

HOUSE BILL 1457

C5

7lr1673

By: **Delegate Clippinger**

Introduced and read first time: February 10, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Renewable Energy Portfolio Standard – Revisions**

3 FOR the purpose of altering the renewable energy portfolio standard percentage derived
4 from Tier 1 renewable sources for certain years; altering the minimum required
5 percentage of Tier 1 renewable energy that must be derived from solar energy in the
6 State's renewable energy portfolio standard for certain years; altering the calculation
7 for determining the amount of credit that an electricity supplier receives toward
8 meeting the renewable energy portfolio standard for energy derived from solar
9 photovoltaic systems of certain sizes; altering the compliance fee for an electricity
10 supplier that fails to comply with certain renewable energy portfolio standards for
11 certain years; altering the length of time that a renewable energy credit exists from
12 the date created; providing that existing obligations or contract rights may not be
13 impaired by this Act; providing for the application of this Act; and generally relating
14 to the renewable energy portfolio standard.

15 BY repealing and reenacting, without amendments,
16 Article – Public Utilities
17 Section 7–701(a), (n), (o), and (r) and 7–704(a) and (b)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2016 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Public Utilities
22 Section 7–703, 7–705(b), and 7–709(d)
23 Annotated Code of Maryland
24 (2010 Replacement Volume and 2016 Supplement)

25 BY adding to
26 Article – Public Utilities
27 Section 7–704(j)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

7–701.

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

(n) “Renewable energy credit” or “credit” means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

(1) in the PJM region;

(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region; or

(3) on the outer continental shelf of the Atlantic Ocean in an area that:

(i) the United States Department of the Interior designates for leasing after coordination and consultation with the State in accordance with § 388(a) of the Energy Policy Act of 2005; and

(ii) is between 10 and 30 miles off the coast of the State.

(o) “Renewable energy portfolio standard” or “standard” means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7–703(b) of this subtitle.

(r) “Tier 1 renewable source” means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass;

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

1 (5) geothermal, including energy generated through geothermal exchange
2 from or thermal energy avoided by, groundwater or a shallow ground source;

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

5 (7) a fuel cell that produces electricity from a Tier 1 renewable source
6 under item (3) or (4) of this subsection;

7 (8) a small hydroelectric power plant of less than 30 megawatts in capacity
8 that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

9 (9) poultry litter-to-energy;

10 (10) waste-to-energy;

11 (11) refuse-derived fuel; and

12 (12) thermal energy from a thermal biomass system.

13 7-703.

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

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

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

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

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

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

1 (3) The portion of a renewable energy portfolio standard that represents
2 offshore wind energy may not apply to electricity sales at retail by any electricity supplier
3 in excess of:

4 (i) 75,000,000 kilowatt–hours of industrial process load to a single
5 customer in a year; and

6 (ii) 3,000 kilowatt–hours of electricity in a month to a customer who
7 is an owner of agricultural land and files an Internal Revenue Service form 1040, schedule
8 F.

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

10 (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2
11 renewable sources;

12 (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2
13 renewable sources;

14 (3) in 2008, 2.005% from Tier 1 renewable sources, including at least
15 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

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

18 (5) in 2010, 3.025% from Tier 1 renewable sources, including at least
19 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

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

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

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

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

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

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

32 (12) in 2017:

- 1 (i) 13.1% from Tier 1 renewable sources, including:
- 2 1. at least 0.95% derived from solar energy; and
- 3 2. an amount set by the Commission under § 7-704.2(a) of
4 this subtitle, not to exceed 2.5%, derived from offshore wind energy; and
- 5 (ii) 2.5% from Tier 2 renewable sources;
- 6 (13) in 2018:
- 7 (i) [15.8%] **16.9%** from Tier 1 renewable sources, including:
- 8 1. at least [1.4%] **2.6%** derived from solar energy; and
- 9 2. an amount set by the Commission under § 7-704.2(a) of
10 this subtitle, not to exceed 2.5%, derived from offshore wind energy; and
- 11 (ii) 2.5% from Tier 2 renewable sources;
- 12 (14) in 2019, [17.4%] **21.5%** from Tier 1 renewable sources, including:
- 13 (i) at least [1.75%] **3.05%** derived from solar energy; and
- 14 (ii) an amount set by the Commission under § 7-704.2(a) of this
15 subtitle, not to exceed 2.5%, derived from offshore wind energy;
- 16 (15) in 2020, [18%] **25.95%** from Tier 1 renewable sources, including:
- 17 (i) at least [2.0%] **3.45%** derived from solar energy; and
- 18 (ii) an amount set by the Commission under § 7-704.2(a) of this
19 subtitle, not to exceed 2.5%, derived from offshore wind energy;
- 20 (16) in 2021, [18.7%] **26.25%** from Tier 1 renewable sources, including:
- 21 (i) at least [2.0%] **3.7%** derived from solar energy; and
- 22 (ii) an amount set by the Commission under § 7-704.2(a) of this
23 subtitle, not to exceed 2.5%, derived from offshore wind energy; and
- 24 (17) in 2022 and later, [20%] **26.5%** from Tier 1 renewable sources,
25 including:
- 26 (i) at least [2%] **4%** derived from solar energy; and

1 (ii) an amount set by the Commission under § 7–704.2(a) of this
2 subtitle, not to exceed 2.5%, derived from offshore wind energy.

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

7 (d) Subject to subsections (a) and (c) of this section and in accordance with §
8 7–704.2 of this subtitle, an electricity supplier shall meet the renewable energy portfolio
9 standard by accumulating the equivalent amount of renewable energy credits that equal
10 the percentages required under this section.

11 7–704.

12 (a) (1) Energy from a Tier 1 renewable source:

13 (i) is eligible for inclusion in meeting the renewable energy portfolio
14 standard regardless of when the generating system or facility was placed in service; and

15 (ii) may be applied to the percentage requirements of the standard
16 for either Tier 1 renewable sources or Tier 2 renewable sources.

17 (2) (i) Energy from a Tier 1 renewable source under § 7–701(r)(1), (5),
18 (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy
19 portfolio standard only if the source is connected with the electric distribution grid serving
20 Maryland.

21 (ii) If the owner of a solar generating system in this State chooses to
22 sell solar renewable energy credits from that system, the owner must first offer the credits
23 for sale to an electricity supplier or electric company that shall apply them toward
24 compliance with the renewable energy portfolio standard under § 7–703 of this subtitle.

25 (3) Energy from a Tier 1 renewable source under § 7–701(r)(8) of this
26 subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is
27 generated at a dam that existed as of January 1, 2004, even if a system or facility that is
28 capable of generating electricity did not exist on that date.

29 (4) Energy from a Tier 2 renewable source under § 7–701(s) of this subtitle
30 is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if
31 it is generated at a system or facility that existed and was operational as of January 1,
32 2004, even if the facility or system was not capable of generating electricity on that date.

33 (b) On or after January 1, 2004, an electricity supplier may:

34 (1) receive renewable energy credits; and

1 (2) accumulate renewable energy credits under this subtitle.

2 (J) ON OR AFTER OCTOBER 1, 2017, AN ELECTRICITY SUPPLIER SHALL
3 RECEIVE:

4 (1) 50% CREDIT TOWARD MEETING THE RENEWABLE ENERGY
5 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM A SOLAR PHOTOVOLTAIC
6 SYSTEM THAT IS GREATER THAN 2 MEGAWATTS IN CAPACITY; AND

7 (2) 100% CREDIT TOWARD MEETING THE RENEWABLE ENERGY
8 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM A SOLAR PHOTOVOLTAIC
9 SYSTEM THAT IS 2 MEGAWATTS OR LESS IN CAPACITY.

10 7-705.

11 (b) (1) This subsection does not apply to a shortfall from the required Tier 1
12 renewable sources that is to be derived from offshore wind energy.

13 (2) If an electricity supplier fails to comply with the renewable energy
14 portfolio standard for the applicable year, the electricity supplier shall pay into the
15 Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State
16 Government Article:

17 (i) except as provided in item (ii) of this paragraph, a compliance fee
18 of:

19 1. [4 cents] THE FOLLOWING AMOUNTS for each
20 kilowatt-hour of shortfall from required Tier 1 renewable sources other than the shortfall
21 from the required Tier 1 renewable sources that is to be derived from solar energy:

22 A. 3.75 CENTS THROUGH 2020; AND

23 B. 3.50 CENTS IN 2021 AND LATER;

24 2. the following amounts for each kilowatt-hour of shortfall
25 from required Tier 1 renewable sources that is to be derived from solar energy:

26 A. 45 cents in 2008;

27 B. 40 cents in 2009 through 2014;

28 C. 35 cents in 2015 and 2016;

29 D. [20] 19.5 cents in 2017 [and 2018];

1 E. [15 cents in 2019 and 2020] **10.0 CENTS IN 2018;**

2 F. [10 cents in 2021 and 2022] **9.5 CENTS IN 2019;** [and]

3 G. [5 cents in 2023 and later] **9 CENTS IN 2020;** [and]

4 **H. 8 CENTS IN 2021; AND**

5 **I. 6 CENTS IN 2022 AND LATER; AND**

6 3. 1.5 cents for each kilowatt–hour of shortfall from required
7 Tier 2 renewable sources; or

8 (ii) for industrial process load:

9 1. for each kilowatt–hour of shortfall from required Tier 1
10 renewable sources, a compliance fee of:

11 A. 0.8 cents in 2006, 2007, and 2008;

12 B. 0.5 cents in 2009 and 2010;

13 C. 0.4 cents in 2011 and 2012;

14 D. 0.3 cents in 2013 and 2014;

15 E. 0.25 cents in 2015 and 2016; and

16 F. except as provided in paragraph (3) of this subsection, 0.2
17 cents in 2017 and later; and

18 2. nothing for any shortfall from required Tier 2 renewable
19 sources.

20 (3) For industrial process load, the compliance fee for each kilowatt–hour
21 of shortfall from required Tier 1 renewable sources is:

22 (i) 0.1 cents in any year during which suppliers are required to
23 purchase ORECs under § 7–704.2 of this subtitle; and

24 (ii) nothing for the year following any year during which, after final
25 calculations, the net rate impact per megawatt–hour from qualified offshore wind projects
26 exceeded \$1.65 in 2012 dollars.

1 (d) (1) Except as authorized under paragraph (2) of this subsection, a
2 renewable energy credit shall exist for [3] 5 years from the date created.

3 (2) A renewable energy credit may be diminished or extinguished before
4 the expiration of [3] 5 years by:

5 (i) the electricity supplier that received the credit;

6 (ii) a nonaffiliated entity of the electricity supplier:

7 1. that purchased the credit from the electricity supplier
8 receiving the credit; or

9 2. to whom the electricity supplier otherwise transferred the
10 credit; or

11 (iii) demonstrated noncompliance by the generating facility with the
12 requirements of § 7-704(f) of this subtitle.

13 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation
14 or contract right may not be impaired in any way by this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
16 apply only prospectively and may not be applied or interpreted to have any effect on or
17 application to any contract existing before the effective date of this Act.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2017.