**SB 722**

# Department of Legislative Services

Maryland General Assembly
2020 Session

## FISCAL AND POLICY NOTE
## Third Reader - Revised

Senate Bill 722 (Senator Hester, *et al.*)
Education, Health, and Environmental Affairs Economic Matters

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**Clean Energy Loan Program - Environmental Remediation and Resiliency Projects**

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This bill expands the types of projects that may be financed under a clean energy loan program enacted by a county or municipality, by adding environmental remediation projects and resiliency projects. The bill also requires that an ordinance or resolution that establishes a clean energy loan program include a specified provision, applicable to any project, regarding the repayment term of a loan.

## Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local government finances since current programs – while utilizing the county property tax bill for debt service – are financed through private lenders.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill makes environmental remediation projects and resiliency projects eligible to be financed under a clean energy loan program enacted by a county or municipality.

"Environmental remediation project" means a project that is intended to remove environmental or health hazards, including (1) asbestos remediation; (2) lead paint removal; and (3) mold remediation.

"Resiliency project" means a project that increases the capacity of a structure or infrastructure to withstand natural disasters and the effects of climate change, including (1) a flood mitigation project; (2) a stormwater management project; (3) a project to increase fire or wind resistance; (4) a project to increase the capacity of a natural system; and (5) an inundation adaptation project.

Eligibility requirements for environmental remediation projects and resiliency projects must be established by the local ordinance or resolution that establishes a clean energy loan program.

A local ordinance or resolution establishing a clean energy loan program also must include a provision, applicable to any project, which requires a loan to be repaid over a term not to exceed the weighted average of the useful life of the improvement or project as determined by the program.

**Current Law:** A county or municipality may enact an ordinance or a resolution to establish a clean energy loan program. The purpose of a program is to provide loans to residential property owners, including low income residential property owners, and commercial property owners, to finance energy efficiency projects and renewable energy projects. A private lender may provide capital for a loan provided to a commercial property owner under the program. "Commercial property" is defined as real property that is (1) not designed principally or intended for human habitation or (2) used for human habitation and is improved by more than four single-family dwelling units.

A clean energy loan program must require a property owner to repay a loan under the program through a surcharge on the owner's property tax bill. A person who acquires property subject to a surcharge assumes the obligation to pay the surcharge. A county or municipality may not set a surcharge greater than an amount that allows the county or municipality to recover the costs associated with (1) issuing bonds to finance the loan and (2) administering the program. However, with respect to commercial property, with the express consent of any holder of a mortgage or deed of trust on a commercial property that is to be improved through a loan to the commercial property owner under the program:

- a county or municipality may collect loan payments owed to a private lender or to the county or the municipality for a loan to a commercial property owner, and costs associated with administering the program, through a surcharge on the property owners' property tax bill;
- an unpaid surcharge is, until paid, a lien on the real property on which it is imposed from the date it becomes payable; and
- specified statutory provisions that apply to a tax lien also apply to a lien created by an unpaid surcharge.

A local ordinance or resolution that establishes a clean energy loan program must provide for:

- eligibility requirements for (1) energy efficiency improvements and renewable energy devices and (2) property and property owners; and
- loan terms and conditions.

**Background:** The programs currently operated under the authority granted to counties and municipalities to establish clean energy loan programs are referred to as C-PACE (Commercial Property Assessed Clean Energy) programs. The Maryland Clean Energy Center (MCEC) indicates that the current C-PACE programs are at the county (as opposed to municipal) level, focused on projects on commercial properties, and financed through private lenders. As mentioned above, the statutory authority for loans to be financed through private lenders is limited to commercial properties.

MCEC indicates that 18 counties currently have C-PACE programs. Sixteen of the counties utilize MD-PACE, sponsored by MCEC, to administer their programs, while Montgomery and Prince George's counties administer their programs separately. MD-PACE allows counties to join a statewide, standardized C-PACE program administered by a third-party that works with local tax collectors to accommodate MD-PACE on the tax bill and receives revenue through closing and servicing fees for C-PACE projects.

**Small Business Effect:** The bill may have a meaningful impact on small business property owners and small business contractors, to the extent the bill allows for environmental remediation projects or resiliency projects to be undertaken that may otherwise be financed on less favorable terms or not undertaken at all. The bill's provision regarding a loan being repaid over a term not to exceed the weighted average of the useful life of the improvement or project may also benefit small business property owners and small business contractors to the extent it increases the viability of financing certain projects in comparison to current local policies regarding the term of a loan that are more restrictive.

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## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Clean Energy Center; Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Transportation; Baltimore City; Allegany, Harford, Montgomery, Prince George's, and

Wicomico counties; Maryland Association of Counties; Maryland Municipal League; PACE Financial Servicing; Department of Legislative Services

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