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Department of Legislative Services

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FISCAL AND POLICY NOTE
First Reader

House Bill 345 (Delegate Charkoudian, *et al.*)
Environment and Transportation

Public Utilities - Solar Energy Generating Systems and Solar Renewable Energy Credits (Affordable Solar Act)

This bill establishes the Distributed Solar Facilities Incentive Program and the Utility-Scale SREC-II Program within the Public Service Commission (PSC) to provide incentives for the development of at least 4,000 megawatts of additional solar energy generating capacity in the State. The bill also, among other things, (1) alters the State's Renewable Energy Portfolio Standard (RPS); (2) redirects alternative compliance payments (ACPs) from the Strategic Energy Investment Fund (SEIF) to an escrow account established by PSC; and (3) redirects specified franchise tax revenues from certain customers to the escrow account.

Fiscal Summary

State Effect: General fund revenues decrease beginning as early as FY 2027 due to the redirection of certain franchise tax revenues. Special fund revenues and expenditures for the Maryland Energy Administration (MEA) decrease *significantly* beginning in FY 2027, as discussed below. Special fund expenditures for PSC increase by $1.4 million in FY 2027 and by more than $1.5 million annually thereafter; special fund revenues increase correspondingly from assessments imposed on public service companies. General/special fund expenditures for the Department of Natural Resources (DNR) increase by $975,700 in FY 2028 and by similar amounts in future years. Other effects are described below. **This bill establishes a mandated distribution beginning as early as FY 2027.**

Local Effect: Local government finances and operations are affected, potentially significantly, as discussed below. The potential effect on electricity prices is discussed in the Additional Comments section below.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Broadly, the bill:

- requires PSC, from 2028 until 2036, to issue solicitations for the construction of solar energy generating systems to increase total solar generating capacity in the State by 4,000 megawatts above the amount of capacity on January 1, 2028;
- requires PSC to establish an escrow account and redirects ACP revenues from SEIF to the escrow account;
- establishes the Utility-Scale SREC-II Program to provide incentives for the development of at least 2,000 megawatts of utility-scale solar generation by January 1, 2035;
- establishes the Distributed Solar Facilities Incentive Program to provide incentives for the development of at least 2,000 megawatts of small-scale solar generation by January 1, 2035;
- requires PSC to establish a procurement process for solar renewable energy credits (SRECs) and SREC-IIs from solar energy generating systems and directs PSC to impose requirements on electric companies regarding the procurement of SRECs and SREC-IIs;
- alters the State's RPS to include energy derived from qualifying distributed solar energy generating systems and qualifying utility-scale solar energy generating systems;
- allows electric cooperatives and municipal electric utilities to meet their RPS targets for solar energy by purchasing SREC-IIs through the procurement process described above;
- authorizes the purchase and installation of portable solar energy generating systems for residential use; and
- redirects 75% of specified franchise tax revenues associated with customers that use more than 100 megawatts of electricity from the general fund to the escrow account.

Expansion of Solar Energy Capacity

Beginning January 1, 2028, and at intervals of not more than 18 months through January 1, 2036, PSC must, by order or regulation, issue a solicitation for applications to construct solar energy generating systems to increase the State's total solar generating capacity by 4,000 megawatts above the capacity in operation on January 1, 2028. This increase must consist of 2,000 megawatts from qualifying distributed solar energy generating systems and 2,000 megawatts from qualifying utility-scale solar energy generating systems.

"Qualifying distributed solar energy generating system" means a solar photovoltaic system that has a generating capacity of 5 megawatts or less, as measured by the alternating current rating of the system's inverter, and is certified to generate SREC-II credits. "Qualifying utility-scale solar energy generating system" is defined as a solar photovoltaic system that has a generating capacity that is greater than 5 megawatts, as measured by the alternating current rating of the system's inverter, and is certified to generate SREC-II credits.

"Solar renewable energy credit" or "SREC" means a renewable energy credit that is derived from a solar energy Tier 1 renewable source that is connected to the distribution system in the State and is not certified to receive SREC-II credits. "SREC-II" means a solar renewable energy credit equal to the generation attributes of 1 megawatt-hour of electricity connected to the electric transmission or distributed system serving the State and derived from a qualifying distributed solar energy generating system or a qualifying utility-scale solar energy generating system.

Distributed Solar Facilities Incentive Program

The Distributed Solar Facilities Incentive Program is established in PSC. Subject to various timelines and requirements, the program must provide incentives for the development of at least 2,000 megawatts of new solar generation capacity from owners of qualifying distributed solar energy generating systems by January 1, 2035. PSC must establish eligibility criteria and an application process for the program. The program must begin accepting applications on a first-come, first-served basis no later than January 1, 2028.

By October 1, 2027, and every three years thereafter, PSC must establish an "administratively determined incentive" and an annual "capacity block" for certain market segments under the program. Under limited circumstances, PSC is authorized to make interim adjustments to the administratively determined incentive and capacity blocks. An "administratively determined incentive" means the monetary value of an SREC-II generated by a qualifying distributed solar energy generating system under the program. A "capacity block" is defined as the maximum amount of generating capacity (measured in megawatts of alternating current) that PSC determines may be allotted to a specific market segment for any given incentive year.

For a qualifying distributed solar energy generating system, the administratively determined incentive must be fixed for 15 years at the amount established for the applicable capacity block in the year the system's application was filed. An SREC-II generated under the program may be included in meeting the State's RPS only for the year in which it is generated or the following year, as determined by PSC. Additionally, a qualifying distributed solar energy generating system that generates SREC-IIs may not receive any other equivalent solar energy credits.

In establishing the incentive and capacity blocks, PSC must balance the need for continued market development for each market segment while limiting the projected net rate impact for residential customers to 5% of the average annual electric bill over the duration of the program. PSC must also make specified considerations and take specified actions in determining the incentive and establishing the capacity block for each market segment. For example, in addition to specified direct effects, PSC must take into account societal costs and benefits. Generally, the State's RPS provisions apply to energy generated by a qualifying distributed solar energy generating system under the program.

Utility-Scale SREC-II Program

The Utility-Scale SREC-II Program is established in PSC. The program must provide incentives for the development of at least 2,000 megawatts of solar generation capacity from qualifying utility-scale solar energy generating systems (more than 5 megawatts) by January 1, 2035. PSC must (1) adopt regulations to implement the program, as specified; (2) determine a schedule for the procurement of qualifying utility-scale solar energy generating systems that meets the deadline specified above, while balancing ratepayer costs; and (3) establish, by regulation or order, a competitive solicitation process to select qualifying projects under the program. Unlike the Distributed Solar Facilities Incentive Program, net ratepayer impacts are not limited.

Beginning January 1, 2027, and every 18 months thereafter, PSC must commence solicitations for the award of projects under the program. The solicitations must (1) award contracts for the construction of at least 205 megawatts per year of qualifying utility-scale solar energy generating systems for eight years (after the first contracts are awarded); (2) award contracts within 6 months after each solicitation; (3) ensure awarded projects receive a renewable energy incentive payment, as specified; and (4) meet other specified requirements.

Before issuing a solicitation, PSC must request the Commissioner of Labor and Industry to determine the prevailing wage rate for each classification of worker required for such project for inclusion in the bidding process. As part of the solicitation process, PSC must require applicants to submit a proposed SREC-II pricing schedule, including specified information, and to certify that selected projects will include a community benefit agreement in accordance with specified provisions of current law. Applications must be subject to a community benefit agreement that satisfies specified requirements and criteria. PSC may take other specified actions to implement a solicitation and, upon completion of the solicitation process, must take additional specified actions.

PSC, by order, must approve, conditionally approve, or deny one or more projects within six months after the close of a solicitation period. An order approving a project must:

- specify the SREC-II fixed pricing schedule for energy generated by the project;
- specify the duration of the schedule (which may not exceed 15 years);
- specify the total number of SREC-IIs that may be sold each year from the system;
- provide that no payment may be made for an SREC-II until the system is operational and generating energy; and
- provide that the State must be held harmless for any cost overruns associated with the construction and operation of the system.

An approved project must comply with specified requirements, including the applicable prevailing wage rates. PSC, in consultation with the commissioner, must adopt regulations that include provisions (1) relating to the reporting of noncompliance or violations of the prevailing wage requirements; (2) allowing the usage of the escrow account to issue backpay to workers; and (3) establishing liquidated damages equivalent to specified provisions of the State Finance and Procurement Article.

Under the program, a qualifying utility-scale solar energy generating system is only permitted to generate SREC-IIs. An SREC-II generated under the program may be included in meeting the RPS only for the year in which it is generated or the following year, as determined by PSC. The owner of a system producing SREC-IIs may not sell, alienate, or dispose of any of the environmental attributes associated with the energy generated by the system. Additionally, a qualifying distributed solar energy generating system that generates SREC-IIs may not receive any equivalent renewable energy credits of any type. Except as otherwise specified, the State's RPS provisions apply to SREC-IIs generated under the program.

Establishment of Escrow Account

Beginning October 1, 2026, ACP revenues no longer accrue to SEIF and instead accrue to an escrow account that must be established by PSC. The purpose of the escrow account is to ensure the secure and transparent transfer of revenues and SRECs procured in accordance with the bill. Subject to any escrow account reserve requirement PSC establishes, ACPs paid into the account must be distributed to electric companies to pay for future SRECs and SREC-IIs.

Among other requirements, PSC must, by regulation or order, establish a nonbypassable surcharge that allows an electric company to recover all costs associated with purchasing SRECs and SREC-IIs from customers in the company's service territory through an addition to the supply rate on their utility bills. If insufficient SRECs and SREC-IIs are available for purchase, the resulting overpayment must be distributed back to the electric company and refunded or credited to customers, as specified, subject to any escrow account reserve requirement.

Any interest earned in the escrow account must remain in the account and may not be redirected to any other fund.

SREC and SREC-II Procurements

Generally

By January 1, 2028, and before each subsequent procurement under the distributed solar and utility-scale programs established in the bill, PSC must determine the total number of SRECs and SREC-IIs generated by solar energy generating systems in the State during the previous year and the amount of additional solar energy generation needed, if any, to meet the solar portion of the RPS for the current year. Furthermore, PSC must annually determine, in consultation with the escrow account administrator, each electric company's SREC and SREC-II obligations based on its retail electricity sales. After making these determinations, PSC must require electric companies to procure the total number of SRECs and SREC-IIs generated during that compliance year in accordance with a specified schedule. Each electric company must procure from the escrow account the number of SRECs and SREC-IIs to satisfy the company's obligations.

PSC, by order or regulation, must establish a process to adjust the RPS for solar energy each year to account for the projected number of SRECs and SREC-IIs anticipated to be procured.

Specific Process for Systems that Begin Operation before January 1, 2028

PSC must establish an annual process for the procurement of all available SRECs and SREC-IIs from solar energy generating systems that began operation before January 1, 2028. The process must (1) determine the amount of SRECs and SREC-IIs needed to be procured for each procurement; (2) occur following the last month in which SRECs and SREC-IIs are generated for that year; and (3) ensure that the SRECs and SREC-IIs procured are equal to the total SRECs and SREC-IIs generated in that year. The price for an SREC or SREC-II procured through this process must be equal to the solar ACP for the relevant RPS compliance year.

Renewable Energy Portfolio Standard

Beginning with compliance year 2028, the State's RPS is modified as follows:

- the existing RPS requirements for each year are increased by the amount PSC sets for renewable energy credits derived from solar energy generated from qualifying distributed solar energy generating systems and qualifying utility-scale solar energy

systems through the process described above (applied only to the distribution sales of electric companies);

- the existing Tier 1 solar RPS requirement for each year must be met with solar energy that is not generated from qualifying distributed solar energy generating systems and qualifying utility-scale solar energy generating systems; and
- specified existing ACP provisions do not apply to the new RPS requirement for solar energy derived from qualifying distributed solar energy generating systems and qualifying utility-scale solar energy systems.

Electric Cooperatives and Municipal Electric Utilities

An electric cooperative or municipal electric utility may meet its RPS for solar energy by purchasing SREC-IIs through the aforementioned procurement process. Once an electric cooperative or municipal electric utility authorizes the purchase of SREC-IIs through the procurement process, it may not rescind that authorization. Beginning January 1, 2028, an electric cooperative or municipal electric utility that fails to satisfy its solar RPS requirements must pay a compliance fee based on the average price paid for SREC-II credits during the relevant compliance year, rather than making ACPs as required under existing law.

Portable Solar Energy Generating Systems

A person may purchase and install a portable solar energy generating system for residential use only. "Portable solar energy generating system" means a moveable photovoltaic solar energy generation device that is (1) designed to be connected to a building's electrical system through a standard electrical outlet; (2) primarily intended to offset part of the building's electricity consumption; (3) limited to supplying a maximum power output of 1,200 watts back to the electric system; and (4) certified by Underwriters Laboratory or an equivalent nationally recognized testing laboratory.

An electric company may not require a customer using a portable solar energy generating system to (1) obtain its approval before installing or using the system; (2) pay any fee or charge related to the system's ability to feed electricity back into the electric system; or (3) install any additional controls or equipment beyond what is integrated into the system. An electric company is not liable for any damage caused by a portable solar energy generating system.

Portable systems do not count toward meeting the State's RPS and may not generate renewable energy credits of any type. Additionally, they are not subject to the requirements of §§ 7-306 (net energy metering) and 7-306.1 (interconnection agreements) of the Public Utilities Article.

Redirection of Franchise Tax Revenues

A public service company that is engaged in the transmission, distribution, or delivery of electricity in the State must file with the public service company franchise tax return the gross receipts derived from customers in the State that use more than 100 megawatts of electricity. The State Department of Assessments and Taxation (SDAT) must allocate 75% of the public service company franchise tax revenues attributed to customers that use more than 100 megawatts of electricity that is collected from public service companies that are engaged in the transmission, distribution, or delivery of electricity in the State to the escrow account established under the bill.

Current Law:

Public Service Commission

Generally

PSC must supervise and regulate public service companies, which includes electric companies, subject to its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. In doing so, PSC must consider the public safety, the economy of the State, the maintenance of fair and stable labor standards for affected workers, the conservation of natural resources, the preservation of environmental quality, the achievement of the State's climate commitments for reducing greenhouse gas emissions, and the protection of a public service company's infrastructure against cybersecurity threats. PSC must also enforce compliance with legal requirements by public service companies.

Power Plant Siting

PSC is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCNs). For additional information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

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 alternative compliance payment revenues through the State's 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.

MEA is required to use SEIF for specified uses, including investing in the promotion, development, and implementation of (1) cost-effective energy efficiency and conservation programs, projects, or activities; (2) renewable and clean energy resources; (3) climate change programs directly related to reducing or mitigating the effects of climate change; and (4) demand response programs that are designed to promote changes in electric usage by customers. SEIF must also be used to provide targeted programs, projects, activities, and investments to reduce electricity consumption by customers in low-income and moderate-income residential sectors, and to provide supplemental funds for low-income energy assistance administered by the Department of Human Services.

Solar Incentives

State law establishes multiple incentives for solar energy generating systems of different types, sizes, and locations. For an overview of notable incentives, see the **Appendix – Incentives for Solar Energy Generating Systems**.

Renewable Energy Portfolio Standard

Unlike most other sources of renewable energy, solar is eligible for inclusion in meeting the State's RPS only if the source is connected with the electric distribution grid serving Maryland. For information on the State RPS, see the **Appendix – Renewable Energy Portfolio Standard**.

State Agency Procurements

Subject to specified exceptions, the Board of Public Works (BPW) controls procurement for Executive Branch agencies, but statute authorizes BPW to delegate its authority to other agencies. The Code of Maryland Regulations delegates some of BPW's procurement authority, with the Office of State Procurement within the Department of General Services (DGS) given oversight of procurements for construction, construction-related services, commodities, services, and more. However, procurements valued at more than $200,000 still require BPW approval. DGS further delegates authority for small procurements – those valued at less than $100,000 – to individual agencies.

Public Service Company Franchise Tax

Persons engaged in a telephone business in Maryland or the delivery, transmission, or distribution of electricity or natural gas in Maryland must pay the public service company franchise tax.

For telephone, electric, and gas companies, a tax is imposed measured by the company's gross receipts. Gross receipts are defined as the total operating revenues of the public

service companies, excluding revenue derived from an activity other than a telephone, electric, or natural gas business. For electric and gas companies, a second tax is imposed measured by the kilowatt-hours of electricity or therms of natural gas delivered for final consumption in the State.

The rate for the gross receipts component of the tax is 2% of gross revenues. The rate of the distribution tax imposed on electric and gas companies is 0.062 cents per kilowatt-hour for electricity delivered for final consumption and 0.402 cents per therm for natural gas delivered for final consumption. The revenues are distributed to the general fund. Revenues from the public service company franchise tax imposed on gas and electric companies are projected to total $146.2 million in fiscal 2027 and $159.6 million in fiscal 2031.

State Fiscal Effect: Significant individual effects of the bill are discussed separately below. Operational effects on any agencies not discussed below are assumed to be minimal and absorbable within existing budgeted resources. The effect on State expenditures for electricity is discussed in the Additional Comments section below.

Maryland Energy Administration

The bill diverts all ACP revenues from SEIF to an escrow account established by PSC. As shown in the RPS appendix below, ACP revenues have increased substantially in recent years, reaching an all-time high of $362.3 million in (calendar) compliance year 2024. However, the Department of Legislative Services (DLS) advises that amounts cannot be reliably predicted for future years.

Special fund revenues for SEIF decrease significantly beginning in fiscal 2027, due to foregone ACP revenues. Although amounts cannot be reliably predicted, foregone ACP revenues could easily exceed $200.0 million annually, based on recent RPS compliance trends. Special fund expenditures for SEIF decrease correspondingly as funds are no longer available for MEA programs. Examples of such programs include the Solar Resiliency Hubs Program, the Solar Energy Equity Program, the Decarbonizing Public Schools Program, and the Customer-Sited Solar Grant Program. For a previously introduced bill that contained a similar provision diverting ACP revenues, MEA advised that it could not estimate the impact, if any, that the diversion of ACP revenues would have on its staffing levels, but noted that ACP revenues also supported its general administrative expenses in excess of the statutory cap of 10% of Regional Greenhouse Gas Initiative proceeds, or $7.5 million. Thus, DLS advises that MEA staffing levels are likely to decrease coincident with the reduction in ACP revenues.

Public Service Commission

PSC advises that the bill creates significant new and incremental requirements that cannot be absorbed within existing resources. Generally, PSC must implement and administer the Distributed Solar Facilities Incentive Program and the Utility-Scale SREC-II Program, as well as establish and maintain a complex procurement process for solar energy in the State. As a result, PSC requires four staff to implement the bill's requirements, plus ongoing consultant technical assistance.

Accordingly, special fund expenditures for PSC increase by $1,415,298 in fiscal 2027, which accounts for the bill's October 1, 2026 effective date. This estimate reflects the cost of hiring one regulatory economist, one staff attorney, one program manager, and one commission advisor. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $1.0 million in consultant costs.

Positions	4.0
Salaries and Fringe Benefits	$378,735
Consultant Costs	1,000,000
Other Operating Expenses	36,563
Total FY 2027 PSC Expenditures	**$1,415,298**

Future year expenditures reflect salaries with annual increases and employee turnover, annual increases in ongoing operating expenses, and ongoing consultant costs of $1.0 million annually through at least fiscal 2031.

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.

Office of People's Counsel

The Office of People's Counsel (OPC) advises that the expanded responsibilities the bill places on PSC are likely to result in a commensurate increase in OPC's workload, given that it is required to review all matters in front of PSC for potential ratepayer impacts. However, OPC advises that it cannot reliably estimate its need for additional resources at this time. Accordingly, DLS advises that, to the extent OPC must hire additional staff and/or consultants as a result of the bill, special fund expenditures increase. OPC is also funded through assessments on public service companies; thus, any additional special fund expenditures are funded through a corresponding increase in special fund revenues from assessments imposed on public service companies.

Department of Natural Resources

DNR advises that its Power Plant Research Program (PPRP) requires additional technical staff as well as funding for consultants to meet anticipated workloads associated with additional CPCNs for utility-scale solar projects resulting from the bill. DNR notes that PSC may also need PPRP's assistance with its procurement efforts. According to DNR, it anticipates an increase in CPCN activity beginning in fiscal 2028, and that additional staff and consultants are needed through at least fiscal 2031 (and perhaps for longer).

In general, special funds from the Environmental Trust Fund are used to fund PPRP's operations. However, general funds may be required to cover part or all of the expenses that PPRP incurs under the bill because the department anticipates a special fund revenue shortfall.

Accordingly, the bill has no impact on DNR in fiscal 2027; however, general/special fund expenditures for DNR increase by $975,685 in fiscal 2028. This estimate reflects the cost of hiring three power plant siting assessors, primarily to assist with additional CPCN analyses. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $600,000 in consultant costs.

Positions	3.0
Salaries and Fringe Benefits	$346,096
Consultant Costs	600,000
Other Operating Expenses	29,589
Total FY 2028 DNR Expenditures	**$975,685**

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including ongoing consultant costs of $600,000 annually.

Maryland Department of Labor

The bill contains several prevailing wage provisions with respect to the Utility-Scale SREC-II Program. According to the Maryland Department of Labor (MD Labor) and PSC, the bill is ambiguous as to whether MD Labor has the authority to enforce the prevailing wage provisions contained in the bill.

MD Labor advises that, assuming it has this authority under the bill, there would be an operational impact on its Division of Labor and Industry (DLI). Currently, DLI oversees approximately 800 projects covered by the State's prevailing wage laws. DLI advises that, to the extent the bill results in adding a material number of additional projects for it to oversee, DLI would likely require increased staffing and resources. DLS advises that

without actual experience under the bill, particularly information on how many utility-scale solar projects might apply in PSC's initial solicitation process, the fiscal effect of the bill on MD Labor cannot be reliably determined at this time. Should existing resources prove insufficient for DLI to meet any increase in its workload resulting from the bill, MD Labor can request additional resources through the annual budget process.

Separately, MD Labor advises that because DLI must work with PSC to develop regulations, including regulations to set a penalty structure and framework for enforcement, DLI must hire one part-time (50%) assistant Attorney General to fulfill these responsibilities, as this effort cannot be absorbed with existing resources. DLS disagrees that a regular position is necessary, and advises that DLI should be able to fulfill these requirements with a contractual employee for fiscal 2027 only. Thus, general fund expenditures for MD Labor increase by approximately $50,000 in FY 2027 only to hire a part-time contractual employee to work with PSC to develop the required regulations.

Franchise Tax Revenues

The bill requires SDAT to distribute 75% of the public service company franchise tax revenues attributed to customers that use more than 100 megawatts of electricity that are collected from public service companies engaged in the transmission, distribution, or delivery of electricity in the State to the escrow account established under the bill. This analysis assumes that the provision applies to franchise tax revenues attributed to customers *with loads* greater than 100 megawatts.

Franchise tax revenues are otherwise distributed to the general fund; thus, general fund revenues decrease by an indeterminate amount annually beginning as early as fiscal 2027. Due to data limitations, the precise effect cannot be reliably estimated at this time. It is assumed that the provision primarily affects revenues attributable to data centers, and it is unknown how many existing Maryland data centers, if any, currently meet the bill's 100-megawatt load threshold. DLS also notes that it is unclear (1) whether the mandated distribution applies to proceeds from only the gross receipts component of the public service company franchise tax or proceeds from both the gross receipts and delivery components and (2) given the bill's October 1, 2026 effective date, whether the bill's franchise tax provisions apply to estimated and final payments for calendar year 2026.

As a point of reference, data from the Electric Power Research Institute estimates that data centers in Maryland used 96,360 megawatt-hours, or approximately 96.4 million kilowatt-hours, of electricity in 2023. Based on this usage and average electricity prices for Maryland industrial customers as reported by the U.S. Energy Information Administration, were the bill's distribution to apply to 75% of public utility franchise tax revenues (both the gross receipts and delivery components) attributable to these customers, general fund revenues would decrease by an estimated $225,000 on an

annual basis. In the near term, actual general fund revenue losses are expected to be less, as it is assumed that most (if not all) existing Maryland data centers do not meet the bill's 100-megawatt load threshold. However, the general fund revenue impact may become significant in future years to the extent large-load data centers become operational in the State. For context, DLS notes that a single 100-megawatt data center may use several hundred thousand megawatt-hours of electricity in a year.

Local Fiscal Effect: The bill has many potential effects on local government finances and operations. Among other effects, local governments could be affected as follows:

- reduced funding from certain MEA programs (for example, the Local Government Energy Modernization Program (L-GEM) program) as a result of ACP revenues being redirected from SEIF to the new escrow account;
- if the bill leads to a significant increase in solar development in the State, local government operations and finances could be significantly affected, both from additional administrative requirements (such as project reviews or permitting) and from various associated revenues (including permit fees and property taxes); and
- local governments, as electric customers, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

The effect on the State's five municipal electric utilities, as electric companies, is unclear. They are not explicitly exempt from the two required procurements in the bill, although separate provisions specify that they "may" meet their RPS requirements through procured SREC-IIs. They are also potentially affected by the bill's changes to solar ACPs. The five municipal electric utilities are located in Berlin (Worcester County), Easton (Talbot County), Hagerstown (Washington County), Thurmont (Frederick County), and Williamsport (Washington County).

Small Business Effect: The bill establishes two new solar energy incentive programs but also redirects ACP revenues from SEIF into a new escrow account. The net effect on a particular small business in the affected industries is unknown but could be significant. Additionally, all small businesses, and particularly small businesses with significant electricity use, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

If the bill significantly increases solar development in the State, small businesses that participate in the construction and/or maintenance of solar energy generating systems benefit. Additionally, MD Labor advises that the bill seeks to prioritize small businesses within the new procurement model it sets forth for solar projects. Accordingly, small businesses benefit from the opportunity to bid on these projects and potentially qualify for SRECs.

On the other hand, MEA advises that the bill necessitates eliminating or curtailing many of its programs, as ACP revenues account for 55% of its funding in fiscal 2026. Program cuts likely result in decreased demand for contractors and small businesses that perform energy efficiency work and deliver clean energy services; furthermore, they likely reduce the probability of small businesses successfully obtaining grants from specified MEA grant programs.

Additional Comments: The overall effect on electricity rates due to the bill is unclear, although the size of the potential programs – 4,000 megawatts, the capacity equivalent of multiple Calvert Cliffs Nuclear Power Plants – means there is the potential for a significant effect on rates. The bill establishes two ratepayer-funded incentives for solar energy, only one of which – the Distributed Solar Facilities Incentive Program – has a net rate impact limit. That limit is also prospective, so actual impacts may exceed that 5% limit.

PSC advises that it is conducting a ratepayer impact analysis of the bill. According to PSC, the bill may result in increased electricity prices for ratepayers; however, it notes there are scenarios under which the bill may be cost-neutral. OPC advises that the effect on rates is unclear, as the bill offers several mechanisms to limit potential costs to ratepayers but also increases procurement costs. MEA did not opine directly on the potential net effect on ratepayers.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 398 and SB 316 of 2025.

Designated Cross File: SB 341 (Senator Brooks, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of General Services; Maryland Department of Labor; Department of Natural Resources; Maryland Energy Administration; Office of People's Counsel; Public Service Commission; Electric Power Research Institute; U.S. Energy Information Administration; Department of Legislative Services

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Appendix – Certificate of Public Convenience and Necessity

General Overview

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCNs). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment. Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, qualified generator lead line, overhead transmission line designed to carry more than 69,000 volts, or certain energy storage devices unless a CPCN is first obtained from PSC.

State law provides that a "generating station" excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other requirements).

The CPCN process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project's effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

Notification Process

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly who requests a copy.

Public Hearing and Comment

PSC must provide an opportunity for public comment and hold a public hearing on a CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality and must provide weekly notice during the four weeks prior to the hearing, both in a newspaper and online, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

Public Service Commission Considerations

PSC must take final action on a CPCN application only after due consideration of (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide greenhouse gas emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

Exemptions Under § 7-207.1 of the Public Utilities Article

Section 7-207.1 of the Public Utilities Article specifies three conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to a specified agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to a specified agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.

Exemptions Under § 7-207.4 of the Public Utilities Article

The Renewable Energy Certainty Act of 2025 (Chapters 623 and 624) establishes the Distributed Generation Certificate of Public Convenience and Necessity (DGCPCN), a certificate that PSC may issue – in lieu of a CPCN – to a person seeking to construct and operate community solar projects that have a generating capacity of 2 megawatts to 5 megawatts and meet other specified requirements. A DGCPCN carries the same force and effect as a CPCN while offering applicants a streamlined review process; however, until PSC begins accepting applications for DGCPCNs (likely in 2027), a CPCN will still be required to construct a community solar project.

As with the CPCN process, PSC must provide an opportunity for public comment and hold a public hearing on a DGCPCN application in each county where any portion of the project is proposed to be located.

Additional Information

For a more thorough discussion of the above topics, along with legislative history and recent data trends, see *The Maryland Certificate of Public Convenience and Necessity* on the Department of Legislative Services' website.

Appendix – Incentives for Solar Energy Generating Systems

State law establishes multiple incentives for solar energy generating systems of different types, sizes, and locations. The following is an overview of notable State incentives, which may be combined, depending on the specifics of a particular solar energy generating system.

Production Incentives

Net Metering

Under § 7-306 of the Public Utilities Article, the Public Service Commission (PSC) must require electric companies to develop and make net metering tariffs available to eligible customer-generators. Net metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by the customer and fed back to the grid over the customer's billing period. Under net metering, the customer pays only for energy used, netted against energy generated, plus the fixed monthly customer charge. In the event that more energy is generated than used, the electric company must pay the customer the value of the difference, subject to specified requirements. Generally, net excess generation payments are made annually, although certain customers may instead choose to accrue net excess generation indefinitely.

Generally, the generating capacity of an eligible customer-generator for net metering may be up to 2 megawatts, although there are exceptions allowing for larger capacities, including for community solar. Community solar systems are those that meet specified requirements, have multiple subscribers, and engage in virtual net metering.

There are multiple eligible energy sources for net metering, although most of the installed capacity is solar. The statewide capacity limit is 3,000 megawatts.

Renewable Energy Portfolio Standard

Under Title 7, Subtitle 7 of the Public Utilities Article, which establishes the State Renewable Energy Portfolio Standard (RPS), utilities and other competitive energy 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. Generally, a REC is a tradable commodity equal to 1 megawatt-hour of electricity generated or obtained from a renewable energy generation source. In program compliance year 2026, RPS percentage requirements include 8.0% from solar, which must be connected to the electric distribution grid serving Maryland.

Under § 7-709.1 of the Public Utilities Article, PSC must establish a Small Solar Energy Generating System Incentive Program and begin determining eligibility by January 1, 2025. Under the program, a solar energy generating system that meets specified requirements and is certified by PSC generates certified solar RECs, which have an RPS compliance value of 150%, for 15 years. In addition to other requirements, an eligible system must be placed in service between July 1, 2024, and January 1, 2028, inclusive.

Grant and Loan Incentives

Under § 9-20B-05 of the State Government Article, the Maryland Energy Administration (MEA) must administer the Strategic Energy Investment Fund (SEIF). Among other revenue sources, SEIF receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative (RGGI) and ACP revenues through the State RPS. RGGI-sourced funding is allocated through a statutory formula that provides significant annual funding for clean energy programs and initiatives, in addition to other purposes. In practice, MEA offers a variety of residential and commercial grants and rebates for different types of solar installations. Generally, solar ACP revenues must be used to support new solar development, although there are additional requirements in certain years.

Tax Incentives

Solar Energy Property Generally Not Subject to State or Local Real Property Tax

Under § 7-242 of the Tax-Property Article, solar energy property is generally not subject to State or local real property tax. "Solar energy property" means equipment that is installed to use solar energy or solar thermal electric energy to generate electricity to be used in a structure or supplied to the electric grid or provide hot water for use in a structure.

Specified Nonresidential Solar Systems Exempt from Valuation or State or Local Property Taxes

Under § 7-249 of the Tax-Property Article, specified nonresidential solar energy generating systems that are constructed on the rooftops of buildings or on parking facility canopies are not subject to valuation or to State or local property taxes. The exemption applies only to a system approved by PSC for a Certificate of Public Convenience and Necessity (CPCN) or CPCN exemption on or after July 1, 2024.

Community Solar Personal Property Tax Exemption

Under § 7-237 of the Tax-Property Article, a community solar energy generating system with up to 5 megawatts of capacity that meets specified requirements is exempt from the

county and municipal personal property tax through the life cycle of the system. To be eligible, a system must (1) be placed in service after June 30, 2022, and be approved by PSC by December 31, 2030; (2) provide at least 50% of the energy produced to low- to moderate-income customers at reduced prices, as specified; and (3) be used for agrivoltaics or be installed on a rooftop, brownfield, parking facility canopy, landfill, or clean fill.

Community Solar Real Property Tax Credit

Under § 9-111 of the Tax-Property Article, the 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. To be eligible, a system must be placed in service after June 30, 2022, and have been approved by PSC by December 31, 2025.

Optional Local Property Tax Credit for Solar Energy Devices

Under § 9-203 of the Tax-Property Article, counties and municipalities are authorized to grant tax credits against county or municipal property taxes for the use of a solar energy, geothermal energy, or qualifying energy conservation device in a structure for the purposes of heating and cooling, electricity generation, or the provision of hot water. Local governments may establish related definitions in determining eligibility for the credit.

Optional Local Real Property Assessment Reduction for Certain Parking Canopies

Under § 7-250 of the Tax-Property Article, the governing body of a county or municipality may reduce or eliminate, by law, the percentage of the assessment of any real property that is subject to the county or municipal property tax if the real property includes a parking facility on which a solar energy generating system has been constructed on its canopy. These provisions apply only to real property that includes a parking facility on which a system has been approved by PSC for a CPCN or CPCN exemption on or after July 1, 2024. The provision terminates June 30, 2027.

Sales and Use Tax Exemptions

Under § 11-230 of the Tax-General Article, the sales and use tax does not apply to the sale of solar energy equipment, which is defined as equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or supplied to the electric grid, or provide hot water for use in a structure.

Under § 11-207 of the Tax-General Article, the sales and use tax does not apply to the sale of electricity generated by solar energy equipment for use in residential property owned by an eligible customer-generator under the State's net metering law.

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

Compliance Costs ($ Millions)	2020	2021	2022	2023	2024
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.