

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 664 (Senator Feldman)  
Education, Energy, and the Environment

---

Maryland Strategic Energy Investment Program - Tier 1 Renewable Sources,  
Solar Energy Systems, and Alterations

---

This bill (1) modifies the permissible uses of Alternative Compliance Payments (ACPs), including solar ACPs, deposited in the Strategic Energy Investment Fund (SEIF); (2) requires that ACP funds (including solar ACPs) be spent in specified ways that benefit low- and moderate-income residents of the State; (3) mandates that solar ACP funds be allocated according to a specified formula; (4) requires the Maryland Energy Administration (MEA) to establish and maintain a Solar Energy Rebate Program; and (5) establishes that MEA must require a person selling or leasing a Tier 1 renewable source to inform an applicant for financial assistance through the Strategic Energy Investment Program (SEIP) of certain terms of the contract to purchase or lease the Tier 1 renewable source.

---

Fiscal Summary

**State Effect:** Special fund expenditures may be affected, as discussed below. Revenues are not directly affected.

**Local Effect:** Local governments may be affected, as potential recipients of affected funding, as discussed below.

**Small Business Effect:** Potential meaningful.

---

## Analysis

### Bill Summary:

#### *Alternative Compliance Payments*

The bill expands the permissible uses of ACPs deposited in SEIF to include establishing programs, in addition to making loans and grants, to create new Tier 1 renewable sources in the State and specifies that such funds, whether for establishing programs and/or making loans or grants, may be used to create Tier 1 renewable sources that are owned by or provide material economic benefit to low- and moderate-income residents of the State. This authorization replaces a requirement that the funds only support the creation of Tier 1 renewable energy sources that are owned by or directly benefit low-income residents of the State.

An individual qualifies as “low-income” or “moderate-income,” respectively, if they have an annual household income that is at or below 175% of the federal poverty level or at or below 80% of area median income. “Area median income” means the median household income for the area adjusted for household size as published and annually updated by the U.S. Department of Housing and Urban Development.

The bill specifies that establishing programs (in addition to the existing authority to make loans and grants) to create new solar energy systems in the State, including solar energy systems paired with energy storage for home or community resilience, is a permissible use of solar ACPs deposited in SEIF. The bill also allows for such funds, whether for establishing programs and/or making loans or grants, to be used to create solar energy systems that are owned by or directly benefit low- and moderate-income residents of the State. Similar to the change to the broader authorization for the use of ACPs (mentioned above), this authorization replaces a requirement that the funds only support the creation of new solar energy sources in the State that are owned by or directly benefit low-income residents of the State.

The bill also requires that solar ACPs be allocated, each fiscal year, as follows:

- The initial \$5.0 million collected in any year, plus 10% of the solar ACPs collected in excess of \$5.0 million in any year, is allocated to support the installation of new solar energy systems that are owned by or directly provide material economic benefit to low- or moderate-income State residents or overburdened or underserved communities, including public entities located in the communities.
- The remaining 90% of the solar ACPs collected in excess of \$5.0 million in any year is allocated to support the installation of new solar energy systems for new

eligible customer-generators through a newly established Solar Energy Rebate Program.

Any solar ACP funds that are unallocated in a given fiscal year must be carried forward to the next year. Unallocated funds from a previous year must be allocated and used before the solar ACPs collected for the current year, and any unallocated ACP funds collected more than three years before the current year must be reallocated to eligible customer-generators under the Solar Energy Rebate Program.

### *Solar Energy Rebate Program*

MEA must establish and maintain a Solar Energy Rebate Program to provide eligible customer-generators with a rebate of \$500 per kilowatt (kW) of nameplate capacity for each qualified solar energy system they install, up to a maximum of \$5,000 per system. Under the program, a third party that has obtained proof of consent from an eligible customer-generator may (1) apply for a rebate on their behalf and (2) be assigned a rebate for the new solar energy system by the eligible customer-generator.

An “eligible customer-generator” is a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, fuel cell, wind, or closed conduit hydroelectric generating facility that is (1) located on the customer’s premises or contiguous property; (2) interconnected and operated in parallel with an electric company’s transmission and distribution facilities; and (3) is intended primarily to offset all or part of the customer’s own electricity requirements.

### *Disclosure of Terms of a Contract*

The bill establishes that MEA, as part of its responsibilities under SEIP, must require each person selling or leasing a Tier 1 renewable source to inform each applicant for a grant, loan, or other form of financial assistance through SEIP who is entering into a contract to purchase or lease the Tier 1 renewable source of the following terms of the contract:

- the price for the duration of the contractual agreement;
- the operation and maintenance responsibilities of the applicant and the person selling or leasing the Tier 1 renewable source;
- the disposition of any renewable energy credits and terms of any tariffs associated with the Tier 1 renewable source; and
- the anticipated amount of energy generated from the Tier 1 renewable source.

A “Tier 1 renewable source” includes 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 specified anaerobic decomposition; (5) geothermal; (6) ocean, including energy from waves, tides, currents, and thermal differences; (7) a fuel cell that produces electricity from specified other Tier 1 renewable sources; (8) a small hydroelectric power plant, as specified; (9) poultry litter-to-energy; (10) waste-to-energy; (11) refuse-derived fuel; (12) thermal energy from a thermal biomass system; and (13) raw or treated wastewater used as a heat source or sink for a heating or cooling system.

## **Current Law:**

### *Renewable Energy Portfolio Standard and Alternative Compliance Payments*

Maryland's Renewable Energy Portfolio Standard requires that renewable sources generate specified percentages of Maryland's electricity supply each year. Electric companies (utilities) and other electricity suppliers must submit renewable energy credits equal to these percentages in each year or else pay an ACP equivalent to the shortfall. ACP revenues are deposited into SEIF and may only be used to make loans and grants to support the creation of new Tier 1 renewable energy sources in the State that are owned by or directly benefit low-income residents of the State. Solar ACPs must be accounted for separately in the fund and may only be used to support the creation of new solar energy sources in the State that are owned by or directly benefit low-income State residents.

### *Solar Programs in Statute and Regulation*

The Solar Energy Grant Program, administered by MEA, is established in statute to provide grants to individuals, local governments, and businesses for a portion of the costs of acquiring and installing photovoltaic property and solar water heating property. Grants awarded under the program may not be more than (1) for photovoltaic property (with an installed electricity generation capacity of 20 kW or less), the lesser of \$2,500 per kW of installed electricity generation capacity or \$10,000 and (2) for solar water heating property, the lesser of \$3,000 or 30% of the total installed cost of the solar water heating property.

MEA does not currently award grant funding under the Solar Energy Grant Program. However, under current regulations, the Clean Energy Grant Program (doing business as the Clean Energy Rebate Program) provides grants to homeowners, businesses, nonprofit organizations, and the State or local governments for certain solar and geothermal technologies. Under the program, MEA currently offers residential incentives for solar photovoltaic and solar water heating property of \$1,000 per project and \$500 per project, respectively.

*Existing Maryland Energy Administration Responsibilities under the Strategic Energy Investment Program*

Under SEIP, MEA is required to (1) manage, supervise, and implement the program; (2) adopt regulations to implement the program and to ensure that SEIF resources are only utilized to carry out the purposes of the program; (3) attach specific terms and conditions to any grant, loan, or other form of assistance that are determined by MEA to be necessary to ensure the purposes of the program are fulfilled; (4) develop procedures for monitoring programs, projects, activities, and investments to verify that SEIF resources are being used to meet the purposes of the program; and (5) provide money annually or as needed to the Clean Air Fund managed by the Maryland Department of the Environment (MDE) to fund the costs of MDE's programs to reduce or mitigate the effects of climate change.

**State Fiscal Effect:** Special fund expenditures may be affected by the bill's changes to the permissible uses of ACP funding to the extent those changes affect the rate at which funding is spent; however, the extent of any impact has not been determined, and MEA indicates it does not expect a significant change in the level of spending as a result of the bill. As shown and discussed in the [Department of Legislative Services analysis of the proposed MEA fiscal 2024 budget](#) (pgs. 15, 18-19), there is a significant amount of ACP funding available due to a recent increase in revenues.

MEA indicates that it can implement the bill, including the Solar Energy Rebate Program, with existing staff.

**Local Fiscal Effect:** Local governments may be affected, as potential recipients of ACP-supported financial assistance for the installation of renewable energy systems, to the extent the bill's provisions change the amount or type of assistance available to local governments in comparison to programs implemented in the absence of the bill.

**Small Business Effect:** Small businesses may be meaningfully affected, as potential recipients of ACP-supported financial assistance for the installation of renewable energy systems and as installers of renewable energy systems, to the extent the bill's provisions change the amount or type of assistance available in comparison to programs implemented in the absence of the bill.

---

### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 1239 (Delegate Qi) - Rules and Executive Nominations.

**Information Source(s):** Maryland Energy Administration; Public Service Commission;  
Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2023  
km/sdk

---

Analysis by: Ralph W. Kettell

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510