

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1039

(Delegate Luedtke)

Ways and Means

Budget and Taxation

Property Tax - Community Solar Energy Generating Systems - Agrivoltaics

This bill alters the taxation of specified community solar energy generating systems. **The bill takes effect June 1, 2022, and applies to taxable years beginning after June 30, 2022.**

Fiscal Summary

State Effect: Annuity Bond Fund revenues decrease beginning in FY 2023 depending on the number of community solar energy generating systems that are placed in service. Reporting requirements can be handled with existing budgeted resources.

Local Effect: Local property tax revenues decrease beginning in FY 2023 depending on the number of community solar energy generating systems that are placed in service. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. Small businesses that own personal or real property that qualifies for a personal property tax exemption or real property tax credit will benefit from reduced real and personal property taxes.

Analysis

Bill Summary: The bill provides several tax benefits for a community solar energy generating system that is placed in service after June 30, 2022, and approved on or before December 31, 2025:

Personal property is exempt from county and municipal taxation if the property is machinery or equipment that is part of a community solar energy generating system that (1) provides at least 50% of the energy it produces to low- to moderate-income customers at a cost that is at least 20% less than the amount charged by the electric company that

serves the area where the community solar energy generating system is located and (2) is used for agrivoltaics or is installed on a rooftop, brownfield, landfill, or clean fill.

- State and local governments must grant a 50% property tax credit for a brownfield, landfill, or clean fill on which a specified community solar energy generating system is installed.
- The State Department of Assessments and Taxation (SDAT) must assess and qualify land that is used by a community solar energy generating system for agrivoltaics as land that is actively used for farm or agricultural purposes.

By June 15 of each year, SDAT must submit a list to the Public Service Commission (PSC) that includes (1) the location of each qualified property; (2) the amount of the base year value for each qualified property; and (3) the amount of the property tax assessed against each qualified property.

The Maryland Energy Administration (MEA) must study the effectiveness of the tax incentives established in the bill on encouraging community solar energy generating systems to be installed on rooftops, brownfields, landfills, and clean fills and used for agrivoltaics. MEA must report its findings and recommendations to the General Assembly by December 31, 2024.

Current Law: Local governments have the authority to impose personal property taxes on solar photovoltaic property. SDAT indicates that local governments collected approximately \$3.1 million in personal property tax revenues from solar energy property in fiscal 2018.

The county tax rate applicable to personal property and the operating real property of a public utility may not exceed 2.5 times the rate for real property.

Community Solar Energy Generating System Pilot Program

Chapters 346 and 347 of 2015 required PSC to establish a three-year Community Solar Energy Generating System Pilot Program, subject to specified conditions. Such a system, in addition to other requirements, must have at least two subscribers, but a subscriber limit is not specified in statute. Under PSC regulations, a system may have up to 350 accounts, unless the electric company has developed an automated billing function, in which case there is no limit. PSC regulations also increase authorized capacity additions each year. According to PSC, the program, if fully subscribed, would add about 200 megawatts under the existing 1,500-megawatt net metering cap. Chapters 461 and 462 of 2019 extended the Community Solar Energy Generating Systems Pilot Program through December 31, 2024.

Agricultural Land Use Assessment

Land that is actively used for farm or agricultural use must be valued on the basis of that use and may not be valued as if subdivided. Land that is valued as agricultural use must be assessed on the basis of its use value. SDAT must establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes (1) is actually used for farm or agricultural purposes and (2) qualifies for an agricultural use assessment. The criteria must include (1) the zoning of the land; (2) the present and past use of the land including land under the Soil Bank Program of the United States; (3) the productivity of the land, including timberlands and reforested lands; and (4) the gross income that is derived from the agricultural activity.

State Fiscal Effect: Annuity Bond Fund revenues decrease beginning in fiscal 2023 depending on the number of community solar energy generating systems that are placed in service between July 1, 2022, and December 31, 2025. SDAT has identified four properties located on landfills in the State that are currently in service. The total real property tax assessment for these properties is \$770,700 in fiscal 2022. The State real property tax rate is \$0.112 per \$100 of assessment. These systems do not qualify for the property tax incentives under the bill since they are already in service.

As community solar energy generating systems become more viable and utilized as a renewable energy source, the potential decrease in State property tax revenues from the real property tax credit may be substantial.

Local Fiscal Effect: Local property tax revenues decrease beginning in fiscal 2023 depending on the number of community solar energy generating systems that are placed in service between July 1, 2022, and December 31, 2025.

SDAT has identified 22 active community solar energy generating systems in the State that are currently in service. The total personal property tax assessment for these systems is \$11.1 million. These systems do not qualify for the property tax incentives under the bill since they are already in service.

As community solar energy generating systems become more viable and utilized as a renewable energy source, the potential decrease in local property tax revenues from the property tax incentives may be substantial.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 860 (Senator King) - Budget and Taxation.

Information Source(s): Kent, Montgomery, and Worcester counties; City of Salisbury; towns of Bel Air and Leonardtown; Maryland Municipal League; Maryland Energy Administration; Department of the Environment; Maryland Environmental Service; State Department of Assessments and Taxation; Department of Legislative Services

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