

# SENATE BILL 281

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CF HB 336

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By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey, Ready, Salling, Serafini, Simonaire, and West**

Introduced and read first time: January 20, 2020

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2020

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

1 AN ACT concerning

2 **Renewable Energy Development and Siting (REDS) – Evaluations and Tax and**  
3 **Fee Exemptions**

4 FOR the purpose of requiring the Department of the Environment to waive certain  
5 Voluntary Cleanup Program application fees for an applicant that certifies that the  
6 applicant intends to use eligible property to generate clean or renewable energy  
7 under certain circumstances; requiring the Department to adopt certain regulations;  
8 establishing that a property identified in the Superfund Enterprise Management  
9 System is presumed to have been initially contaminated on or before a certain date;  
10 requiring that the owner of a certain eligible property that wants to change the use  
11 of the eligible property be liable for certain fees waived under this Act if the eligible  
12 property is not in compliance with a certain certification; ~~authorizing the Public~~  
13 ~~Service Commission to evaluate any material change to certain renewable energy~~  
14 ~~generating stations;~~ exempting a public service company that is a public-private  
15 partnership formed for the generation of clean or renewable energy from a certain  
16 franchise tax under certain circumstances; authorizing the Department to adopt  
17 certain regulations; altering a certain definition; and generally relating to the  
18 Voluntary Cleanup Program, clean or renewable energy generating stations, and  
19 public-private partnership public service companies formed for the generation of  
20 clean or renewable energy.

21 BY repealing and reenacting, without amendments,  
22 Article – Environment

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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 7–501(a), (c), and (m)  
 2 Annotated Code of Maryland  
 3 (2013 Replacement Volume and 2019 Supplement)

4 BY repealing and reenacting, with amendments,  
 5 Article – Environment  
 6 Section 7–501(g) and 7–506(a), (b), (f), and (j)  
 7 Annotated Code of Maryland  
 8 (2013 Replacement Volume and 2019 Supplement)

9 ~~BY repealing and reenacting, with amendments,~~  
 10 ~~Article – Public Utilities~~  
 11 ~~Section 2–115~~  
 12 ~~Annotated Code of Maryland~~  
 13 ~~(2010 Replacement Volume and 2019 Supplement)~~

14 BY repealing and reenacting, with amendments,  
 15 Article – Tax – General  
 16 Section 8–402  
 17 Annotated Code of Maryland  
 18 (2016 Replacement Volume and 2019 Supplement)

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

21 **Article – Environment**

22 7–501.

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

24 (c) “Applicant” means a person who applies to participate in the Voluntary  
 25 Cleanup Program.

26 (g) (1) “Eligible property” means property that is contaminated or perceived to  
 27 be contaminated.

28 (2) “Eligible property” does not include property that is:

29 (i) On the national priorities list under § 105 of the federal act;

30 (ii) Except as provided in paragraph (3)(i) of this subsection, under  
 31 active enforcement; or

32 (iii) Subject to a controlled hazardous substances permit issued in  
 33 accordance with this title.

1 (3) (i) “Eligible property” includes a site under active enforcement if:

2 1. All applications filed in connection with the property are  
3 filed by inculpable persons; and

4 2. Any response action plan and cleanup criteria approved by  
5 the Department under this subtitle is at least as protective of public health and the  
6 environment as the requirements of any outstanding active enforcement action.

7 (ii) “Eligible property” includes sites listed on the **SUPERFUND**  
8 **ENTERPRISE MANAGEMENT SYSTEM OR THE** Comprehensive Environmental  
9 Response, Compensation, and Liability Information System.

10 (m) “Program” means the Voluntary Cleanup Program established under this  
11 subtitle.

12 7–506.

13 (a) **(1)** To participate in the Program, an applicant shall:

14 **[(1)] (I)** Submit an application, on a form provided by the Department,  
15 that includes:

16 **[(i)] 1.** Information demonstrating to the satisfaction of the  
17 Department that the contamination did not result from the applicant knowingly or willfully  
18 violating any law or regulation concerning controlled hazardous substances;

19 **[(ii)] 2.** Information demonstrating the person’s status as a  
20 responsible person or an inculpable person;

21 **[(iii)] 3.** Information demonstrating that the property is an eligible  
22 property as defined in § 7–501 of this subtitle;

23 **[(iv)] 4.** A detailed report with all available relevant information  
24 on environmental conditions including contamination at the eligible property known to the  
25 applicant at the time of the application;

26 **[(v)] 5.** An environmental site assessment that includes:

27 **[1.] A.** Established Phase I site assessment standards and  
28 follows principles established by the American Society for Testing and Materials and that  
29 demonstrates to the satisfaction of the Department that the assessment has been conducted  
30 in accordance with those standards and principles; and

31 **[2.] B.** A Phase II site assessment unless the Department  
32 concludes, after review of the Phase I site assessment, that there is sufficient information

1 to determine that there are no recognized environmental conditions, as defined by the  
2 American Society for Testing and Materials; and

3 [(vi)] 6. A description, in summary form, of a proposed voluntary  
4 cleanup project that includes the proposed cleanup criteria under § 7–508 of this subtitle  
5 and the proposed future use of the property, if appropriate; and

6 [(2)] (II) [Pay] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**  
7 **PAY** to the Department:

8 [(i)] 1. An initial application fee of \$6,000 which the Department  
9 may reduce on a demonstration of financial hardship in accordance with subsection (b) of  
10 this section;

11 [(ii)] 2. An application fee of \$2,000 for each application submitted  
12 subsequent to the initial application for the same property; and

13 [(iii)] 3. An application fee of \$2,000 for each application submitted  
14 subsequent to the initial application for contiguous or adjacent properties that are part of  
15 the same planned unit development or a similar development plan.

16 **(2) IF AN APPLICANT CERTIFIES THAT THE APPLICANT INTENDS TO**  
17 **USE THE ELIGIBLE PROPERTY TO GENERATE CLEAN OR RENEWABLE ENERGY, THE**  
18 **DEPARTMENT SHALL WAIVE THE FEES REQUIRED UNDER PARAGRAPH (1)(II) OF**  
19 **THIS SUBSECTION.**

20 (b) The Department shall adopt regulations to establish criteria for determining  
21 whether an applicant has [demonstrated]:

22 **(1) DEMONSTRATED** financial hardship; **OR**

23 **(2) CERTIFIED THAT THE APPLICANT INTENDS TO USE THE ELIGIBLE**  
24 **PROPERTY TO GENERATE CLEAN OR RENEWABLE ENERGY.**

25 (f) (1) The Department shall deny an application if:

26 (i) The applicant is not an eligible applicant;

27 (ii) The property is not an eligible property; or

28 (iii) The property was initially contaminated by a release of  
29 hazardous substances after October 1, 1997 unless:

30 1. The property is acquired by an inculpable person; or

31 2. The contamination was caused by an act of God.

1 (2) For the purposes of paragraph (1)(iii) of this subsection, any property  
 2 identified in the **SUPERFUND ENTERPRISE MANAGEMENT SYSTEM OR THE**  
 3 **Comprehensive Environmental Response, Compensation, and Liability Information**  
 4 **System** in accordance with the federal act as of October 1, 1997 is presumed to have been  
 5 initially contaminated on or before October 1, 1997.

6 (j) Subject to the provisions of § 7-516(a) of this subtitle and approval by the  
 7 Department, if an owner of an eligible property that has limited permissible uses wants to  
 8 change the use of the eligible property, the owner [is]:

9 (1) IS responsible for the cost of cleaning up the property to the appropriate  
 10 standard; AND

11 (2) SHALL BE LIABLE FOR ANY FEES WAIVED UNDER SUBSECTION  
 12 (A)(2) OF THIS SECTION IF THE ELIGIBLE PROPERTY IS NOT IN COMPLIANCE WITH A  
 13 CERTIFICATION THAT REQUIRES THE ELIGIBLE PROPERTY TO BE USED TO  
 14 GENERATE CLEAN OR RENEWABLE ENERGY.

15 ~~Article — Public Utilities~~

16 ~~§ 115.~~

17 ~~(a) The Commission shall initiate and conduct any investigation necessary to~~  
 18 ~~execute its powers or perform its duties under this division.~~

19 ~~(b) The Commission may:~~

20 ~~(1) examine the records of a public service company;~~

21 ~~(2) compel production of the records by subpoena; [and]~~

22 ~~(3) require verified copies of the records to be filed with the Commission;~~

23 **AND**

24 ~~(4) EVALUATE ANY MATERIAL CHANGE TO A CLEAN OR RENEWABLE~~  
 25 ~~ENERGY GENERATING STATION FOR WHICH A CERTIFICATE OF PUBLIC~~  
 26 ~~CONVENIENCE AND NECESSITY IS REQUIRED UNDER § 7-207 OF THIS ARTICLE,~~  
 27 ~~INCLUDING ANY CHANGE TO:~~

28 ~~(I) THE CAPACITY OF THE GENERATING STATION;~~

29 ~~(II) THE ENGINEERING DESIGN OF THE GENERATING STATION;~~

~~(III) THE DESIGN OF THE GENERATING STATION'S FOUNDATION OR SUPPORT STRUCTURE;~~

~~(IV) THE GEOGRAPHIC COORDINATES OF THE GENERATING STATION, INCLUDING LONGITUDE AND LATITUDE;~~

~~(V) THE VERTICAL SPECIFICATIONS OF THE GENERATING STATION;~~

~~(VI) THE GENERATING STATION'S COMMERCIAL OPERATION DATE; AND~~

~~(VII) THE DECOMMISSIONING PLAN FOR THE GENERATING STATION.~~

### Article – Tax – General

8-402.

(a) A franchise tax, measured by gross receipts, is imposed, for each calendar year, on each public service company:

(1) engaged in a telephone business in the State; or

(2) engaged in the transmission, distribution, or delivery of electricity or natural gas in the State.

(b) The tax imposed under subsection (a) of this section does not apply to a public service company that is:

(1) a county;

(2) a municipal corporation; [or]

(3) a nonprofit electric cooperative; OR

**(4) A PUBLIC-PRIVATE PARTNERSHIP FORMED FOR THE GENERATION OF CLEAN OR RENEWABLE ENERGY IF:**

**(I) 30% OR MORE OF THE ELECTRICITY GENERATED THROUGH THE PUBLIC-PRIVATE PARTNERSHIP IS PURCHASED BY THE PUBLIC PARTNER; AND**

**(II) THE CLEAN OR RENEWABLE ENERGY GENERATING STATION IS SITED ON AN ELIGIBLE CLEAN AND RENEWABLE ENERGY GENERATION SITE AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT, INCLUDING:**

- 1                   **1. ROOFTOPS;**
- 2                   **2. PARKING LOTS;**
- 3                   **3. LANDFILLS;**
- 4                   **4. BROWNFIELDS SITES;**
- 5                   **5. VOLUNTARY CLEANUP PROGRAM SITES;**
- 6                   **6. RECLAIMED MINES;**
- 7                   **7. SUPERFUND SITES; AND**
- 8                   **8. SEDIMENT OR RETENTION PONDS.**

9           **(C) THE DEPARTMENT OF THE ENVIRONMENT MAY ADOPT REGULATIONS**  
10 **REGARDING THE DETERMINATION OF ELIGIBLE CLEAN OR RENEWABLE ENERGY**  
11 **GENERATION SITES UNDER SUBSECTION (B)(4) OF THIS SECTION.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13           October 1, 2020.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.