

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 768  
Economic Matters

(Montgomery County Delegation)

Finance

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Montgomery County - Community Choice Energy - Pilot Program  
MC 17-21

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This bill establishes the Community Choice Aggregation Pilot Program and authorizes Montgomery County to form a “community choice aggregator,” beginning December 31, 2023, under specified conditions. The Public Service Commission (PSC) must adopt related regulations by that date, including those related to risk mitigation for standard offer service (SOS) customers. The pilot program must begin on the date the county gives notice to PSC of its intent to form a community choice aggregator, or April 1, 2024, whichever is earlier; the program ends seven years after beginning, but no earlier than April 1, 2031. The bill also establishes a related workgroup and various study and reporting requirements. **The bill takes effect June 1, 2021.**

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**Fiscal Summary**

**State Effect:** PSC can handle the bill’s requirements with existing budgeted resources due to the delayed implementation dates; the bill is not anticipated to otherwise materially affect State finances or operations.

**Local Effect:** Montgomery County revenues and expenditures increase beginning in FY 2024 to the extent that the county chooses to form a community choice aggregator.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** “Community choice aggregator” means a county that serves as an electric aggregator for the purpose of negotiating the purchase of electric generation services from

specified entities for residential customers, which include master-metered multiple occupancy residences and small commercial customers, that:

- are located within the county, including customers located within municipalities in the county;
- have not (1) selected an electricity supplier other than the SOS supplier or (2) refused to participate in the aggregation activities; and
- are not located in the service territory of a municipal electric utility or electric cooperative.

Subject to various specified requirements, the community choice aggregator may purchase electric generation services from (1) an electricity supplier licensed by PSC or (2) an electric generating or storage facility owned by the aggregator.

Beginning December 31, 2023, Montgomery County may form a community choice aggregator under the bill, subject to specified notification, planning, and other requirements, including PSC review and approval. Provisions related to the pilot program may not be construed to prevent a residential or small commercial electric customer in the county from choosing at any time (1) to enter into a contract with an electricity supplier other than the community choice aggregator or (2) default SOS.

A residential or small commercial electric customer is deemed to have given permission to the county to act on the customer's behalf as a community choice aggregator under specified circumstances.

A community choice aggregator may own an electric generating facility or electric storage facility if the facility is designed to provide energy primarily for use by the participants of the community choice aggregator. It may also promote and provide specified energy efficiency programs.

The Montgomery County government must be solely responsible, and pay, for the costs associated with any stranded costs for (1) contracts entered into by the community choice aggregator for electric supply or (2) generation owned by a community choice aggregator.

### *Community Choice Aggregators Incorporated into Net Metering and Community Solar Pilot Program*

Community choice aggregators are incorporated into existing net metering and community solar pilot program provisions as they relate to electricity suppliers. Eligible customer-generators participating in net metering are authorized to participate in community choice aggregation activities.

### *Limitation on Fees, Taxes, or Other Charges*

A community choice aggregator may not assess any new fee, tax, or other charge in the aggregation charges or rates that is not related to the cost of (1) providing electricity supply and electricity supply service, including service from a generating station owned by the community choice aggregator; (2) promoting the use of renewable energy; and (3) providing and promoting energy efficiency measures.

### *PSC Standards and Review*

Based on a determination of the mitigation of volumetric risk, PSC may establish by order or regulation a schedule by which a community choice aggregator may transfer load from SOS to retail or wholesale contracts under an aggregation plan, subject to various specified requirements. The schedule may not be longer than two years. PSC must consider the impacts to the price and stability of the procurement of SOS when considering the schedule. Relatedly, PSC may allocate the portion of delinquent electricity supply account receivables attributable to aggregator customers throughout an electric company's service territory under specified circumstances related to avoiding adverse impacts on the cost of SOS.

PSC must review applicable fees, request formats, and the format of data provided to facilitate the intent of the bill. PSC must establish procedures for an electric customer who is receiving electricity supply from a community choice aggregator to receive a bill assistance credit or any other specified bill assistance to which the customer may be entitled.

PSC must establish standards and procedures by regulation to protect the consumer rights of residential customers within the territory of a community choice aggregator that receive electricity supply through the aggregator. The regulations must prohibit discrimination against a customer or on the basis of the location of the customer.

### *Community Choice Energy Workgroup*

PSC must establish and staff the Community Energy Choice Workgroup by September 1, 2021. The workgroup consists of specified stakeholders, such as a representative of each affected investor-owned electric company, a representative of the Office of People's Counsel, and one representative of minority residential communities. While nothing related to the establishment of the workgroup may be construed to limit the authority of PSC to take action, including the adoption of regulations, without a recommendation of the workgroup, PSC must still seek the advice and recommendation of the workgroup when implementing the bill and adopting regulations.

## *Reporting Requirements*

The bill establishes various reporting and study requirements for PSC during and upon conclusion of the pilot program, including a report approximately one year prior to the termination of the program and a final report due to the Governor and the General Assembly by December 31, 2031.

**Current Law:** A county or municipality may only act as an aggregator if PSC determines that there is not sufficient competition within the boundaries of the local jurisdiction. “Aggregator” means an entity or an individual that acts on behalf of a customer to purchase electricity or gas. It does not include (1) an entity or individual that purchases electricity or gas for its own use or for the use of its subsidiaries or affiliates; (2) a municipal electric utility or a municipal gas utility serving only in its distribution territory; or (3) a combination of governmental units that purchases electricity or gas for use by the governmental unit.

The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a customer’s *electric company* (e.g., Baltimore Gas and Electric Company or Pepco). Competitive electric supply is provided by competitive *electricity suppliers*. In either case, the electric company delivers the electricity and recovers the costs for delivery through distribution rates.

**Local Fiscal Effect:** The bill authorizes Montgomery County to form a community choice aggregator beginning December 31, 2023, which, under the bill, is allowed to own generation assets and/or enter into contracts with electricity suppliers on behalf of persons within its jurisdiction. Therefore, Montgomery County revenues and expenditures increase beginning in fiscal 2024 to the extent that the county chooses to form a community choice aggregator.

**Small Business Effect:** The bill does not require that Montgomery County form a community choice aggregator; to the extent that the county, with its population of more than 1.0 million, chooses to do so, small electricity suppliers may experience reduced demand for their services. However, the bill allows a community choice aggregator to purchase electricity from an electricity supplier – a potentially large customer. Therefore, the effect on any particular electricity supplier cannot be determined, but could be meaningful.

## **Additional Information**

**Prior Introductions:** HB 561 of 2020, a similar bill, passed the House with amendments and was referred to the Senate Finance Committee, but no further action was taken. Its cross file, SB 315, received a hearing from the Senate Finance Committee, but no further action was taken. SB 660 of 2019, a similar bill, received a hearing from the Senate Finance Committee, but no further action was taken. Its cross file, HB 730, received a hearing from the House Economic Matters Committee but was referred to interim study.

**Designated Cross File:** None.

**Information Source(s):** Public Service Commission; Department of Human Services; Office of People’s Counsel; Montgomery County; Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2021  
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