

# HOUSE BILL 622

C5, M5

2lr1749  
CF SB 526

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By: **Delegate Brooks**

Introduced and read first time: January 31, 2022

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Electricity – Offshore Wind~~ **Renewable Energy Portfolio Standard and**  
3 **Renewable Energy Credits – Offshore Wind**

4 FOR the purpose of ~~altering the process for purchasing offshore wind renewable energy~~  
5 ~~credits to satisfy the offshore wind energy component of the renewable energy~~  
6 ~~portfolio standard; requiring the Public Service Commission to adopt regulations~~  
7 ~~establishing a certain cost recovery mechanism~~ altering the application of the  
8 offshore wind energy component of the renewable energy portfolio standard to apply  
9 only to distribution sales of electric companies; altering the manner in which an  
10 electric company may reflect and recover offshore wind renewable energy credit  
11 costs; altering certain compliance fees for shortfalls from the offshore wind energy  
12 component of the renewable energy portfolio standard; and generally relating to  
13 offshore wind and the renewable energy portfolio standard.

14 BY repealing and reenacting, without amendments,  
15 Article – Public Utilities  
16 Section 7–701(a) and (g)  
17 Annotated Code of Maryland  
18 (2020 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Public Utilities  
21 Section ~~7–704.2(e)~~ 7–703(a)(3) and (d), 7–704.2(a) and (c), and 7–705(b)  
22 Annotated Code of Maryland  
23 (2020 Replacement Volume and 2021 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Public Utilities**

4 7–701.

5 (a) In this subtitle the following words have the meanings indicated.

6 (g) “Offshore wind renewable energy credit” or “OREC” means a renewable  
7 energy credit equal to the generation attributes of 1 megawatt–hour of electricity that is  
8 derived from offshore wind energy.

9 7–703.

10 (a) (3) The portion of a renewable energy portfolio standard that represents  
11 offshore wind energy:

12 (I) APPLIES ONLY TO THE DISTRIBUTION SALES OF ELECTRIC  
13 COMPANIES; AND

14 (II) may not apply to [electricity sales at retail] DISTRIBUTION  
15 SALES by any [electricity supplier] ELECTRIC COMPANY in excess of:

16 [(i)] 1. 75,000,000 kilowatt–hours of industrial process load to a  
17 single customer in a year; and

18 [(ii)] 2. 3,000 kilowatt–hours of electricity in a month to a  
19 customer who is an owner of agricultural land and files an Internal Revenue Service form  
20 1040, schedule F.

21 (d) (1) Subject to subsections (a) and (c) of this section [and in accordance with  
22 § 7–704.2 of this subtitle], an electricity supplier shall meet the renewable energy portfolio  
23 standard FOR ALL TIER 1 AND TIER 2 RENEWABLE SOURCES EXCEPT OFFSHORE  
24 WIND by accumulating the equivalent amount of renewable energy credits that equal the  
25 percentages required under this section.

26 (2) AN ELECTRIC COMPANY SHALL MEET THE RENEWABLE ENERGY  
27 PORTFOLIO STANDARD FOR OFFSHORE WIND IN ACCORDANCE WITH § 7–704.2 OF  
28 THIS SUBTITLE.

29 7–704.2.

1 (a) (1) The Commission shall determine the offshore wind energy component  
 2 of the renewable energy portfolio standard under § 7-703(b)(12) through (25) of this subtitle  
 3 based on the projected annual creation of ORECs by qualified offshore wind projects.

4 (2) The Commission shall establish the renewable energy portfolio  
 5 standard obligation for ORECs on a forward-looking basis that includes a surplus to  
 6 accommodate reasonable forecasting error in estimating overall electricity sales in the  
 7 State.

8 (3) Any positive adjustment to the renewable energy portfolio standard  
 9 shall be on a forward-looking basis and sufficiently in advance to allow [OREC purchasers]  
 10 AN ELECTRIC COMPANY to reflect OREC costs [in retail prices offered] AS A  
 11 NONBYPASSABLE SURCHARGE to [consumers] DISTRIBUTION CUSTOMERS.

12 (4) The Commission shall adopt regulations that establish:

13 (i) the offshore wind purchase obligation sufficiently in advance to  
 14 allow [OREC purchasers] AN ELECTRIC COMPANY to reflect OREC costs [in retail prices  
 15 offered to consumers] AS A NONBYPASSABLE SURCHARGE PAID BY ALL DISTRIBUTION  
 16 CUSTOMERS OF THE ELECTRIC COMPANY; [and]

17 (ii) a mechanism to adjust the renewable energy portfolio standard  
 18 obligation in a given year to accommodate a shortfall of ORECs in one or more earlier years  
 19 that is the result of the variation between the quantity of ORECs calculated from the  
 20 renewable energy portfolio standard obligation and the quantity of ORECs approved in the  
 21 Commission order for the same years; AND

22 (III) A NONBYPASSABLE SURCHARGE THAT ALLOWS AN  
 23 ELECTRIC COMPANY TO RECOVER ALL COSTS ASSOCIATED WITH THE PURCHASE OF  
 24 ORECS FROM ALL DISTRIBUTION CUSTOMERS OF THE ELECTRIC COMPANY.

25 (c) (1) Each [electricity supplier] ELECTRIC COMPANY shall ~~purchase from~~  
 26 ~~the escrow account established under this section the number of ORECs required] ~~ACT AS~~  
 27 ~~AN AGENT ON BEHALF OF ELECTRICITY SUPPLIERS TO FACILITATE THE TRANSFER~~  
 28 ~~OF OREC FUNDING PAYMENTS FROM RATEPAYERS TO OFFSHORE WIND~~  
 29 ~~DEVELOPERS~~ to satisfy the offshore wind energy component of the renewable energy  
 30 portfolio standard under § 7-703(b)(12) through (25) of this subtitle.~~

31 (2) (i) Subject to any escrow account reserve requirement the  
 32 Commission establishes, if there are insufficient ORECs available to satisfy the ~~suppliers'~~  
 33 ELECTRIC COMPANIES' OREC obligation, the overpayment shall be distributed to electric  
 34 companies to be refunded or credited to each ~~ratepayer~~ DISTRIBUTION CUSTOMER based  
 35 on the ~~ratepayer's~~ CUSTOMER'S consumption of electricity supply that is subject to the  
 36 renewable energy portfolio standard.

(ii) Subject to any escrow account reserve requirement the Commission establishes, the calculation of an ~~electricity supplier's~~ ELECTRIC COMPANY'S OREC purchase obligation shall be based on final electricity sales data as reported by the PJM Interconnection as measured at the customer meter.

(3) For each OREC for which a qualified offshore wind project receives payment, a qualified offshore wind project shall:

(i) sell all energy, capacity, and ancillary services associated with the creation of ORECs into the markets operated by PJM Interconnection; and

(ii) distribute the proceeds received from the sales to PJM Interconnection markets, under item (i) of this paragraph to electric companies to be refunded or credited to each ~~ratepayer~~ DISTRIBUTION CUSTOMER based on the ~~ratepayer's~~ CUSTOMER'S consumption of electricity supply that is subject to the renewable energy portfolio standard.

~~(4) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH A COST RECOVERY MECHANISM THAT ALLOWS EACH ELECTRIC COMPANY TO ACT AS AN AGENT ON BEHALF OF ELECTRICITY SUPPLIERS FOR OREC FUNDING PAYMENTS FROM RATEPAYERS.~~

~~(4)~~ (5) Notwithstanding § 7-709 of this subtitle, the Commission shall adopt regulations regarding the transfer and expiration of ORECs created by a qualified offshore wind project in excess of the OREC pricing schedule.

7-705.

(b) (1) This subsection does not apply to a shortfall from the required Tier 1 renewable sources that is to be derived from:

(i) offshore wind energy; or

(ii) post-2022 geothermal systems.

(2) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. the following amounts for each kilowatt-hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy:

- 1           A.    4 cents through 2016;
- 2           B.    3.75 cents in 2017 and 2018;
- 3           C.    3 cents in 2019 through 2023;
- 4           D.    2.75 cents in 2024;
- 5           E.    2.5 cents in 2025;
- 6           F.    2.475 cents in 2026;
- 7           G.    2.45 cents in 2027;
- 8           H.    2.25 cents in 2028 and 2029; and
- 9           I.    2.235 cents in 2030 and later;

10           2.    the following amounts for each kilowatt-hour of shortfall  
11 from required Tier 1 renewable sources that is to be derived from solar energy:

- 12           A.    45 cents in 2008;
- 13           B.    40 cents in 2009 through 2014;
- 14           C.    35 cents in 2015 and 2016;
- 15           D.    19.5 cents in 2017;
- 16           E.    17.5 cents in 2018;
- 17           F.    10 cents in 2019;
- 18           G.    10 cents in 2020;
- 19           H.    8 cents in 2021;
- 20           I.    6 cents in 2022;
- 21           J.    6 cents in 2023;
- 22           K.    6 cents in 2024;
- 23           L.    5.5 cents in 2025;
- 24           M.    4.5 cents in 2026;

1            N.    3.5 cents in 2027;

2            O.    3.25 cents in 2028;

3            P.    2.5 cents in 2029; and

4            Q.    2.25 cents in 2030 and later; and

5            3.    1.5 cents for each kilowatt–hour of shortfall from required  
6 Tier 2 renewable sources; or

7            (ii) for industrial process load:

8            1.    for each kilowatt–hour of shortfall from required Tier 1  
9 renewable sources, a compliance fee of:

10           A.    0.8 cents in 2006, 2007, and 2008;

11           B.    0.5 cents in 2009 and 2010;

12           C.    0.4 cents in 2011 and 2012;

13           D.    0.3 cents in 2013 and 2014;

14           E.    0.25 cents in 2015 and 2016; and

15           F.    except as provided in paragraph (3) of this subsection, 0.2  
16 cents in 2017 and later; and

17           2.    nothing for any shortfall from required Tier 2 renewable  
18 sources.

19           (3) For industrial process load, the compliance fee for each kilowatt–hour  
20 of shortfall from required Tier 1 renewable sources is[:

21           (i) 0.1 cents in any year during which suppliers are required to  
22 purchase ORECs under § 7–704.2 of this subtitle; and

23           (ii) nothing for the year following any year during which, after final  
24 calculations, the net rate impact per megawatt–hour from Round 1 offshore wind projects  
25 exceeded \$1.65 in 2012 dollars.

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2022.