE COMMISSION NOR THE ELECTRIC COMPANY**
30 **MAY CHANGE THE TERMS OF THE CONTRACT.**

1 **(F) THE ELECTRICITY GENERATED UNDER THE PILOT PROGRAM SHALL**
2 **BE LIMITED TO:**

3 **(1) 15 MEGAWATTS DURING THE FIRST YEAR;**

4 **(2) 30 MEGAWATTS DURING THE SECOND YEAR; AND**

5 **(3) 50 MEGAWATTS DURING THE THIRD YEAR.**

6 **(G) (1) THE PILOT PROGRAM SHALL TERMINATE 3 YEARS AFTER THE**
7 **COMMISSION ADOPTS PILOT TARIFFS.**

8 **(2) ON OR BEFORE DECEMBER 31 OF THE YEAR FOLLOWING**
9 **TERMINATION OF THE PILOT PROGRAM, THE COMMISSION SHALL REPORT TO**
10 **THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
11 **GOVERNMENT ARTICLE, ON:**

12 **(I) A TARIFF STRUCTURE THAT ENCOURAGES COMMUNITY**
13 **ENERGY GENERATION AND ALLOWS AN ELECTRIC COMPANY TO RECOVER FOR**
14 **DISTRIBUTION COSTS AND ADMINISTRATION FEES;**

15 **(II) AN APPROPRIATE CREDIT MECHANISM THAT ALLOWS**
16 **THE COMMUNITY ENERGY-GENERATING FACILITY TO BE OPERATED AT**
17 **LEAST-COST;**

18 **(III) A PROCESS TO ALLOW AN ELECTRIC COMPANY TO**
19 **ADJUST THE STANDARD OFFER SERVICE PROCUREMENT IN RESPONSE TO**
20 **COMMUNITY ENERGY-GENERATING FACILITY OUTPUT;**

21 **(IV) WHETHER A COMMUNITY ENERGY-GENERATING**
22 **FACILITY AND ITS SUBSCRIBERS SHOULD BE COMPENSATED FOR AVOIDED**
23 **TRANSMISSION AND DISTRIBUTION COSTS;**

24 **(V) THE AMOUNT AND TYPE OF OVERSIGHT NECESSARY;**
25 **AND**

26 **(VI) AN APPROPRIATE CAP ON COMMUNITY**
27 **ENERGY-GENERATING FACILITY SYSTEM SIZE.**

28 **(H) THE COMMISSION MAY ADOPT CONSUMER PROTECTION**
29 **REGULATIONS FOR THE PILOT PROGRAM.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Public Service
2 Commission shall notify the General Assembly and the Department of Legislative
3 Services when a pilot tariff is adopted in accordance with Section 1 of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2013. It shall remain effective for a period of 4 years and, at the end of
6 September 30, 2017, with no further action required by the General Assembly, this Act
7 shall be abrogated and of no further force and effect.