

HOUSE BILL 410

C8

7lr0188
CF SB 313

By: The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Arentz, Beitzel, Buckel, Carozza, Cassilly, Ciliberti, Clark, Flanagan, Folden, Grammer, Hornberger, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McKay, Metzgar, Miele, Reilly, Rose, Shoemaker, Simonaire, Szeliga, Vogt, West, B. Wilson, and Wivell

Introduced and read first time: January 26, 2017

Assigned to: Economic Matters and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Maryland Energy Innovation Institute**

3 FOR the purpose of establishing a Maryland Energy Innovation Institute for certain
4 purposes; providing that the Institute is a part of the A. James Clark School of
5 Engineering of the University of Maryland; providing that the School shall manage
6 the Institute according to certain policies with advice of the Advisory Board of the
7 Institute; establishing the purposes of the Institute; providing that the exercise of
8 certain powers by the Institute is an essential governmental function; establishing
9 an Advisory Board of the Institute for certain purposes; providing for the
10 membership, terms, powers, and officers of the Institute Board; providing that the
11 Director of the University of Maryland Energy Research Center is the Director of the
12 Institute; providing for the appointment of an Associate Director; establishing the
13 duties of the Institute Director; authorizing the Institute to retain certain staff and
14 consultants; establishing the powers of the Institute; establishing the Maryland
15 Energy Innovation Fund as a special, nonlapsing revolving fund in the University
16 System of Maryland to be used by the Institute and the Maryland Clean Energy
17 Center; specifying the purposes and uses of the Fund; providing that the Institute
18 shall manage and supervise the Fund; requiring the State Treasurer to hold the
19 Fund and the Comptroller to account for the Fund; specifying the contents of the
20 Fund; providing for the investment of money in the Fund; requiring interest earnings
21 of the Fund to be credited to the Fund; providing for the audit of the books and
22 records of the Institute in a certain manner; requiring the Institute to report each
23 year to the Governor, the Maryland Energy Administration, and the General
24 Assembly on certain matters; altering the purposes of the Maryland Clean Energy
25 Center; altering the membership of the Board of Directors of the Center; providing
26 that the Governor shall appoint the chair of the Board; repealing the function of the
27 Center as a clearinghouse for certain information and materials for certain purposes;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 providing that the Center shall consult with the Administration when cooperating
2 with certain entities and coordinating certain activities with certain programs and
3 persons; requiring the Center to publish certain audits on its Web site; repealing the
4 Maryland Clean Energy Technology Incubator Program in the Center; exempting
5 the Fund from a certain provision of law requiring interest earnings of State money
6 to accrue to the General Fund of the State; providing that the Institute is exempt
7 from State and local taxes; providing for the transfer of certain funds in each of
8 certain fiscal years to the Fund from the Strategic Energy Investment Fund;
9 providing for the initial terms of the members of the Institute Board; requiring the
10 Institute to conduct a certain study and report on its findings and recommendations
11 to the Governor, the Administration, and the General Assembly on or before a certain
12 date; defining certain terms; providing that certain obligations or contracts may not
13 be impaired by this Act; and generally relating to the Maryland Energy Innovation
14 Institute, the Maryland Clean Energy Center, and economic development.

15 BY repealing

16 Article – Economic Development

17 Section 10–829 through 10–837 and the part “Part III. Maryland Clean Energy
18 Technology Incubator Program”

19 Annotated Code of Maryland

20 (2008 Volume and 2016 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Economic Development

23 Section 10–801(a), (b), (c), (e), (f), (h), and (i)

24 Annotated Code of Maryland

25 (2008 Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Economic Development

28 Section 10–806, 10–807, 10–808, 10–823, and 10–825

29 Annotated Code of Maryland

30 (2008 Volume and 2016 Supplement)

31 BY adding to

32 Article – Economic Development

33 Section 10–828 through 10–838 to be under the new part “Part III. Maryland Energy
34 Innovation Institute”

35 Annotated Code of Maryland

36 (2008 Volume and 2016 Supplement)

37 (As enacted by Section 1 of this Act)

38 BY repealing and reenacting, without amendments,

39 Article – State Finance and Procurement

40 Section 6–226(a)(2)(i)

41 Annotated Code of Maryland

42 (2015 Replacement Volume and 2016 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)94. and 95.
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2016 Supplement)

6 BY adding to
7 Article – State Finance and Procurement
8 Section 6–226(a)(2)(ii)96.
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2016 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That Section(s) 10–829 through 10–837 and the part “Part III. Maryland Clean Energy
13 Technology Incubator Program” of Article – Economic Development of the Annotated Code
14 of Maryland be repealed.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
16 as follows:

17 **Article – Economic Development**

18 10–801.

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

20 (b) “Administration” means the Maryland Energy Administration.

21 (c) “Board” means the Board of Directors of the Center.

22 (e) “Center” means the Maryland Clean Energy Center.

23 (f) “Clean energy” includes:

24 (1) solar photovoltaic technology;

25 (2) solar heating;

26 (3) geothermal;

27 (4) wind;

28 (5) biofuels;

29 (6) ethanol;

3 (8) ocean, including energy from waves, tides, currents, and thermal
4 differences;

(9) a fuel cell that produces energy from biofuels, ethanol, or other qualifying biomass;

7 (10) energy efficiency and conservation;

(11) any other technology or service that the Center determines will contribute directly or indirectly to the production of energy from renewable or sustainable sources, or to the improvement of efficiency in the use of energy; and

(12) deployment of any of the technologies or services listed in items (1) through (11) of this subsection.

13 (h) "Director" means the Director of the Administration.

14 (i) "Executive Director" means the Executive Director of the Maryland Clean
15 Energy Center.

16 10-806.

17 (a) There is a Maryland Clean Energy Center.

18 (b) The Center is a body politic and corporate and is an instrumentality of the
19 State.

20 (c) The exercise by the Center of the powers conferred by this subtitle is the
21 performance of an essential governmental function.

22 (d) The purposes of the Center are to:

23 (1) promote economic development and jobs in the clean energy industry
24 sector in the State;

25 (2) promote the deployment of clean energy technology in the State;

26 (3) serve as an incubator for the development of clean energy industry in
27 the State;

28 (4) IN COLLABORATION WITH THE ADMINISTRATION, collect, analyze,
29 and disseminate industry data; and

(5) provide outreach and technical support to further the clean energy industry in the State.

6 10-807.

9 (b) The Board consists of the following [nine] 11 members:

10 (1) the Director, or the Director's designee;

11 (2) THE DIRECTOR OF THE MARYLAND ECONOMIC DEVELOPMENT
12 CORPORATION:

15 [2] (4) eight members appointed by the Governor with the advice and
16 consent of the Senate:

17 (i) two representing the not-for-profit clean energy research sector
18 of the State;

19 (ii) two with expertise in venture capital financing;

20 (iii) two representing clean energy industries in the State; [and]

21 (iv) [two members] **ONE CONSUMER MEMBER; AND**

22 (V) ONE MEMBER of the general public.

23 (c) A member of the Board shall reside in the State.

24 (d) In making appointments to the Board, the Governor shall consider:

25 (1) diversity; and

26 (2) all geographic regions of the State.

27 (e) A member of the Board:

1 (1) may not receive compensation as a member of the Board; but

2 (2) is entitled to reimbursement for expenses under the Standard State
3 Travel Regulations, as provided in the State budget.

4 (f) (1) The term of an appointed member is 4 years and begins on July 1.

5 (2) The terms of the appointed members are staggered as required by the
6 terms provided for members on October 1, 2008.

7 (3) At the end of a term, an appointed member continues to serve until a
8 successor is appointed and qualifies.

9 (4) A member who is appointed after a term has begun serves only for the
10 rest of the term and until a successor is appointed and qualifies.

11 (g) The Governor may remove an appointed member for incompetence,
12 misconduct, or failure to perform the duties of the position.

13 10-808.

14 From among [its] THE members[,] OF the Board [shall elect]:

15 (1) THE GOVERNOR SHALL APPOINT a chair[,] AND

16 (2) THE BOARD SHALL ELECT a vice chair[,] and a treasurer.

17 10-823.

18 (a) [The Center shall serve as a clearinghouse for information and materials that
19 may be pertinent to clean energy technology, education, and deployment in the State, for
20 persons engaged in the clean energy industry as developers, manufacturers, and installers,
21 as well as for consumers and financial institutions, including information on available
22 federal, State, and private financial assistance and technical assistance.

23 (b)] The Center may:

24 (1) cooperate with and provide assistance to local governments,
25 instrumentalities, and research entities in the State; and

26 (2) coordinate clean energy technology development, education, and
27 deployment activities with programs of the federal government and of governmental units
28 and public and private entities in and outside the State.

29 (B) THE CENTER SHALL CONDUCT THE ACTIVITIES UNDER THIS SECTION IN
30 CONSULTATION WITH THE ADMINISTRATION.

1 10-825.

2 (A) The books and records of the Center are subject to audit:

3 (1) at any time by the State; and

4 (2) each year by an independent auditor.

5 (B) **THE CENTER SHALL PUBLISH ITS ANNUAL AUDITS ON ITS WEB SITE.**

6 **PART III. MARYLAND ENERGY INNOVATION INSTITUTE.**

7 10-828.

8 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) "ACADEMIC INSTITUTION" MEANS A PUBLIC SENIOR HIGHER
11 EDUCATION INSTITUTION OR AN INDEPENDENT INSTITUTION OF HIGHER
12 EDUCATION IN THE STATE, AS THOSE TERMS ARE DEFINED IN § 10-101 OF THE
13 EDUCATION ARTICLE.

14 (C) "FUND" MEANS THE MARYLAND ENERGY INNOVATION FUND.

15 (D) "INSTITUTE" MEANS THE MARYLAND ENERGY INNOVATION INSTITUTE.

16 (E) "INSTITUTE BOARD" MEANS THE ADVISORY BOARD OF THE MARYLAND
17 ENERGY INNOVATION INSTITUTE.

18 (F) "INSTITUTE DIRECTOR" MEANS THE DIRECTOR OF THE MARYLAND
19 ENERGY INNOVATION INSTITUTE.

20 10-829.

21 (A) THERE IS A MARYLAND ENERGY INNOVATION INSTITUTE.

22 (B) THE INSTITUTE IS A PART OF THE A. JAMES CLARK SCHOOL OF
23 ENGINEERING OF THE UNIVERSITY OF MARYLAND.

24 (C) THE A. JAMES CLARK SCHOOL OF ENGINEERING SHALL MANAGE THE
25 INSTITUTE ACCORDING TO THE POLICIES OF THE UNIVERSITY OF MARYLAND AND
26 THE UNIVERSITY SYSTEM OF MARYLAND WITH THE ADVICE OF THE INSTITUTE
27 BOARD.

(D) THE PURPOSES OF THE INSTITUTE ARE TO:

6 (E) THE EXERCISE BY THE INSTITUTE OF THE POWERS CONFERRED BY THIS
7 PART IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

8 10-830.

(A) (1) THERE IS AN ADVISORY BOARD OF THE INSTITUTE.

10 (2) THE INSTITUTE BOARD ADVISES THE UNIVERSITY OF MARYLAND
11 ON THE MANAGEMENT OF THE INSTITUTE.

12 (B) THE INSTITUTE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

19 (C) A MEMBER OF THE INSTITUTE BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
INSTITUTE BOARD; BUT

22 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
23 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

24 (D) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS AND BEGINS ON
25 JULY 1.

26 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
27 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON JULY 1, 2017.

5 (E) FROM AMONG ITS MEMBERS, THE INSTITUTE BOARD SHALL ELECT A
6 CHAIR AND A VICE CHAIR.

7 10-831.

8 (A) THE INSTITUTE BOARD SHALL DETERMINE THE TIMES AND PLACES OF
9 ITS MEETINGS.

10 (B) (1) SEVEN MEMBERS OF THE INSTITUTE BOARD ARE A QUORUM.

13 10-832.

14 (A) (1) THE DIRECTOR OF THE UNIVERSITY OF MARYLAND ENERGY
15 RESEARCH CENTER, A UNIVERSITY OF MARYLAND FACULTY MEMBER, SHALL BE
16 THE DIRECTOR OF THE INSTITUTE.

19 (B) THE INSTITUTE DIRECTOR, OR THE INSTITUTE DIRECTOR'S DESIGNEE,
20 SHALL:

21 (1) ATTEND ALL MEETINGS OF THE INSTITUTE BOARD;

(2) ACT AS SECRETARY TO THE INSTITUTE BOARD;

(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE INSTITUTE BOARD;

24 (4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE
25 EXPENSES OF THE INSTITUTE, ITS EMPLOYEES, AND ITS CONSULTANTS;

26 (5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE
27 INSTITUTE; AND

3 10-833.

4 THE INSTITUTE MAY RETAIN ANY STAFF OR CONSULTANTS.

5 10-834.

6 THE INSTITUTE MAY:

7 (1) MAINTAIN OFFICES AT THE UNIVERSITY OF MARYLAND,
8 COLLEGE PARK;

(3) PROVIDE ENERGY POLICY ADVICE TO STATE AND FEDERAL UNITS;

13 (4) COLLABORATE WITH OTHER ACADEMIC INSTITUTIONS,
14 GOVERNMENTAL UNITS, FOUNDATIONS, AND INDUSTRIAL COMPANIES FOR CLEAN
15 ENERGY RESEARCH AND INNOVATION;

22 (7) WORK WITH THE MARYLAND TECHNOLOGY ENTERPRISE
23 INSTITUTE TO JOINTLY MANAGE, OPERATE, AND MAINTAIN FACILITIES FOR A CLEAN
24 ENERGY INCUBATOR AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK;

25 (8) WORK WITH THE MARYLAND TECHNOLOGY ENTERPRISE
26 INSTITUTE TO EXPAND MARYLAND INDUSTRIAL PARTNERSHIP AWARDS TO
27 PROMOTE THE COMMERCIALIZATION OF CLEAN ENERGY TECHNOLOGIES
28 DEVELOPED WHOLLY OR PARTLY BY AN ACADEMIC INSTITUTION:

4 (I) IDENTIFY ENERGY TECHNOLOGIES AT ACADEMIC
5 INSTITUTIONS THAT MAY BE Viable FOR COMMERCIALIZATION; AND

22 10-835.

23 (A) (1) THERE IS A MARYLAND ENERGY INNOVATION FUND IN THE
24 UNIVERSITY SYSTEM OF MARYLAND.

25 (2) THE FUND SHALL BE USED BY THE INSTITUTE AND THE CENTER.

26 (B) (1) THE INSTITUTE:

27 (I) MAY USE THE FUND TO:

28 1. CARRY OUT THE PURPOSES OF THIS SUBTITLE,
29 INCLUDING THE PURPOSES LISTED IN § 10-834 OF THIS SUBTITLE;

1 2. PURCHASE ADVISORY SERVICES AND TECHNICAL
2 ASSISTANCE TO BETTER SUPPORT ECONOMIC DEVELOPMENT; AND

3 3. PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL
4 EXPENSES OF THE INSTITUTE; AND

5 (II) SHALL USE THE FUND FOR THE ADMINISTRATIVE AND
6 OPERATING COSTS OF THE CENTER.

7 (2) THE CENTER MAY USE THE FUND TO:

8 (I) MAKE A GRANT OR A LOAN UNDER THIS SUBTITLE, AT THE
9 RATE OF INTEREST THE CENTER SETS;

10 (II) PROVIDE EQUITY INVESTMENT FINANCING FOR A BUSINESS
11 ENTERPRISE UNDER THIS SUBTITLE; AND

12 (III) GUARANTEE A LOAN, AN EQUITY, AN INVESTMENT, OR ANY
13 OTHER PRIVATE FINANCING TO EXPAND THE CAPITAL RESOURCES OF A BUSINESS
14 ENTERPRISE UNDER THIS SUBTITLE.

15 (C) THE INSTITUTE SHALL MANAGE AND SUPERVISE THE FUND.

16 (D) (1) THE FUND IS A SPECIAL, NONLAPSING REVOLVING FUND THAT IS
17 NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND
18 PROCUREMENT ARTICLE.

19 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
20 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

21 (E) THE FUND CONSISTS OF:

22 (1) MONEY APPROPRIATED BY THE STATE TO THE FUND;

23 (2) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL
24 PROGRAMS OR PRIVATE CONTRIBUTIONS;

25 (3) REPAYMENT OF PRINCIPAL OF A LOAN MADE FROM THE FUND;

26 (4) PAYMENT OF INTEREST ON A LOAN MADE FROM THE FUND;

4 (6) PREMIUMS, FEES, ROYALTIES, INTEREST, REPAYMENTS OF
5 PRINCIPAL, AND RETURNS ON INVESTMENTS PAID TO THE CENTER BY OR ON
6 BEHALF OF:

9 (II) AN INVESTOR PROVIDING AN INVESTMENT GUARANTEED BY
10 THE CENTER UNDER THIS PART;

15 (I) A REQUIREMENT THAT THE FUND RECEIVE A PROPORTION
16 OF CASH FLOW, COMMISSION, ROYALTY, OR PAYMENT ON A PATENT; OR

20 (8) REPAYMENT OF A CONDITIONAL GRANT EXTENDED BY THE
21 CENTER; AND

22 (9) ANY OTHER MONEY MADE AVAILABLE TO THE INSTITUTE FOR THE
23 FUND.

24 (F) (1) THE STATE TREASURER SHALL INVEST THE MONEY IN THE SAME
25 MANNER AS OTHER STATE MONEY MAY BE INVESTED.

26 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
27 THE FUND.

28 (G) MONEY EXPENDED FROM THE FUND UNDER THIS SUBTITLE IS
29 SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT
30 OTHERWISE WOULD BE APPROPRIATED FOR THE CENTER, THE INSTITUTE, OR ANY
31 PART OF THE UNIVERSITY SYSTEM OF MARYLAND.

1 **10-836.**

2 **THE INSTITUTE IS EXEMPT FROM STATE AND LOCAL TAXES.**

3 **10-837.**

4 **THE BOOKS AND RECORDS OF THE INSTITUTE ARE SUBJECT TO AUDIT:**

5 **(1) AT ANY TIME BY THE STATE; AND**

6 **(2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF**
7 **LEGISLATIVE AUDITS APPROVES.**

8 **10-838.**

9 **(A) ON OR BEFORE OCTOBER 1 EACH YEAR, THE INSTITUTE SHALL REPORT**
10 **TO THE GOVERNOR, THE ADMINISTRATION, AND, IN ACCORDANCE WITH § 2-1246**
11 **OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

12 **(B) THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL**
13 **STATEMENT COVERING THE INSTITUTE'S OPERATIONS AND A SUMMARY OF THE**
14 **INSTITUTE'S ACTIVITIES DURING THE PRECEDING FISCAL YEAR.**

15 **Article – State Finance and Procurement**

16 **6-226.**

17 **(a) (2) (i) Notwithstanding any other provision of law, and unless**
18 **inconsistent with a federal law, grant agreement, or other federal requirement or with the**
19 **terms of a gift or settlement agreement, net interest on all State money allocated by the**
20 **State Treasurer under this section to special funds or accounts, and otherwise entitled to**
21 **receive interest earnings, as accounted for by the Comptroller, shall accrue to the General**
22 **Fund of the State.**

23 **(ii) The provisions of subparagraph (i) of this paragraph do not apply**
24 **to the following funds:**

25 **94. the Community Program Fund; [and]**

26 **95. the Maryland Corps Program Fund; AND**

27 **96. THE MARYLAND ENERGY INNOVATION FUND.**

28 **SECTION 3. AND BE IT FURTHER ENACTED, That for fiscal years 2018, 2019,**
29 **2020, 2021, and 2022, in each year, \$1,500,000 shall be transferred from the Strategic**

1 Energy Investment Fund established under § 9–20B–05 of the State Government Article
2 to the Maryland Energy Innovation Fund established under § 10–835 of the Economic
3 Development Article, as enacted by Section 2 of this Act.

4 SECTION 4. AND BE IT FURTHER ENACTED, That the terms of the initial
5 members of the Advisory Board of the Maryland Energy Innovation Institute shall expire
6 as follows:

7 (1) two members in 2019;
8 (2) two members in 2020; and
9 (3) three members in 2021.

10 SECTION 5. AND BE IT FURTHER ENACTED, That:

11 (1) the Maryland Energy Innovation Institute, established by Section 2 of
12 this Act, shall study and evaluate:

13 (i) the availability and efficiency of the use of funds for the
14 development and deployment of clean energy technology in the State and the
15 commercialization of that technology, including funds from the Strategic Energy
16 Investment Fund, and other practical forms of financing;

17 (ii) the forecast need, if any, for additional funding or financing
18 options for these purposes; and

19 (iii) appropriate sources and levels of funding and financing options
20 for these purposes; and

21 (2) on or before December 1, 2019, the Institute shall submit a report of its
22 findings and recommendations under this section to the Governor, the Maryland Energy
23 Administration, and, in accordance with § 2–1246 of the State Government Article, the
24 General Assembly.

25 SECTION 6. AND BE IT FURTHER ENACTED, That a presently existing obligation
26 or contract right may not be impaired in any way by this Act.

27 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2017.