

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 316 (Senator Brooks)
 Education, Energy, and the Environment

Abundant Affordable Clean Energy - Procurement and Development (AACE Act)

This bill establishes or modifies multiple incentives and programs for clean energy and energy storage systems and redirects specified funds into an escrow account established by the Public Service Commission (PSC) (and supervised by the Maryland Energy Administration (MEA)) for ratepayer refunds or credits. A presently existing obligation or contract right may not be impaired in any way by the bill. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No effect assumed in FY 2025. Special fund expenditures for PSC and the Office of People’s Counsel (OPC) increase by at least \$2.6 million annually from FY 2026 through 2030; special fund revenues increase correspondingly from assessments imposed on public service companies. Special fund revenues and expenditures for MEA decrease significantly beginning as early as FY 2026. General/special fund expenditures for the Department of Natural Resources (DNR) increase by \$0.9 million annually from FY 2026 through 2030. General fund expenditures for the Department of General Services (DGS) may increase beginning in FY 2026. General fund revenues and special fund revenues for the Blueprint for Maryland’s Future Fund (BMFF) decrease beginning in FY 2026. The effect on State expenditures for electricity is discussed in the Additional Comments section.

(\$ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	(-)	(-)	(-)	(-)	(-)
SF Revenue	\$2.6	\$2.6	\$2.6	\$2.6	\$2.6
GF Expenditure	-	-	-	-	-
SF Expenditure	\$2.6	\$2.6	\$2.6	\$2.6	\$2.6
GF/SF Exp.	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: Local government finances and operations, including municipal electric utilities, are significantly affected, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: Broadly, the bill:

- establishes two rounds of applications and approvals by PSC for 150 megawatts of distribution-connected energy storage devices;
- establishes a process in PSC for specified nuclear facilities to receive zero-emission credits (ZECs);
- establishes the policy of the State as it relates to coordinated planning for offshore wind transmission, makes various changes to existing planning and evaluation processes, and makes a minor change to the existing DGS offshore wind procurement process;
- requires PSC to establish an escrow account for ratepayer refunds or credits and redirects nearly all alternative compliance payment (ACP) revenues to the escrow account instead of the Strategic Energy Investment Fund (SEIF);
- establishes the Utility Scale SREC-II Program in PSC to provide incentives for the development of at least 3,000 megawatts of utility scale solar generation;
- establishes the Small Solar Facilities Incentive Program in PSC to provide incentives for the development of at least 3,000 megawatts of small-scale solar generation;
- establishes a priority order for renewable energy credits (RECs) used for compliance with the State's Renewable Energy Portfolio Standard (RPS);
- establishes two rounds of applications and approvals by PSC for 1,600 megawatts of front-of-meter transmission energy storage devices;
- establishes a competitive process overseen by PSC for the procurement of SREC-IIs from qualifying (utility-scale solar) systems and REC-IIs from small hydroelectric systems and land-based wind systems, funded through a nonbypassable surcharge;
- authorizes fast-track procurements for specified consultants;
- redirects 75% of specified franchise tax and sales and use tax revenues associated with qualified data centers that are operational on or after January 1, 2026, to the ratepayer refund escrow account established by PSC under the bill; and
- establishes the General Assembly's support of the extension or renewal of the federal license for the Calvert Cliffs Nuclear Power Plant.

Distribution-Connected Energy Storage Devices

The General Assembly finds and declares that the State has a goal of reaching 150 megawatts of distribution-connected energy storage devices. PSC must notify each electric company of its proportion of the goal by July 1, 2025, and by July 1, 2026.

The bill establishes two rounds of applications and related approval and construction timelines. For the first round, PSC must require each electric company to develop and implement a plan to achieve its goal by November 1, 2025. PSC must evaluate each plan, accept public comments on each plan, and issue an order for each plan that either approves the plan or approves the plan with modifications by March 1, 2026. The energy storage devices that are constructed or procured under the plan must be operational by August 1, 2027. The deadlines for the second round are one year later. PSC may extend a deadline for good cause.

PSC must require each plan to demonstrate that the construction or procurement of each energy storage device (1) is beneficial in terms of cost, including demonstration of any avoided or delayed transmission, distribution, and generation costs and avoided emissions and (2) can be completed within 18 months after the plan is approved. The bill specifies requirements for third parties and electric companies that construct and/or own energy storage devices under the above provisions.

Zero-Emission Credits for Nuclear

Subject to specified requirements, a beneficial nuclear facility may submit an application to PSC to receive ZECs. “Beneficial nuclear facility” means a nuclear reactor that is located in and provides environmental benefits to the State. A “ZEC” means a payment equal to the generation attributes of one megawatt-hour of electricity that is derived from a beneficial nuclear facility, calculated as specified. The bill specifies three general requirements:

- a beneficial nuclear facility may not receive ZECs during any period in which the facility receives zero-emission nuclear power production tax credits under § 13105 of the Inflation Reduction Act of 2022;
- PSC may not offer ZECs after 2055; and
- to be eligible to receive ZECs, a beneficial nuclear facility must maintain a neutral position in any labor organizing that takes place at the facility.

After notice and an opportunity for a hearing, PSC must approve or deny an application within nine months after the application is filed. PSC may approve an application in whole or in part and subject to any limitations and qualifications that PSC considers necessary and in the public interest.

PSC must adopt regulations, as specified, to implement the above requirements no later than one year before the expiration date of the availability of the aforementioned zero emission nuclear power production tax credits (those credits are available for electricity produced at qualified facilities from tax year 2024 through 2032).

Offshore Wind

The General Assembly finds and declares that is the public policy of the State to engage in coordinated transmission planning to support offshore wind energy on a multistate, regional, or inter-regional basis. To further that public policy, PSC must pursue one of the following coordinated approaches to the transmission of energy derived from offshore wind: (1) PJM Interconnection's long-term transmission process; or (2) an alternative voluntary agreement.

Existing requirements related to a PSC request for PJM Interconnection to conduct a transmission system upgrade and expansion analysis are modified to include an analysis of other specified solutions. PSC must ensure the completion of a cost-benefit analysis of various approaches for upgrading and expanding the transmission system to meet the State's offshore wind energy targets and energy needs, as specified. An existing requirement that PSC issue, or request that PJM Interconnection issue, one or more competitive solicitations for proposals for open access offshore wind transmission facilities and complementary onshore transmission upgrades and expansions is modified to also allow for advanced transmission technologies. An existing requirement that DGS issue a draft solicitation for procurement of offshore wind energy by September 1, 2025, is repealed.

Escrow Account for Ratepayer Refunds or Credits

Beginning October 1, 2025, ACP revenues, except those associated with post-2022 geothermal systems, no longer accrue to SEIF and instead accrue to an escrow account that must be established by PSC. Subject to any escrow account reserve requirement PSC establishes, ACPs paid into the account must be distributed to electric companies to be refunded or credited to each distribution customer based on the customer's electricity consumption subject to RPS. PSC must direct and oversee that process. Conforming changes are made to the eligible uses of ACP revenues by SEIF, leaving only provisions related to the use of ACPs from post-2022 geothermal systems. PSC must adopt regulations to implement the above requirements, as specified, including the establishment of an escrow account under the supervision of MEA.

As described further below, specified franchise and sales and use tax revenues associated with qualified data centers that are operational on or after January 1, 2026, are also distributed to the escrow account.

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 3,000 megawatts of new utility scale (more than 5 megawatts) solar generation by 2035. Under the program, a qualifying (utility scale) system generates SREC-IIs, but may not simultaneously receive REC-IIs (also created by the bill), RECs, or any other equivalent certificates. Generally, the provisions of Title 7, Subtitle 7 of the Public Utilities Article relating to RECs also apply to SREC-IIs generated under the program. PSC must adopt regulations to implement these provisions, including regulations to establish requirements for certification as a qualifying system under the program.

Small Solar Facilities Incentive Program

The Small 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 3,000 megawatts of new solar energy generation by owners of small (5 megawatts or less) solar energy generating systems by 2035. The systems must be placed in service on or after July 1, 2027, and meet other specified requirements.

By January 1, 2027, and every three years thereafter, PSC must establish an administratively determined incentive and annual capacity block for certain market segments under the program, subject to specified requirements. By January 1, 2028, the program must begin accepting applications from qualifying small systems to fulfill capacity within a capacity block on a first-come, first-served basis.

In establishing the incentive and annual capacity blocks, PSC must balance the need for continued market development for each market segment while limiting the projected net rate impact for all customers to 5% of the total electricity 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. Generally, the provisions of Title 7, Subtitle 7 of the Public Utilities Article relating to RECs also apply to SREC-IIs generated under the program.

Renewable Energy Credit Prioritization

An electricity supplier that procures RECs for RPS compliance must procure credits to meet the standard in the following order:

- (1) ORECs (offshore wind, current law);
REC-IIs (specified renewable facilities, the bill); and
SREC-IIs (specified solar facilities, the bill).

- (2) Certified SRECs (specified small solar facilities, current law).
- (3) Any other renewable energy credits (RECs and SRECs, current law).

Energy Procurements

Transmission Energy Storage Devices

The General Assembly finds and declares that the State has a goal of reaching 1,600 megawatts of front-of-the-meter transmission energy storage devices. PSC must, by regulation or order, establish a competitive process for the procurement of projects for the construction and deployment of front-of-the-meter transmission energy storage devices.

The bill establishes two rounds of applications and related approval and construction timeline for up to 800 megawatts of cumulative energy storage capacity each. For the first round, PSC must issue the procurement solicitation by January 1, 2026, and issue one or more orders to select a proposal or proposals for development by October 1, 2026. The deadlines for the second round are one year later. The bill specifies various requirements for the solicitation and selection. Generally, the energy storage devices must be operational within 18 months after selection.

PSC must include specifications in the procurement solicitation that require each proposal to, among other things, (1) include a proposed pricing schedule; (2) include a cost benefit analysis; (3) ensure that the owner or operator of the project can export the electricity for sale on the wholesale market and bid into the PJM capacity market; and (4) incorporate a community benefit agreement, which has various specified requirements, including review and enforcement by the Maryland Department of Labor (MD Labor). The energy storage devices may be paired with Tier 1 or Tier 2 renewable sources. The bill specifies actions PSC must and may take in selecting a proposal. For example, PSC *must* specify the pricing schedule, which must be a monthly fixed price representing the value of the device beyond the payments received from PJM wholesale markets.

An order selecting a proposal bestows the same rights as would otherwise be granted through a certificate of public convenience and necessity (CPCN). Any transmission energy storage device built in accordance with these provisions must count toward the energy storage device goals for distribution-connected energy storage devices described above.

By December 31, 2026, PSC must report to the General Assembly on the effectiveness of the procurement process established above.

The bill does not directly specify which entity or entities pay for any accepted proposals. This analysis assumes that PSC establishes a rate mechanism through which electric companies collect and remit required payments.

Direct REC-II and SREC-II Procurements by Electric Companies

PSC must, through regulation or order, establish a competitive process for the procurement of SREC-IIs from qualifying (utility scale solar) systems and REC-IIs from small hydroelectric systems and land-based wind systems. The bill specifies various eligibility requirements for the systems. The process must require that bids from these eligible systems be only for the procurement of SREC-IIs and REC-IIs and include a pricing schedule for the generation attributes of the energy generating system, including energy, capacity, ancillary services, and environmental attributes.

Subject to other specified requirements, the procurement process must (1) establish an SREC-II and REC-II purchaser's obligation for each year on a forward-looking basis; (2) establish a nonbypassable surcharge that allows an electric company to recover all costs associated with the purchase of the SREC-IIs and REC-IIs from its distribution customers; and (3) establish an escrow account and select an escrow account administrator.

A PSC order approving a proposed procurement must (1) specify SREC-II or REC-II pricing schedule and its duration, up to 30 years; (2) specify the quantity of SREC-IIs or REC-IIs to be purchased each year; (3) provide that a payment may not be made for an SREC-II or REC-II until electricity supply is generated; (4) provide that ratepayers, purchasers of SREC-IIs or REC-IIs, and the State must be held harmless for any cost overruns associated with the system; (5) require that any debt issued in connection with the system does not establish a debt, an obligation, or a liability of the State; and (6) incorporate a community benefit agreement, which has various specified requirements, including review and enforcement by MD Labor.

Each electric company must procure the required number of SREC-IIs and REC-IIs from the escrow account to meet its obligations. In turn, for each SREC-II and REC-II for which a system receives payment, the system must sell all energy, capacity, and ancillary services associated with the creation of the SREC-IIs or REC-IIs into the PJM markets and distribute the proceeds to electric companies to be refunded or credited to each distribution customer based on the customer's electricity consumption subject to RPS. The bill also establishes related administrative requirements.

A debt, an obligation, or a liability of a system described above, or of an owner of operator of such a system, may not be considered a debt, an obligation, or a liability of the State.

Legislative Fast-Track Procurements

PSC, OPC, MEA, the Maryland Department of the Environment, and DNR are authorized to issue competitive sealed bids higher than their designated small procurement delegation authorities (currently \$100,000) only for the procurement of consultants that (1) are legislatively mandated with specific time frames established in law and (2) will address issues related only to climate change, the environment, energy, and greenhouse gas emissions. Before awarding a procurement contract under this authority, the procurement officer must obtain the approval of the head of the unit and the Chief Procurement Officer (CPO) or the CPO's designee. CPO must approve the procurement contract if it complies with the above requirements. If CPO does not approve the procurement contract within five business days after receiving the contract, the contract must be considered approved.

Redirection of Taxes on Qualified Data Centers

The Comptroller must distribute 75% of the franchise tax revenue from public service companies imposed under § 8-402.1 of the Tax-General Article, that is attributable to the kilowatt-hours of electricity delivered to qualified data centers that are operational on or after January 1, 2026, to the ratepayer refund escrow account established by PSC under the bill. The Comptroller must also distribute 75% of the sales and use tax revenues attributable to the sale of electricity delivered to qualified data centers that are operational on or after January 1, 2026, to the ratepayer refund escrow account established by PSC under the bill. A qualified data center has the meaning stated in § 11-239 of the Tax-General Article.

Support for Calvert Cliffs License

The General Assembly supports the extension or renewal of the Federal Nuclear Regulatory Commission license for the Calvert Cliffs Nuclear Power Plant's nuclear reactors in the years 2034 and 2036.

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.

Long-term Electricity Supply

In order to meet long-term, anticipated demand in the State for standard offer service and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

Maryland Energy Storage Program

Chapter 570 of 2023 required PSC to establish the Maryland Energy Storage Program and establish targets for the cost-effective deployment of new energy storage devices in the State with a goal of achieving at least a cumulative total of 750 megawatts by the end of the 2027 PJM delivery year, 1,500 megawatts by the end of the 2030 PJM delivery year, and 3,000 megawatts by the end of the 2033 PJM delivery year. If a target cannot be met cost effectively, the target must be reduced to the maximum cost-effective amount for the relevant delivery year. The program must be implemented by July 1, 2025, as specified.

Chapter 427 of 2019 required PSC to establish an Energy Storage Pilot Program by June 1, 2019. Under the program, each of the State’s four investor-owned electric companies was required to request proposals for two energy storage projects and apply for PSC approval. The cumulative size of the pilot projects under the program must be between 5 megawatts and 10 megawatts.

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 CPCNs. For additional information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

Renewable Energy Portfolio Standard

PSC administers the State RPS, which requires that renewable sources generate specified percentages of Maryland’s electricity supply each year. For general information, including a list of eligible Tier 1 sources and trends in REC prices and ACP revenues, see the **Appendix – Renewable Energy Portfolio Standard**.

Offshore Wind Transmission Planning

Chapter 95 of 2023 requires PSC, in consultation with MEA, to request that PJM Interconnection conduct an analysis of specified offshore wind transmission system upgrade and expansion options. By July 1, 2025, PSC must issue, or request that PJM issue, one or more competitive solicitations for proposals for open access offshore wind transmission facilities and complementary onshore transmission upgrades and expansions, subject to specified requirements. PSC must evaluate the proposals and must ask PJM to assist with the evaluation. PSC may then accept one or more proposals, subject to specified criteria.

Strategic Energy Investment Fund

SEIF, which is administered by MEA, is generally funded through the proceeds from the auction of carbon allowances under the Regional Greenhouse Gas Initiative (RGGI); SEIF also receives ACP revenues generated under Maryland's RPS and will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

RGGI proceeds are allocated according to a statutory formula for energy assistance, low-income energy efficiency and conservation programs, renewable and clean energy programs, and administrative expenses. Generally, ACP revenues may be used only to make loans and grants to support the creation of new renewable energy sources in the State that are owned by or directly benefit specified communities, households, or businesses. The loans and grants made from solar and post-2022 geothermal ACP revenues must be for specified purposes related to solar and geothermal energy, including for the Customer-Sited Solar Program from fiscal 2025 through 2027. Additionally, through June 30, 2027, MEA may use 10% of solar ACP revenues for administrative expenses.

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**.

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 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.

Competitive sealed bids are an authorized procurement method under State procurement law and are generally used for procurements in which lowest bid price is the sole criteria used in determining an award. The Department of Legislative Services (DLS) notes that competitive sealed *proposals*, also an authorized procurement method under State law, are more frequently used when factors other than price (such as the qualifications of a consultant) are to be used in determining an award.

Data Centers

Chapter 640 of 2020 established a sales and use tax exemption for the sale of qualified data center personal property for use at a qualified data center. “Qualified data center” means a data center located in the State in which an individual or a corporation, within three years after submitting an application for the sales and use tax exemption, has invested at least \$5.0 million (for a data center located within a Tier I area, \$2.0 million) in qualified data center personal property and created at least five qualified positions. “Qualified data center” includes (1) a data center that is a co-located or hosting data center where equipment, space, and bandwidth are available to lease to multiple customers and (2) an enterprise data center owned and operated by the company it supports.

Chapter 411 of 2024 requires, after certain existing required distributions, the Comptroller to distribute 15% of the remaining income tax revenue from corporations that is attributable to qualified data centers that are operational on or after January 1, 2026, to SEIF.

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. Public service company franchise tax revenues are estimated to be \$155.5 million in fiscal 2026 and \$163.7 million in fiscal 2030.

Blueprint for Maryland's Future Fund

Chapter 33 of 2022 altered the distribution of sales and use tax revenues beginning in fiscal 2023. Chapter 33 requires the Comptroller, after making certain other distributions, to pay to BMFF the following percentage of the remaining sales and use tax revenues:

- 9.2% for fiscal 2023;
- 11.0% for fiscal 2024;
- 11.3% for fiscal 2025;
- 11.7% for fiscal 2026; and
- 12.1% for fiscal 2027 and each subsequent fiscal year.

Zero-Emission Nuclear Power Production Credit

The Inflation Reduction Act of 2022 established a zero-emission nuclear power production credit for electricity produced at a qualified nuclear power facility and sold by the taxpayer to an unrelated person in tax years beginning after December 31, 2023, and before January 1, 2033. The base amount of the credit is 0.3 cents per kilowatt-hour, inflation adjusted after 2024 and can be further increased for facilities meeting prevailing wage requirements.

State Fiscal Effect: Significant individual effects of the bill are discussed separately below. This analysis assumes no substantive fiscal effect in fiscal 2025, despite the bill's June 1, 2025 effective date. 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.

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/or administer the energy programs established by the bill: those for distribution connected energy storage devices, ZECs, ratepayer refunds, utility scale SREC-IIs, small solar facilities, transmission energy storage devices, and direct REC-II and SREC-II procurements. The bill also adds additional analysis to existing offshore wind transmission planning requirements. PSC advises that it requires five staff to implement the various requirements,

plus ongoing consultant technical assistance of up to \$2.0 million annually through at least fiscal 2030. Based on the number of programs, this analysis assumes \$2.0 million in annual consultant costs.

Accordingly, special fund expenditures for PSC increase by \$2,608,751 in fiscal 2026, which accounts for a 30-day startup delay. This estimate reflects the cost of hiring four program managers and one staff attorney to implement the various programs and regulatory requirements. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and \$2.0 million annually in consultant costs.

Positions	5.0
Salaries and Fringe Benefits	\$555,526
Contractual Services	2,000,000
Other Operating Expenses	<u>53,225</u>
Total FY 2026 PSC Expenditures	\$2,608,751

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

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.

This estimate assumes that the transmission energy storage device procurement process does not require PSC to directly provide payments to accepted projects, and instead allows for PSC to establish a rate mechanism through which electric companies collect and remit the required payments. If PSC is instead required to make payments directly, using nonratepayer funds, it is assumed that general fund expenditures increase *significantly* beginning as early as fiscal 2028.

Office of People’s Counsel

OPC advises that the agency may need to dedicate staff as well as funding for consultants (for modeling and market analysis, rate design, etc.) to ensure that the impact of the bill’s various programs on ratepayers are fully analyzed and understood. OPC advises that it will likely address unabsorbable workload through contractual attorney(s) as necessary in the short-term, with the potential for future conversion to permanent positions. However, OPC cannot reliably estimate additional costs at this time.

DLS advises that the bill’s substantial new and complex programs are likely to require additional OPC staff and/or consultants beginning in fiscal 2026 and continuing for multiple years. Accordingly, special fund expenditures for OPC for contractual attorney(s)

and/or consultants increase by an unknown amount beginning in fiscal 2026. While exact amounts are unknown, annual expenditures could easily exceed \$0.5 million. 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.

Maryland Energy Administration

The bill diverts all ACP revenues, except for those associated with post-2022 geothermal systems, from SEIF to an escrow account for ratepayer refunds or credits. As shown in the RPS appendix below, ACP revenues have increased substantially in recent years, reaching an all-time high of \$320.4 million in (calendar) compliance year 2023. Generally, RPS compliance reports and associated ACPs are due by April 1 following the compliance year. However, Chapter 595 of 2024 requires PSC to allow a one-time delay for compliance year 2025, with a due date between July 1, 2026, and December 31, 2026. Whether and to what extent electricity suppliers will choose to delay compliance filings and ACPs under the extension is unknown. Any administrative requirements related to MEA supervising the ratepayer refund or credit account are absorbable.

Accordingly, special fund revenues for SEIF decrease significantly, beginning as early as fiscal 2026, but likely more substantially beginning in fiscal 2027, from foregone ACP revenues. Amounts cannot be reliably predicted but could easily exceed \$100.0 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 (created by Chapter 595).

MEA advises that it cannot estimate the impact, if any, on its staffing levels due to bill, but notes that ACP revenues also support its general administrative expenses in excess of the statutory cap of 10% of RGGI proceeds, or \$7.5 million. Accordingly, DLS advises that MEA staffing levels are likely to decrease coincident with the reduction in ACP revenues.

Department of Natural Resources

DNR advises that its Power Plant Research Program (PPRP) requires additional technical and legal staff as well as funding for consultants to meet anticipated workloads associated with additional CPCNs for utility scale solar projects and notes the potential need for it to assist PSC with technical analysis as the bill's various programs are established. Staff and consultants are needed through at least fiscal 2030 and likely 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, general/special fund expenditures for DNR increase by \$906,584 in fiscal 2026, which accounts for a 30-day startup delay. This estimate reflects the cost of hiring two power plant siting assessors and one half-time attorney, primarily to assist with additional CPCN analyses. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and \$600,000 annually in consultant costs.

Positions	2.5
Salaries and Fringe Benefits	\$284,201
Contractual Services	600,000
Other Operating Expenses	<u>22,383</u>
Total FY 2026 DNR Expenditures	\$906,584

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Department of General Services

Under current law, DGS conducts procurements for PSC that are above the delegated small procurement threshold. DGS advises that it can conduct the procurements required under the bill that are *not* legislative fast-track procurements with existing resources, although there may be some delays in either the PSC procurements or other State procurements due to the complexity of the PSC procurements.

DGS advises that provisions in the bill authorizing legislative fast-track procurements for specified agencies have an operational and fiscal impact. More specifically, while those five agencies may conduct larger procurements in certain circumstances instead of DGS, the department must still oversee the procurement, and CPO or the CPO’s designee must approve each procurement contract within five business days, or the contract is considered approved. DLS notes that any procurement with a value of at least \$200,000 requires approval by BPW; the bill does not exempt “fast-track” procurements that exceed that level from BPW’s review and approval process. Based on its assessment for a potentially significant number of legislative fast-track procurements each year, DGS advises that it requires five additional procurement officers to meet the bill’s requirements, with total annual costs of approximately \$500,000 to \$650,000.

DLS cannot independently verify the need for five additional procurement officers at this time. The number of future affected consultant procurements is unknown, and DGS would

otherwise be responsible for any of those procurements not directly caused by the bill. However, to the extent that the department requires additional staff, general fund expenditures for DGS increase by approximately \$100,000 to \$130,000 annually per staff, beginning as early as fiscal 2026.

Maryland Department of Labor

The Division of Labor and Industry within MD Labor may need to respond to complaints regarding the prevailing wage provisions in the bill. MD Labor advises that this can be accomplished through its existing authority, with traditional methods that do not present an operational or fiscal impact on the division. The bill also authorizes, but does not require, MD Labor to consider, review, and enforce compliance with a community benefit agreement. MD Labor did not provide an assessment of operational or fiscal effects associated with those activities, but this analysis assumes they are generally limited in nature. Other requirements are also generally minimal and absorbable within existing budgeted resources.

Redirection of Taxes on Qualified Data Centers

Franchise Tax

The bill requires the Comptroller to distribute 75% of the franchise tax revenue from public service companies that is attributable to the kilowatt-hours of electricity delivered to qualified data centers that are operational on or after January 1, 2026, to an escrow account established by PSC for ratepayer refunds or credits. As noted previously, public service company franchise tax revenues are distributed to the general fund. As a result, the distribution required under the bill decreases general fund revenues beginning in fiscal 2026. The amount depends on the electricity usage attributable to qualified data centers, which cannot be reliably estimated. In fiscal 2025, there six qualified data centers in Maryland.

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. The rate of the distribution tax imposed on electric companies is \$0.00062 per kilowatt-hour for electricity delivered for final consumption. Based in this data and the current tax rate, public service company franchise tax revenues attributable to electricity usage by data centers was approximately \$60,000 in fiscal 2023. As a result of the bill, general fund revenues decrease by at least \$24,000 in fiscal 2026 and by at least \$45,000 annually thereafter. The revenue impact in future years could be significantly higher to the extent that more qualified data centers become operational.

Sales and Use Tax

The bill requires the Comptroller to distribute 75% of the sales and use tax revenues attributable to the sale of electricity delivered to qualified data centers that are operational on or after January 1, 2026, to the same escrow account as described above. As a result, general fund and BMFF revenues decrease beginning in fiscal 2026. The amount depends on the amount sales and use tax revenues collected that are attributable to qualified data centers, which cannot be reliably estimated.

As a point of reference, and using the same data referenced above, total sales and use tax revenues decrease by at least \$290,000 in fiscal 2026 and by at least \$570,000 annually thereafter. As noted above, Chapter 33 altered the distribution of sales and use tax revenues beginning in fiscal 2023. Therefore, any change in sales and use tax revenues also affects BMFF revenues, which result in general fund revenues decreasing by at least \$250,000 in fiscal 2026 and by at least \$500,000 annually beginning in fiscal 2027, with BMFF revenues decreasing by at least \$33,000 in fiscal 2026 and by at least \$69,000 annually beginning in fiscal 2027. The revenue impact in future years could be significantly higher to the extent that more qualified data centers become operational.

Operational Effects

The Comptroller notes operational concerns with the requirement to identify revenue from specific taxpayers for purposes of the required distributions. Due to the limited number of affected entities, this analysis assumes the requirements can generally be absorbed within existing budgeted resources. The State Department of Assessments and Taxation, which administers the franchise tax, did not respond to requests for information for this fiscal and policy note, but may have similar operational concerns.

Local Fiscal Effect: The bill has many potential effects on local government operations and finances. Among the potential effects:

- PSC advises that the State's five municipal electric utilities are not exempt from any provisions in the bill and are, therefore, affected like any other electric company by the bill (*i.e.*, providing funding for eligible projects under the programs through various incentive structures and distributing rate refunds or credits). The five municipal electric utilities are located in Berlin (Worcester County), Easton (Talbot County), Hagerstown (Washington County), Thurmont (Frederick County), and Williamsport (Washington County).
- Local governments that own renewable energy facilities or are otherwise entitled to RECs may be affected by REC prioritization for RPS compliance and/or changes in REC prices.

- Local governments may have administrative requirements associated with project siting and permitting.
- Local governments may receive less funding from ACP-funded programs, such as from MEA's Decarbonizing Public Schools Program.
- Local governments, as electric customers, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

Small Business Effect: The bill establishes several new clean energy and energy storage incentive programs, but also removes funding for ACP-backed clean energy programs – 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.

Additional Comments: The overall effect on electricity rates due to the bill is unclear, although the size of the potential programs – multiple thousands of megawatts, the capacity equivalent of several Calvert Cliffs Nuclear Power Plants – means there is potential for a significant rate effect. The bill establishes multiple ratepayer-funded incentives for clean energy and energy storage, only one of which – the Small Solar Facilities Incentive Program – has a net rate impact limit. That limit is also prospective, so actual impacts may exceed that 5% limit. Those costs are offset, at least in part, by (1) savings attributable to the resulting local energy production and storage capacity created and/or maintained and (2) the ratepayer refunds of ACP and qualified data center tax revenues.

PSC advises that the bill applies upward pressure to electricity rates. OPC advises that the effect is unclear, as the costs imposed on ratepayers due to the bill may be lower than alternative energy sources or the current status quo. MEA did not opine directly on the potential net effect on ratepayers.

In any case, the State, local governments, and all businesses, including small businesses, are affected by the potential significant change in electricity rates due to the bill.

Additional Information

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

Designated Cross File: HB 398 (Delegate Charkoudian) - Economic Matters.

Information Source(s): Public Service Commission; Office of People’s Counsel; Department of Natural Resources; Maryland Energy Administration; Comptroller’s Office; Department of General Services; Maryland Department of Labor; Board of Public Works; Maryland Department of the Environment; Department of Commerce; Anne Arundel, Baltimore, Cecil, and Frederick counties; Maryland Municipal League; U.S. Energy Information Administration; Electric Power Research Institute; Department of Legislative Services.

Fiscal Note History: First Reader - February 5, 2025
js/mcr

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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 (CPCN). 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, overhead transmission line, or qualified generator lead line 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.

Generating Station Exemptions

There are three general 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.

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 2025, the requirements are 35.5% from Tier 1 sources, including at least 7.0% from solar and 0.25% 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; waste-to-energy; refuse-derived fuel; 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.

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

Compliance costs for electricity suppliers totaled \$564.2 million in 2023: \$243.8 million for 7.9 million RECs and \$320.4 million in ACPs. This continues a multi-year trend of increasing overall compliance costs, reliance on ACPs, and REC prices. Of note, 2023 was the first time that ACPs have been used in a significant way for general Tier 1 compliance. In fact, electricity suppliers retired the lowest number of general Tier 1 RECs since 2013 – and made \$262.4 million in ACPs for the remaining obligation. Compliance costs and REC prices for the most recent five-year period are shown in **Exhibit 1**.

In 2023, solar (27.5%), wind (19.9%), black liquor (16.1%), municipal solid waste (14.2%), and small hydroelectric (7.5%) were the primary energy sources used for Tier 1 RPS compliance. Maryland facilities generated 5.2 million RECs in 2023: 1.3 million Tier 1 RECs, 2.1 million Tier 1 RECs, 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.

Exhibit 1
RPS Compliance Costs and REC Prices
2019-2023

Compliance Costs (\$ Millions)	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
RECs					
Tier 1	\$79.3	\$99.8	\$187.3	\$246.5	\$124.9
Tier 1 Solar	55.2	122.9	144.4	101.4	109.6
Tier 1 Geothermal	n/a	n/a	n/a	n/a	0.1
Tier 2	<u>0.1</u>	<u>0.4</u>	<u>1.0</u>	<u>4.4</u>	<u>9.3</u>
<i>RECs Subtotal</i>	<i>\$134.6</i>	<i>\$223.1</i>	<i>\$332.7</i>	<i>\$352.3</i>	<i>\$243.8</i>
ACPs					
Tier 1	\$5.0	\$0.0	\$0.2	\$0.7	\$262.4
Tier 1 Solar	2.7	0.0	76.9	85.9	56.0
Tier 1 Geothermal	n/a	n/a	n/a	n/a	1.6
Tier 2	<u>0.1</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.4</u>
<i>ACPs Subtotal</i>	<i>\$7.7</i>	<i>\$0.1</i>	<i>\$77.1</i>	<i>\$86.6</i>	<i>\$320.4</i>
Total	\$142.3	\$223.2	\$409.8	\$438.9	\$564.2
Average REC Price (\$)					
Tier 1	\$7.77	\$8.24	\$14.36	\$17.80	\$24.61
Tier 1 Solar	\$47.26	\$66.10	\$72.59	\$57.80	\$56.67
Tier 1 Geothermal	n/a	n/a	n/a	n/a	\$94.47
Tier 2	\$1.05	\$1.06	\$6.45	\$7.42	\$10.50

ACP: alternative compliance payment
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

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 2023, 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 was due by January 1, 2024.

The Department of Legislative Services also issued an RPS report in 2024, 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.

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, an REC is a tradable commodity equal to one megawatt-hour of electricity generated or obtained from a renewable energy generation source. In program compliance year 2025, RPS percentage requirements include 7.0% 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. Solar ACP revenues must be used make grants and loans to support the creation of new solar energy sources in the State that are owned by or directly benefit low- to-moderate income communities, overburdened or underserved communities, or households with low- to-moderate income.

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.

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.

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.