

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 174 (Senators Manno and Madaleno)
Budget and Taxation

Income Tax Credit - Clean Energy Production - Qualified Energy Resources
(Maryland Clean Energy Incentive Act)

This bill alters the energy resources that can qualify for the clean energy incentive tax credit by defining a qualified energy resource as wind, solar energy, or marine and hydrokinetic renewable energy.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Altering the types of energy resources that can qualify for the tax credit is not expected to change the fiscal impact of the program beyond that provided under current law.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: A qualified facility that is located in the State and primarily uses qualified energy resources may qualify for the clean energy incentive tax credit. Under current law, “qualified energy resources” has the meaning as defined in Section 45 (C) (1) of the Internal Revenue Code, unless otherwise specified. Section 10-720 of the Tax-General Article also defines “qualified energy resources” as including (1) any nonhazardous waste material that is segregated from other waste materials and is derived from specified wood- and forest-related resources, not including

old-growth timber; (2) waste pallets, crates, and dunnage and landscape or right-of-way trimmings; or (3) agricultural sources, including crop by-products or residues. Qualified energy resources also include methane gas or other combustible gases resulting from the decomposition of organic materials from an agricultural operation, or from a landfill or wastewater treatment plant using anaerobic and/or thermal decomposition.

The bill eliminates the biomass and combustible gas technologies specified in Section 10-720 of the Tax-General Article and Section 45 (C) (1) of the Internal Revenue Code and instead defines qualified energy resources as wind, solar energy, or marine and hydrokinetic renewable energy. **Exhibit 1** lists the technologies that qualify for the tax credit under current law compared to as proposed by the bill.

Exhibit 1
Qualified Energy Resources
Current Law and Proposed by the Bill

<u>Qualified Energy Resource</u>	<u>Current Law</u>	<u>Proposed</u>
Wind	X	X
Closed-loop Biomass	X	
Open-loop Biomass	X	
Geothermal	X	
Solar	X	X
Small Irrigation	X	
Municipal Solid Waste	X	
Qualified Hydropower Production	X	
Marine and Hydrokinetic	X	X
Specified Biomass and Combustible Gases*	X	

*As specified in Section 10-720 of the Tax-General Article.

Background: Qualified energy facilities that use a qualified energy resource to produce electricity can qualify for the clean energy incentive tax credit. The facility must first receive an initial credit certificate from the Maryland Energy Administration (MEA). The maximum total value of an initial credit certificate for an energy producer cannot exceed \$2.5 million. The amount of an initial credit certificate issued by MEA is based on the estimated amount of energy produced or purchased annually by the applicant.

Legislation authorized MEA to award a total of \$25 million in credits to qualified energy facilities on a first-come, first-served basis through December 31, 2015. As of December 2015, MEA had awarded the full authorization of \$25 million in credits.

Chapter 594 of 2016 extended the termination date of the program to December 31, 2018. Chapter 594 also shifted the program from a traditional tax credit to a budgeted tax credit subject to an aggregate limit each year – the total amount of initial tax credit certificates issued by MEA in each fiscal year cannot exceed the amount appropriated in the State budget to a reserve fund established by the Act. The Governor may appropriate money to the reserve fund in fiscal 2018 and 2019.

State Fiscal Effect: The bill alters the energy resources that can qualify for the clean energy incentive tax credit by defining a qualified energy resource as wind, solar energy, or marine and hydrokinetic renewable energy. Under current law, the total amount of initial tax credit certificates issued by MEA cannot exceed the amount appropriated in the State budget. The Governor’s proposed fiscal 2018 budget does not include an appropriation for the tax credit program. To the extent the program is funded in fiscal 2018 or 2019, it is expected that MEA would award the maximum amount of credits authorized.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller’s Office; Maryland Energy Administration; Department of Legislative Services

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