

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 53 (Senator Hershey)
 Finance

Clean Energy Attribute Credits and Procurement

This bill repeals specified requirements under the State’s Renewable Energy Portfolio Standard (RPS) and establishes a Clean Energy Attribute Credit Standard in their place, subject to specified requirements and defined terms, including an annual cost cap determined by the social cost of carbon. The bill establishes several related findings of the General Assembly. The Public Service Commission (PSC), after issuing a request for proposals, must appoint an independent administrator to implement the standard. All clean energy attribute credits are cleared in a competitive auction format. A presently existing obligation or contract right may not be impaired in any way by the bill. **The bill takes effect January 1, 2022.**

Fiscal Summary

State Effect: Special fund expenditures increase by at least \$150,000 in FY 2022 and by at least \$300,000 annually thereafter. Special fund revenues increase correspondingly from assessments imposed on public service companies. Special fund revenues for the Strategic Energy Investment Fund (SEIF) may decrease beginning in FY 2022 from foregone alternative compliance payments (ACPs). Other State agencies may also be affected. The effect on electricity prices paid by the State is unknown, but could be significant, as discussed below.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$150,000	\$300,000	\$300,000	\$300,000	\$300,000
SF Expenditure	\$150,000	\$300,000	\$300,000	\$300,000	\$300,000
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: The effects on local revenues and expenditures are discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Defined Terms

“Clean energy attribute credit” or “credit” means a credit equal to the environmental attributes of one megawatt-hour of energy reduction or generation produced from a clean energy resource. “Clean energy resource” means a battery storage project, a carbon capture resource, a nuclear resource, a qualified offshore wind project, a Tier 1 renewable source, or a Tier 2 renewable source, as those terms are defined. It also includes any other resources that PSC approves as producing net zero-carbon emission energy.

Clean Energy Attributes Standard

After issuing a request for proposals, PSC must appoint an independent administrator to carry out its responsibilities under the Clean Energy Attribute Credit Standard, subject to specified requirements. The administrator is authorized to collect costs of conducting procurement auctions and related activities.

The delivery year for clean energy attribute credits begins June 1. Beginning June 1, 2023, the annual target procurement of clean energy attribute credits (1) is subject to a cost cap based on the social cost of carbon, as specified; (2) is equal to a percentage of total electricity consumption reported for each electricity supplier in the State; and (3) increases annually, starting with at least 50% in 2023 and reaching 100% by 2042 and later. The bill specifies processes for establishing various administrative procedures and creates an initial implementation period.

Subject to the cost cap, the independent administrator must attempt to procure clean energy attribute credits in a quantity that meets or exceeds the annual target procurement for each delivery year. All clean energy attribute credits must be cleared in a competitive auction format, under terms and conditions as specified. All electricity suppliers in the State must procure clean energy attribute credits through the auction process established in the bill, voluntary purchases, and/or self-supply, as specified.

Social Cost of Carbon

PSC must set the social cost of carbon, which may not be lower than \$20 per megawatt-hour in 2023, must increase by 4.0% each year through 2027, and may be adjusted thereafter for good cause based on specified criteria. The social cost of carbon is net of specified internalized costs in electricity market prices. Prices awarded for clean energy attribute credits to satisfy the Clean Energy Attribute Credit Standard are subject to

a price cap, which is equal to 1.5 times the social cost of carbon. The price cap, multiplied by the target procurement volume each year, is the maximum program cost for that year.

Eligibility

The owner of a clean energy resource is eligible to participate in the clean energy attribute credit procurement auctions conducted by the independent administrator under the bill if the clean energy resource meets all applicable requirements that the independent administrator establishes and PSC approves.

All alternative energy credits or clean energy credits secured under prior law must be converted into their equivalent clean energy attribute credits by the independent administrator and included as supply and applied to meet the targeted procurement goal for the applicable delivery year under the Clean Energy Attribute Credit Standard.

Generally, a clean energy attribute credit may be procured from any person that owns a clean energy resource that is located in the State or interconnected with the electric distribution grid serving the State. However, a qualified offshore wind project (as defined) is eligible and a nonnuclear clean energy resource that is located outside the State but located within the PJM region is also eligible.

Other Conforming Changes

The bill also makes various stylistic and conforming changes to incorporate the Clean Energy Attribute Credit Standard and associated clean energy attribute credits into certain remaining administrative provisions of the RPS.

Current Law: Specific sections of the RPS affected by the bill are discussed separately below; for more general information, see the **Appendix – Renewable Energy Portfolio Standard**.

State Fiscal Effect: PSC must appoint an independent administrator to administer the Clean Energy Attribute Credit Standard. PSC estimates the cost of doing so at \$300,000 annually, beginning in fiscal 2022, with moderate increases annually thereafter. Accordingly, special fund expenditures increase by \$150,000 in fiscal 2022, accounting for the bill's January 1, 2022 effective date, and by at least \$300,000 annually thereafter. Special fund revenues increase correspondingly from assessments imposed on public service companies, as authorized under current law. Based on previous estimates, special fund expenditures for the Office of People's Counsel (OPC) may also increase for consultants and other costs associated with monitoring the implementation of the standard. Any approved OPC costs are also collectible via assessment from public service companies.

Special fund revenues for SEIF may decrease beginning in fiscal 2022 from foregone ACPs. Other State agencies may also be affected, such as the Department of Natural Resources, but costs, if any, are unknown at this time.

Relative Compliance Costs and the Effect on Electricity Costs

The Department of Legislative Services (DLS) is unable to estimate the effect on electricity prices under the bill at this time, as there are too many unknown costs – both related to those under the existing RPS and those under the Clean Energy Attribute Credit Standard.

The bill's percentage requirements exceed existing RPS percentage requirements each year by about 15 percentage points through 2030, after which the bill's requirements further increase over current law. However, with the inclusion of additional resources, such as nuclear, clean energy attribute credit prices could reasonably be expected to be lower than REC prices. The magnitudes of the credit price difference versus the quantity difference in any particular year will determine the change in overall compliance costs.

Based on recent REC prices and the bill's cost of carbon, the annual overall price cap is unlikely to be a substantially limiting factor. Nevertheless, the impact on State expenditures could be significant, as the State purchases approximately 1.5 million megawatt-hours of electricity per year.

Local Fiscal Effect: As discussed above, DLS is unable to estimate the effect on electricity prices under the bill at this time; however, local governments are affected, potentially significantly, by changes to electricity prices. Local governments that own clean or renewable energy generation facilities may also experience higher or lower revenues under the bill.

Small Business Effect: As discussed above, DLS is unable to estimate the effect on electricity prices under the bill at this time; however, small businesses are also affected, potentially significantly, by changes to electricity prices. Separately, small businesses in clean and renewable energy industries are affected by potential revenue redistributions under the bill, which will undoubtedly be meaningful for some small businesses.

Additional Information

Prior Introductions: SB 890 of 2020, a similar bill, received a hearing from the Senate Finance Committee, but no further action was taken. Its cross file, HB 1349, received an unfavorable report from the House Economic Matters Committee.

Designated Cross File: HB 220 (Delegate Adams) - Economic Matters.

Information Source(s): Public Service Commission; Department of Commerce; Department of Natural Resources; Maryland Energy Administration; Office of People's Counsel; Department of Legislative Services

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Appendix – Renewable Energy Portfolio Standard

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 and offshore wind. Electric companies (utilities) and other electricity suppliers must submit renewable energy credits (RECs) equal to a percentage specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Historically, the requirements have been met almost entirely through RECs, with negligible reliance on ACPs. The Maryland Energy Administration must use ACPs to support new renewable energy sources.

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. In 2021, the requirements are 30.8% for Tier 1 sources, including at least 7.5% from solar. Tier 2, which has been extended several times, terminated after 2020.

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 three-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.

Tier 1 sources include wind (onshore and offshore); 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; waste-to-energy; refuse-derived fuel; and thermal energy from a thermal biomass system. Eligible solar sources include photovoltaic cells and residential solar water-heating systems commissioned in fiscal 2012 or later. Tier 2, when it was in effect, eventually included only large hydroelectric power plants.

RPS Compliance

According to the most recent RPS compliance [report](#) on PSC’s website, electricity suppliers retired 11.4 million RECs at a cost of \$134.5 million in 2019, as average REC prices rose from their 2018 levels, as shown in **Exhibit 1**.

Exhibit 1
RPS Compliance Costs and REC Prices
2015-2019

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Compliance Costs (\$ Millions)					
Tier 1 Nonsolar	\$85.1	\$88.2	\$50.0	\$56.4	\$79.3
Tier 1 Solar	39.1	45.6	21.3	27.4	55.2
Tier 2	<u>2.6</u>	<u>1.4</u>	<u>0.7</u>	<u>1.0</u>	<u>.06</u>
Total	\$126.7	\$135.2	\$72.0	\$84.8	\$134.5
Average REC Price (\$)					
Tier 1 Nonsolar	\$13.87	\$12.22	\$7.14	\$6.54	\$7.77
Tier 1 Solar	\$130.39	\$110.63	\$38.18	\$31.91	\$47.26
Tier 2	\$1.71	\$0.96	\$0.47	\$0.66	\$1.05

REC: renewable energy credit

RPS: Renewable Energy Portfolio Standard

Note: Numbers may not sum to total due to rounding.

Source: Public Service Commission

In 2019, wind (43%), black liquor (23%), small hydroelectric (11%), municipal solid waste (11%), and wood and waste solids (7%) were the primary energy sources used for Tier 1 RPS compliance. Maryland facilities generated 4.7 million RECs in 2019: approximately 2.5 million Tier 1 RECs and 2.2 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.

Pursuant to Chapter 393 of 2017, the Power Plant Research Program in the Department of Natural Resources has released its final report on a comprehensive study of the RPS. The report contains historical data but also looks at future scenarios. The report can be found [here](#) or on the department's website.