SB 841

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 841 (Senators Feldman and Ferguson)
Education, Energy, and the Environment

Maryland Energy Administration - Renewable Energy Generation Projects - Alternative Compliance Fee Auctions

This bill repeals existing uses of revenues in the Strategic Energy Investment Fund (SEIF) generated from alternative compliance payments (ACPs) (under the State's Renewable Energy Portfolio Standard (RPS)) and instead requires the Maryland Energy Administration (MEA), in consultation with the Public Service Commission (PSC), to auction these revenues to renewable energy generation project developers through competitive bidding, awarding funding through contracts with the lowest-bidding developers. The funding must be used to support renewable energy generation projects that establish amounts of new renewable energy generation capacity in the State that are sufficient, when added to existing capacity, to allow electricity suppliers to satisfy the RPS in a given year. MEA must (1) conduct the auctions annually, beginning January 1, 2027; (2) adopt regulations to carry out the bill; and (3) comply with specified reporting requirements. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: No direct net effect on SEIF expenditures; however, beginning in FY 2027, a portion of SEIF expenditures (expenditures of ACP revenues) are redirected to the auctions. To the extent the bill results in reduced ACPs in future years, SEIF revenues, and corresponding expenditures, decrease over time.

Local Effect: Local governments may be affected, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Beginning January 1, 2027, MEA must conduct, in consultation with PSC, an annual, competitive, low-bid alternative compliance fee auction (auction of ACP revenues) to award contracts to eligible bidders to fund projects for the development of renewable energy generation in the State. MEA, in consultation with PSC, must adopt implementing regulations.

All proceeds from ACPs accrued in SEIF must be made available each year for each auction (the bill repeals all existing provisions authorizing or requiring the use of ACPs accrued in SEIF for other purposes). If the capacity target (discussed below) for an auction can be met at a cost below the allocated funding, MEA may carry forward any funding to the next auction or apply the funds for any additional megawatts of renewable energy generation that have been offered under the auction.

Auction Planning

Each year, MEA and PSC must set the capacity target for the amount of renewable energy generation required for that year. "Capacity target" means a calculation of the amount of renewable energy generation needed in a given year to satisfy the RPS for a specific year, minus the amount already procured from other sources. "Renewable energy" means energy generated from geothermal energy generating systems, offshore wind energy generating systems, or solar energy generating systems.

In determining the capacity target for each auction, MEA and PSC must use a transparent methodology, including (1) renewable energy credit (REC) shortfalls from the prior year; (2) anticipated growth in renewable energy over time; (3) projected ACP revenues; (4) modeled expected energy clearing prices; and (5) trends in renewable energy generation in the State.

For each auction, MEA must procure projects for the generation of renewable energy in a quantity that meets or exceeds any REC shortfalls in the prior year. MEA and PSC may set a minimum level of megawatts required from each type of renewable energy source in the auction or specific procurement thresholds for all types of renewable energy sources collectively.

MEA, in consultation with PSC, must develop and conduct the auctions in a manner that is cost effective and maintains and promotes the development of renewable energy in the State. The competitive auction process may require MEA to solicit a series of bids from renewable energy project developers for the development of renewable energy generation projects that are needed to meet electricity demand in a cost-effective manner.

Competitive Bidding and Award Process

To be eligible to submit a bid, a person must be a renewable energy generation project developer, and MEA, in consultation with PSC, must set eligibility requirements for bidders, including requiring each bidder to (1) provide proof of financial integrity; (2) post a bond or other similar instrument; (3) agree to be subject to all applicable taxes; and (4) comply with any other requirements MEA determines to be in the public interest.

Eligible bidders must submit competitive bids by specifying the actual amount of megawatts to be generated by the renewable energy generating project and a price per megawatt that would be required from the auction. MEA must rank the bids received from lowest to highest cost per megawatt and award funds derived from ACPs to the lowest bid or bids. MEA must award bids until the capacity target for the auction is reached. The bidder who submits the lowest responsive bid for developing a renewable energy generation project must be awarded the amount of funds to build the renewable energy generation project. MEA may refuse to accept some or all of the bids made in a competitive auction in accordance with standards that it adopts.

Project Administration and Enforcement

MEA must set delivery deadlines, including specified milestones, for each renewable energy project that is awarded funding from an auction. If a developer is delayed in reaching their delivery goals due to interconnection or permitting challenges, MEA may grant an extension if the developer provides documentation of the challenge or delay. Additionally, MEA must establish a method of collection against any developer awarded a contract through the auction process to recapture any funds received as a result of (1) misappropriation, overpayment, or fraud or (2) failure to meet milestones or delivery dates.

Disclosure and Reporting Requirements

Within 90 days after all contracts for renewable energy generation projects are executed, MEA must publicly disclose the names of each successful bidder and the megawatts to be delivered by the development of the renewable energy generation project.

By July 1, 2027, and each July 1 thereafter, MEA and PSC must report to the General Assembly on the administration of each auction, including: (1) the amount of megawatts procured through the auction; (2) the cost per megawatt of renewable energy allocated in the auction; (3) the number of renewable energy credits created as a result of the auction; and (4) any other information MEA and PSC consider relevant.

Current Law:

Renewable Energy Portfolio Standard

Maryland's RPS was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. The RPS establishes eligibility tiers (Tier 1 and Tier 2) and includes carve-outs for solar, offshore wind, and geothermal. The RPS requires that renewable sources generate specified percentages of Maryland's electricity supply each year. Utilities and other electricity suppliers must submit RECs equal to these percentages in each year or else pay an ACP equivalent to the shortfall.

For 2026, the requirements are 38.0% from Tier 1 sources, including at least 8.0% from solar and 0.5% from post-2022 geothermal systems, plus 2.5% from Tier 2 sources. For more information on Maryland's RPS, see the **Appendix – Renewable Energy Portfolio Standard**.

Strategic Energy Investment Fund

MEA administers SEIF, which, among other revenue sources, receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative and ACP revenues through the RPS. Additionally, SEIF will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

Nonsolar ACP revenues may be used to support the creation of new renewable energy sources in the State that are owned by or directly benefit low- to moderate-income, overburdened, or underserved communities. Solar ACP revenues must be used to support the creation of new solar energy sources in the State that are owned by or directly benefit those communities or low- to moderate-income households. In fiscal 2026 only, up to $100.0 million of ACP revenues may be used for solar development on State government property and local government clean energy projects. Additionally, through the end of fiscal 2027, at least 20% of ACP revenues resulting from solar energy requirements under the RPS must be used to provide grants to support the installation of new solar energy generating systems under the Customer-Sited Solar Program (discussed below). Up to 10% of the solar ACP revenues are credited to an administrative expense account for costs related to the administration of SEIF. Finally, ACP revenues may be used to provide grants to electric companies to be refunded or credited to each residential distribution customer based on the customer's consumption of electricity supply that is subject to the RPS.

Customer-Sited Solar Program

Chapter 595 of 2024 established the Customer-Sited Solar Program within MEA to (1) increase deployment of customer-sited solar energy generating systems and (2) provide grants to eligible customer-generators that have installed solar energy generating systems

with or without energy storage. At least 20% of ACP revenues resulting from solar energy requirements under the RPS must be used to provide grants to support the installation of new solar energy generating systems under the program. The program may provide a grant to an income-verified eligible customer-generator with a low- to moderate-income, in an amount equal to $750 per kilowatt of nameplate capacity for a solar energy generating system, up to a maximum of $7,500 per system. The program terminates June 30, 2027.

"Low- to moderate-income" means a household with an annual household income at or below 150% of the median income for the State.

State Fiscal Effect: This analysis assumes that the bill does not have a direct, net effect on SEIF expenditures, since it only redirects a portion of SEIF spending (spending of ACP revenues in SEIF) toward funding of contracts to support renewable energy projects under the auction process established by the bill. MEA advises that it can administer the auction process with existing resources and staff, including staff currently administering ACP-funded programs that will end due to the redirection of ACP funding under the bill.

Over time, to the extent the bill increases renewable energy generation capacity in the State in comparison to renewable energy generation capacity in the absence of the bill, REC shortfalls decline, resulting in a decrease in ACPs and SEIF revenues. The timing or magnitude of such a decrease, however, cannot reliably estimated.

Local Fiscal Effect: To the extent the bill, beginning in fiscal 2027, redirects ACP revenues in SEIF away from planned renewable and clean energy deployment programs or initiatives from which local governments otherwise receive funding, local government revenues and expenditures decrease.

Small Business Effect: To the extent the bill's redirection of SEIF expenditures increases the overall volume of renewable energy generation development, small businesses engaged in related construction and maintenance activities may benefit from increased demand for their goods or services. Presumably, some small businesses may also be negatively affected, to the extent the bill shifts the type or scale of renewable energy generation projects that are funded by ACP revenues away from projects that a given small business has the ability, or opportunity, to support.

Additional Comments: The Department of Legislative Services notes that the Governor's fiscal 2027 budget plan (reflected in the fiscal 2027 budget as introduced and the Budget Reconciliation and Financing Act of 2026 (Senate Bill 284/House Bill 392) as introduced) allocates ACP revenues in SEIF toward various purposes in fiscal 2027.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; Maryland Energy Administration; Public Service Commission; Department of Legislative Services

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Appendix – Renewable Energy Portfolio Standard

General Overview

Maryland's Renewable Energy Portfolio Standard (RPS) 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 renewable energy credits (RECs) equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Historically, RPS requirements have been met almost entirely through RECs, with negligible reliance on ACPs; however, as discussed further below, that has not been the case more recently. Generally, the Maryland Energy Administration must use ACPs for purposes related to renewable energy, as specified.

In 2026, the requirements are 38.0% from Tier 1 sources, including at least 8.0% from solar and 0.50% from post-2022 geothermal systems, plus 2.5% from Tier 2 sources.

Recent Significant Changes to Overall Percentage Requirements

- Chapter 757 of 2019 significantly increased the percentage requirements, which now escalate over time to a minimum of 50% from Tier 1 sources, including 14.5% from solar, by 2030.

- Chapter 673 of 2021 reduced the amount of solar energy required under the RPS each year from 2022 through 2029, while leaving the nonsolar requirement generally unchanged, before realigning with the previous requirements beginning in 2030. The Act also extended Tier 2 in perpetuity at 2.5%.

- Chapter 164 of 2021 created a carve-out for post-2022 geothermal systems in Tier 1 beginning in 2023.

Limited Applicability to Municipal Electric Utilities and Electric Cooperatives

As RPS percentage requirements have grown over time, legislation has been enacted to limit the effect on municipal electric utilities and electric cooperatives. Tier 1 percentage requirements for municipal electric utilities are limited to 20.4% in total beginning in 2021, including at least 1.95% from solar energy and up to 2.5% from offshore wind. Municipal electric utilities are also exempt from Tier 2 after 2021. Electric cooperatives are exempt from future increases to the solar carve-out beyond 2.5%, and the RPS does not apply to Choptank Electric Cooperative.

Renewable Energy Credits

Generally, a REC is a tradable commodity equal to one megawatt-hour 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 five-year life during which it may be transferred, sold, or redeemed. REC generators and electricity suppliers are allowed to trade RECs using a Public Service Commission (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.

Eligible Sources

Tier 1 sources include wind (onshore and offshore); solar (photovoltaic and certain water-heating systems); qualifying biomass; methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents, and thermal differences; a fuel cell that produces electricity from specified sources; a small hydroelectric plant of less than 30 megawatts; poultry litter-to-energy; thermal energy from a thermal biomass system; and raw or treated wastewater used as a heat source or sink for heating or cooling. Tier 2 includes only large hydroelectric power plants.

Chapter 673 excluded black liquor, or any product derived from black liquor, from Tier 1 beginning in 2022, although some black liquor RECs remain eligible through the duration of certain contracts. Chapters 625 and 626 of 2025 removed waste-to-energy and refuse-derived fuel from RPS eligibility. The exclusion generally applies to all RPS compliance years starting on or after January 1, 2025, except for a facility owned by a public instrumentality of the State (*i.e.*, Montgomery County), which applies beginning July 1, 2026.

Trends in Compliance Costs, Renewable Energy Credit Prices, and Resources Used

Compliance costs for electricity suppliers totaled $616.9 million in 2024: $254.7 million for 7.0 million RECs and $362.3 million in ACPs. This continues a multi-year trend of increasing overall compliance costs, reliance on ACPs, and REC prices. Of note, 2024 continues the trend of 2023 that ACPs have been used in a significant way for general Tier 1 compliance. In fact, 2024 had the fewest RECs retired since 2014. ACP prices were in many instances less expensive than REC prices and, as a result, suppliers chose to pay the ACP rather than retire RECs. Compliance costs and REC prices for the most recent five-year period are shown in **Exhibit 1**.

Exhibit 1
RPS Compliance Costs and REC Prices
2020-2024

	2020	2021	2022	2023	2024
Compliance Costs ($ Millions)					
RECs					
Tier 1	$99.8	$187.3	$246.5	$124.9	$90.1
Tier 1 Solar	122.9	144.4	101.4	109.6	150.4
Tier 1 Geothermal	n/a	n/a	n/a	0.1	2.2
Tier 2	0.4	1.0	4.4	9.3	12.0
RECs Subtotal	***$223.1***	***$332.7***	***$352.3***	***$243.8***	***$254.7***
ACPs					
Tier 1	$0.0	$0.2	$0.7	$262.4	$319.4
Tier 1 Solar	0.0	76.9	85.9	56.0	37.2
Tier 1 Geothermal	n/a	n/a	n/a	1.6	4.4
Tier 2	0.0	0.0	0.0	0.4	1.3
ACPs Subtotal	***$0.1***	***$77.1***	***$86.6***	***$320.4***	***$362.3***
Total	**$223.2**	**$409.8**	**$438.9**	**$564.2**	**$616.9**
Average REC Price ($)					
Tier 1	$8.24	$14.36	$17.80	$24.61	$27.09
Tier 1 Solar	$66.10	$72.59	$57.80	$56.67	$58.56
Tier 1 Geothermal	n/a	n/a	n/a	$94.47	$94.04
Tier 2	$1.06	$6.45	$7.42	$10.50	$11.16

ACP: alternative compliance payment
n/a: not applicable
REC: renewable energy credit
RPS: Renewable Energy Portfolio Standard

Note: Numbers may not sum to total due to rounding. The post-2022 geothermal system carve-out became effective in 2023.

Source: Public Service Commission

Approximately 45% of RECs used for compliance in 2024 came from in-state resources, up from 35% in 2023. RECs derived from three fuel types, solar (43.4%), black liquor (16.2%), and wind (15.1%), were the predominant sources of Tier 1 compliance in 2024. Maryland facilities generated approximately 5.7 million RECs in 2024: 1.5 million Tier 1

nonsolar RECs, 2.4 million Tier 1 SRECs, and 1.8 million Tier 2 RECs. Many RECs can be used for compliance in both Maryland and other surrounding states, although there are geographic and energy source restrictions.

Related Studies and Reports

PSC must submit an RPS compliance report to the General Assembly each year. The most recent report, which contains historical data through 2024, can be found here.

The Power Plant Research Program (PPRP) in the Department of Natural Resources has frequently been required to conduct RPS studies. PPRP submitted a final report on a comprehensive RPS study in December 2019, which can be found here. PPRP also submitted a related required study on nuclear energy at that time, which can be found here. PPRP's supplemental study on the overall costs and benefits of increasing the RPS to a goal of 100% by 2040 can be found here.

The Department of Legislative Services also issued an RPS report in 2025, which can be found here. The report contains additional detail on the program, significant statutory changes, and visualizations of planned and actual RPS percentage requirements over time.