

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 861 (Senators Lewis Young and Watson)
 Education, Energy, and the Environment

**Public Utilities - High-Energy-Use Facilities - Greenhouse Gas Emissions
 Reductions**

This bill requires a person that owns, operates, or controls a “high-energy-use facility” to ensure the greenhouse gas (GHG) emissions associated with the electricity use of the facility are reduced by specified amounts over time – eventually reaching zero emissions by 2040. A person may not use carbon offsets or renewable energy credits (RECs) to meet the emissions reductions targets. By January 1 each year, a person that owns, operates, or controls such a facility must submit a report to the Public Service Commission (PSC) demonstrating compliance with the requirements. PSC must review and verify the information in each report and determine compliance for each facility. Violation of the bill is subject to specified existing penalties. PSC may adopt implementing regulations.

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by at least \$151,400 in FY 2025. Future years reflect annualization, inflation, and ongoing costs. Special fund revenues increase correspondingly from assessments imposed on public service companies and may further increase from penalties. The effect on the State, as an owner or operator of high-energy-use facilities, is unknown but likely limited, as discussed below.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$151,400	\$190,800	\$194,700	\$198,700	\$202,900
SF Expenditure	\$151,400	\$190,800	\$194,700	\$198,700	\$202,900
Net Effect	\$0	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures may increase beginning in FY 2025, as discussed below. Local government revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “High-energy-use facility” means a facility that:

- uses a base load of 10 or more megawatt-hours (MWhs); and
- has a primary purpose of (1) providing electronic data processing or hosting services; (2) producing or processing cryptocurrency or carrying out other operations related to cryptocurrency; or (3) cultivating cannabis.

A person that owns, operates, or controls a high-energy-use facility must ensure the GHG emissions associated with the electricity use of the facility are reduced by the following amounts:

- by 2027, 60% below the baseline emissions level;
- by 2030, 80% below the baseline emissions level;
- by 2035, 90% below the baseline emissions level; and
- by 2040, 100% below the baseline emissions level.

“Baseline emissions level” means 0.428 metric tons of carbon dioxide equivalent per MWh of electricity used by a high-energy-use facility.

The annual compliance report must include:

- an estimate of annual GHG emissions associated with the electricity used by the facility;
- annual goals set by the person for reducing annual GHG emissions associated with the electricity used by the facility that demonstrate continued progress toward meeting the required emissions reductions;
- a copy of any power purchase agreement (PPA) or other contract for supplying electricity to the facility; and
- any other information PSC considers necessary to determine the level of GHG emissions associated with the electricity used by the facility and to measure continued progress toward and compliance with the required emissions reductions.

Current Law:

Climate Solutions Now Act

The Climate Solutions Now Act (CSNA) of 2022 made broad changes to the State’s

approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

CSNA also established the goal of the State that the electric distribution system support, in a cost-effective manner, the State's policy goals with regard to (1) GHG reduction; (2) renewable energy; (3) decreasing dependence on electricity imported from other states; and (4) achieving energy distribution resiliency, efficiency, and reliability.

Renewable Energy Portfolio Standard

Maryland's Renewable Energy Portfolio Standard was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. There are specified eligible ("Tier 1" or "Tier 2") sources as well as carve-outs for solar, offshore wind, and geothermal. Electric companies (utilities) and other electricity suppliers must submit RECs equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment equivalent to their shortfall.

Generally, a REC is a tradable commodity equal to one MWh of electricity generated or obtained from a renewable energy generation resource. In other words, a REC represents the "generation attributes" of renewable energy – the lack of carbon emissions, its renewable nature, etc. A REC has a three-year life during which it may be transferred, sold, or redeemed. REC generators and electricity suppliers are allowed to trade RECs using a PSC-approved system known as the Generation Attributes Tracking System, a trading platform designed and operated by PJM Environmental Information Services, Inc., that tracks the ownership and trading of RECs.

State Fiscal Effect: The bill does not specify a time period for the base load determination for high-energy-use facilities, which makes it difficult to determine the number of affected entities. Essentially all electric customers use ten MWhs of energy over a long enough timespan. While the first emissions reduction requirement specified in the bill is for 2027, the bill requires annual reports each January 1 with individual-level goals to demonstrate progress toward the statutory emissions reduction requirements.

At a minimum, PSC advises that it requires an additional staff and ongoing consultant services to implement the bill and ensure compliance. Accordingly, special fund expenditures increase by at least \$151,358 in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of hiring one regulatory economist to review and verify annual compliance reports. It includes a salary, fringe

benefits, one-time start-up costs, ongoing operating expenses, and \$75,000 in consultant costs.

Position	1.0
Salary and Fringe Benefits	\$66,852
Contractual Services	75,000
Other Operating Expenses	<u>9,506</u>
Minimum FY 2025 PSC Expenditures	\$151,358

Minimum future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and \$100,000 in annual consultant costs.

Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

The effect on the State, as an owner or operator of facilities that provide electronic data processing or hosting services, is unknown but likely limited. Currently, the Department of General Services (DGS), which procures electricity on behalf of most State agencies, has three PPAs with renewable energy generation facilities, which may be sufficient to cover any associated low-emission energy needs under the bill. DGS is also required by Chapter 95 of 2023 to issue a competitive sealed procurement solicitation for, and may enter into at least one PPA to procure, up to 5.0 million MWhs annually of offshore wind energy and associated RECs from one or more qualified offshore wind projects. Any such PPA would likely more than meet the requirements of the bill for any affected State facilities.

Local Expenditures: Local governments may own or operate high-energy-use facilities as defined in the bill (data centers) and must directly purchase low-emission energy and demonstrate compliance to PSC each year, which may increase local government expenditures for electricity and for costs associated with determining annual GHG emissions at affected facilities.

Small Business Effect: Any small businesses that own, operate, or control high-energy-use-facilities must directly purchase low-emission energy and demonstrate compliance to PSC each year, which may increase expenditures for electricity and add additional costs associated with determining annual GHG emissions at affected facilities.

Additional Comments: In December 2023, the Department of Legislative Services published an [issue paper](#) (see page 171) that addresses the environmental and energy impacts of data centers.

Additional Information

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

Designated Cross File: None.

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

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Analysis by: Stephen M. Ross

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