

# SENATE BILL 974

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By: **Senator Pipkin**

Introduced and read first time: February 15, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Renewable Energy Portfolio Standard – Repeal of Solar Energy Requirement**

3 FOR the purpose of repealing the requirement that an electricity supplier's renewable  
4 energy portfolio include a certain percent of solar energy in certain years;  
5 repealing certain compliance fees for a shortfall from certain solar energy  
6 requirements; altering the responsibilities of a certain individual designated by  
7 the Public Service Commission; repealing a requirement that certain  
8 compliance fees be accounted for and used in a certain manner; providing for a  
9 delayed effective date; and generally relating to the renewable energy portfolio  
10 standard.

11 BY repealing and reenacting, with amendments,  
12 Article – Public Utilities  
13 Section 7–703, 7–705, 7–709(c), and 7–711  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2012 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – State Government  
18 Section 9–20B–05(i)  
19 Annotated Code of Maryland  
20 (2009 Replacement Volume and 2012 Supplement)

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

23 **Article – Public Utilities**

24 7–703.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) (i) The Commission shall implement a renewable energy  
2 portfolio standard that, except as provided under paragraph (2) of this subsection,  
3 applies to all retail electricity sales in the State by electricity suppliers.

4 (ii) If the standard becomes applicable to electricity sold to a  
5 customer after the start of a calendar year, the standard does not apply to electricity  
6 sold to the customer during that portion of the year before the standard became  
7 applicable.

8 (2) A renewable energy portfolio standard may not apply to electricity  
9 sales at retail by any electricity supplier:

10 (i) in excess of 300,000,000 kilowatt-hours of industrial process  
11 load to a single customer in a year;

12 (ii) to residential customers in a region of the State in which  
13 electricity prices for residential customers are subject to a freeze or cap contained in a  
14 settlement agreement entered into under § 7-505 of this title until the freeze or cap  
15 has expired; or

16 (iii) to a customer served by an electric cooperative under an  
17 electricity supplier purchase agreement that existed on October 1, 2004, until the  
18 expiration of the agreement.

19 (b) The renewable energy portfolio standard shall be as follows:

20 (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2  
21 renewable sources;

22 (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2  
23 renewable sources;

24 (3) in 2008, 2.005% from Tier 1 renewable sources[, including at least  
25 0.005% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

26 (4) in 2009, 2.01% from Tier 1 renewable sources[, including at least  
27 0.01% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

28 (5) in 2010, 3.025% from Tier 1 renewable sources[, including at least  
29 0.025% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

30 (6) in 2011, 5.0% from Tier 1 renewable sources[, including at least  
31 0.05% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

32 (7) in 2012, 6.5% from Tier 1 renewable sources[, including at least  
33 0.1% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

1           (8)    in 2013, 8.2% from Tier 1 renewable sources[, including at least  
2 0.25% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

3           (9)    in 2014, 10.3% from Tier 1 renewable sources[, including at least  
4 0.35% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

5           (10)   in 2015, 10.5% from Tier 1 renewable sources[, including at least  
6 0.5% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

7           (11)   in 2016, 12.7% from Tier 1 renewable sources[, including at least  
8 0.7% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

9           (12)   in 2017, 13.1% from Tier 1 renewable sources[, including at least  
10 0.95% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

11          (13)   in 2018, 15.8% from Tier 1 renewable sources[, including at least  
12 1.4% derived from solar energy,] and 2.5% from Tier 2 renewable sources;

13          (14)   in 2019, 17.4% from Tier 1 renewable sources[, including at least  
14 1.75% derived from solar energy,] and 0% from Tier 2 renewable sources;

15          (15)   in 2020, 18% from Tier 1 renewable sources[, including at least  
16 2.0% derived from solar energy,] and 0% from Tier 2 renewable sources;

17          (16)   in 2021, 18.7% from Tier 1 renewable sources[, including at least  
18 2.0% derived from solar energy,] and 0% from Tier 2 renewable sources; and

19          (17)   in 2022 and later, 20% from Tier 1 renewable sources[, including at  
20 least 2% derived from solar energy,] and 0% from Tier 2 renewable sources.

21          (c)    Before calculating the number of credits required to meet the percentages  
22 established under subsection (b) of this section, an electricity supplier shall exclude  
23 from its total retail electricity sales all retail electricity sales described in subsection  
24 (a)(2) of this section.

25          (d)    Subject to subsections (a) and (c) of this section, an electricity supplier  
26 shall meet the renewable energy portfolio standard by accumulating the equivalent  
27 amount of renewable energy credits that equal the percentages required under this  
28 section.

29   7–705.

30          (a)    Each electricity supplier shall submit a report to the Commission each  
31 year in a form and by a date specified by the Commission that:

1 (1) demonstrates that the electricity supplier has complied with the  
2 applicable renewable energy portfolio standard under § 7–703 of this subtitle and  
3 includes the submission of the required amount of renewable energy credits; or

4 (2) demonstrates the amount of electricity sales by which the  
5 electricity supplier failed to meet the applicable renewable energy portfolio standard.

6 (b) If an electricity supplier fails to comply with the renewable energy  
7 portfolio standard for the applicable year, the electricity supplier shall pay into the  
8 Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the  
9 State Government Article:

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

12 (i) 4 cents for each kilowatt–hour of shortfall from required  
13 Tier 1 renewable sources [other than the shortfall from the required Tier 1 renewable  
14 sources that is to be derived from solar energy]; **AND**

15 [(ii) the following amounts for each kilowatt–hour of shortfall  
16 from required Tier 1 renewable sources that is to be derived from solar energy:

- 17 1. 45 cents in 2008;
- 18 2. 40 cents in 2009 through 2014;
- 19 3. 35 cents in 2015 and 2016;
- 20 4. 20 cents in 2017 and 2018;
- 21 5. 15 cents in 2019 and 2020;
- 22 6. 10 cents in 2021 and 2022; and
- 23 7. 5 cents in 2023 and later; and]

24 [(iii) (II) 1.5 cents for each kilowatt–hour of shortfall from  
25 required Tier 2 renewable sources; or

26 (2) for industrial process load:

27 (i) for each kilowatt–hour of shortfall from required Tier 1  
28 renewable sources, a compliance fee of:

- 29 1. 0.8 cents in 2006, 2007, and 2008;

- 1                                   2.     0.5 cents in 2009 and 2010;
- 2                                   3.     0.4 cents in 2011 and 2012;
- 3                                   4.     0.3 cents in 2013 and 2014;
- 4                                   5.     0.25 cents in 2015 and 2016; and
- 5                                   6.     0.2 cents in 2017 and later; and

6                                   (ii)   nothing for any shortfall from required Tier 2 renewable  
7 sources.

8                   (c)     The Commission may allow an electricity supplier to submit the report  
9 required under § 7–505(b)(4) of this title to demonstrate compliance with the  
10 renewable energy portfolio standard.

11                   (d)     An aggregator or broker who assists an electricity customer in purchasing  
12 electricity but who does not supply the electricity or take title to or ownership of the  
13 electricity may require the electricity supplier who supplies the electricity to  
14 demonstrate compliance with this subtitle.

15                   [(e)   (1)     Notwithstanding the requirements of § 7–703(b) of this subtitle, if  
16 the actual or projected dollar–for–dollar cost incurred or to be incurred by an  
17 electricity supplier solely for the purchase of Tier 1 renewable energy credits derived  
18 from solar energy in any 1 year is greater than or equal to, or is anticipated to be  
19 greater than or equal to, 1% of the electricity supplier’s total annual electricity sales  
20 revenues in Maryland, the electricity supplier may request that the Commission:

21                                   (i)     delay by 1 year each of the scheduled percentages for solar  
22 energy under § 7–703(b) of this subtitle that would apply to the electricity supplier;  
23 and

24                                   (ii)    allow the renewable energy portfolio standard for solar  
25 energy for that year to continue to apply to the electricity supplier for the following  
26 year.

27                   (2)     In making its determination under paragraph (1) of this  
28 subsection, the Commission shall consider the actual or projected dollar–for–dollar  
29 compliance costs of other electricity suppliers.

30                   (3)     If an electricity supplier makes a request under paragraph (1) of  
31 this subsection based on projected costs, the electricity supplier shall provide verifiable  
32 evidence of the projections to the Commission at the time of the request.

33                   (4)     If the Commission allows a delay under paragraph (1) of this  
34 subsection:

1 (i) the renewable energy portfolio standard for solar energy  
2 applicable to the electricity supplier under the delay continues for each subsequent  
3 consecutive year that the actual or projected dollar-for-dollar costs incurred, or to be  
4 incurred, by the electricity supplier solely for the purchase of solar renewable energy  
5 credits is greater than or equal to, or is anticipated to be greater than or equal to, 1%  
6 of the electricity supplier's total annual retail electricity sales revenues in Maryland;  
7 and

8 (ii) the renewable energy portfolio standard for solar energy  
9 applicable to the electricity supplier under the delay is increased to the next scheduled  
10 percentage increase under § 7-703(b) of this subtitle for each year in which the actual  
11 or projected dollar-for-dollar costs incurred, or to be incurred, by the electricity  
12 supplier solely for the purchase of solar renewable energy credits is less than, or is  
13 anticipated to be less than, 1% of the electricity supplier's total annual retail  
14 electricity sales revenues in Maryland.]

15 [(f)] (E) (1) [Except as provided in subsection (e) of this section, and  
16 notwithstanding] **NOTWITHSTANDING** the requirements of § 7-703(b) of this subtitle,  
17 if the actual or projected dollar-for-dollar cost incurred or to be incurred by an  
18 electricity supplier solely for the purchase of Tier 1 renewable energy credits [other  
19 than solar credits] in any 1 year is greater than or equal to, or is anticipated to be  
20 greater than or equal to, the greater of the applicable Tier 1 percentage or 10% of the  
21 electricity supplier's total annual electricity sales revenues in Maryland, the electricity  
22 supplier may request that the Commission:

23 (i) delay by 1 year each of the scheduled percentages for Tier 1  
24 credits under § 7-703(b) of this subtitle that would apply to the electricity supplier;  
25 and

26 (ii) allow the renewable energy portfolio standard for Tier 1 for  
27 that year to continue to apply to the electricity supplier for the following year.

28 (2) In making its determination under paragraph (1) of this  
29 subsection, the Commission shall consider the actual or projected dollar-for-dollar  
30 compliance costs of other electricity suppliers.

31 (3) If an electricity supplier makes a request under paragraph (1) of  
32 this subsection based on projected costs, the electricity supplier shall provide verifiable  
33 evidence of the projections to the Commission at the time of the request.

34 (4) If the Commission allows a delay under paragraph (1) of this  
35 subsection:

36 (i) the renewable energy portfolio standard for Tier 1 applicable  
37 to the electricity supplier under the delay continues for each subsequent consecutive  
38 year that the actual or projected dollar-for-dollar costs incurred, or to be incurred, by

1 the electricity supplier solely for the purchase of Tier 1 credits [other than solar  
2 credits] is greater than or equal to, or is anticipated to be greater than or equal to, the  
3 greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total  
4 annual retail electricity sales revenues in Maryland; and

5 (ii) the renewable energy portfolio standard for Tier 1 applicable  
6 to the electricity supplier under the delay is increased to the next scheduled  
7 percentage increase under § 7-703(b) of this subtitle for each year in which the actual  
8 or projected dollar-for-dollar costs incurred, or to be incurred, by the electricity  
9 supplier solely for the purchase of Tier 1 credits [other than solar credits] is less than,  
10 or is anticipated to be less than, the greater of the applicable Tier 1 percentage or 10%  
11 of the electricity supplier's total annual retail electricity sales revenues in Maryland.

12 7-709.

13 (c) (1) (i) If an electricity supplier purchases solar renewable energy  
14 credits directly from a renewable on-site generator with a capacity that exceeds 10  
15 kilowatts [to meet the solar component of the Tier 1 renewable energy portfolio  
16 standard], the duration of the contract term for the solar renewable energy credits  
17 may not be less than 15 years.

18 (ii) The minimum required term under subparagraph (i) of this  
19 paragraph does not affect the ability of the parties to negotiate a price for a solar  
20 renewable energy credit that varies over time in any manner.

21 (2) (i) An electricity supplier that purchases solar renewable  
22 energy credits from a renewable on-site generator with a capacity not exceeding 10  
23 kilowatts shall purchase the credits with a single initial payment representing the full  
24 estimated production of the system for the life of the contract.

25 (ii) The Commission shall:

26 1. develop a method for estimating annual production  
27 from the type of system described in subparagraph (i) of this paragraph and allocating  
28 the credits to the electricity supplier in a manner that is consistent with the duration  
29 of the contract; and

30 2. determine the rate for a payment made to a  
31 renewable on-site generator under subparagraph (i) of this paragraph.

32 7-711.

33 (a) The Commission has the same power and authority with respect to an  
34 electricity supplier under this subtitle that the Commission has with respect to any  
35 public service company under this division for the purposes of investigating and  
36 examining the electricity supplier to determine compliance with this subtitle and with  
37 other applicable law.

1           (b)   (1)   Beginning January 1, 2008, the Commission shall designate an  
2 individual to be responsible for the oversight of [compliance with the requirements of  
3 Tier 1 renewable sources that are to be derived from] solar energy **GENERATION IN**  
4 **THE STATE.**

5                   (2)   The individual designated under paragraph (1) of this subsection  
6 shall:

7                           (i)   [develop the program for the requirements for Tier 1  
8 renewable sources derived from solar energy;

9                           (ii)] provide education and outreach to promote the use of solar  
10 energy; and

11                           [(iii)] **(II)** make policy recommendations to the Commission  
12 regarding improving the State's use of solar energy, including the development of  
13 clear, simple, and straightforward forms, requirements, and procedures to facilitate  
14 participation by homeowners and small businesses in deployment of solar generation  
15 in the State.

16   **Article – State Government**

17   9–20B–05.

18           (i)   [(1) Except as provided in paragraph (2) of this subsection, compliance]  
19 **COMPLIANCE** fees paid under § 7–705(b) of the Public Utilities Article may be used  
20 only to make loans and grants to support the creation of new Tier 1 renewable energy  
21 sources in the State.

22                   [(2) Compliance fees paid under § 7–705(b)(1)(ii) of the Public Utilities  
23 Article shall be accounted for separately within the Fund and may be used only to  
24 make loans and grants to support the creation of new solar energy sources in the  
25 State.]

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 January 1, 2014.