

HOUSE BILL 1083

L6, C5
HB 1034/20 – ECM

2lr0560
CF SB 376

By: **Delegates Carr, Chang, W. Fisher, Foley, Henson, Kelly, Korman, Love, Palakovich Carr, Parrott, Qi, Queen, Shetty, Solomon, Turner, and Watson**

Introduced and read first time: February 10, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **County and Municipal Street Lighting Investment Act**

3 FOR the purpose of authorizing a certain county or municipality to convert its street
4 lighting service to a customer-owned street lighting tariff, acquire certain street
5 lighting equipment by purchase or condemnation, enter into an agreement to
6 purchase electricity, and request that an electric company remove certain street
7 lighting equipment in the county's or municipality's jurisdiction; authorizing certain
8 disputes to be submitted to the Public Service Commission for resolution; requiring
9 a jury to determine the fair market value of certain street lighting equipment subject
10 to a condemnation proceeding in a certain manner; requiring each electric company
11 to file with the Commission a certain customer-owned street lighting tariff for street
12 lighting on or before a certain date; requiring the Commission to issue a decision
13 regarding the adoption of a certain customer-owned street lighting tariff within a
14 certain period of time; requiring the Commission to issue a determination on a
15 dispute regarding the acquisition of certain street lighting equipment and the terms
16 of a certain customer-owned street lighting tariff within a certain period of time; and
17 generally relating to the purchase of street lighting equipment by a county or
18 municipality from an electric company and tariffs for street lighting.

19 BY repealing and reenacting, with amendments,
20 Article – Local Government
21 Section 1–1309
22 Annotated Code of Maryland
23 (2013 Volume and 2021 Supplement)

24 BY adding to
25 Article – Public Utilities
26 Section 4–212
27 Annotated Code of Maryland
28 (2020 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Local Government

1–1309.

(a) **(1)** In this section[, “electric”] **THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED.**

(2) “**ELECTRIC** company” has the meaning stated in § 1–101 of the Public
Utilities Article.

(3) “**FAIR MARKET VALUE**” MEANS THE NET BOOK VALUE OF THE
PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION
(**FERC**) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE
USED FOR STANDARD RATE SETTING, AS THE ORIGINAL COST OF THE PROPERTY,
LESS DEPRECIATION, OF ANY ACTIVE OR INACTIVE EXISTING STREET LIGHTING
EQUIPMENT INSTALLED IN THE COUNTY OR MUNICIPALITY AS OF THE DATE THE
COUNTY OR MUNICIPALITY ENTERS INTO AN AGREEMENT TO PURCHASE THE
PROPERTY, EXERCISES ITS RIGHT OF CONDEMNATION, OR REQUESTS THE REMOVAL
OF THE EQUIPMENT.

(4) (I) “**STREET LIGHTING EQUIPMENT**” MEANS ALL EQUIPMENT
OWNED BY AN ELECTRIC COMPANY USED TO LIGHT STREETS IN THE COUNTY OR
MUNICIPALITY.

(II) “**STREET LIGHTING EQUIPMENT**” INCLUDES:

1. ALL CAPITAL EQUIPMENT AS DEFINED UNDER **FERC
ACCOUNT 373**;

2. LIGHTING BALLASTS, LUMINAIRES, MAST ARMS,
PHOTOCELLS, SUPPLY CIRCUITS TERMINATING AT THE LUMINAIRE, AND ANY OTHER
EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRIC ENERGY INTO STREET
LIGHTING;

3. DECORATIVE STREET AND AREA LIGHTING;

4. SOLID-STATE **LED** LIGHTING TECHNOLOGIES; AND

5. INDUCTION LIGHTING TECHNOLOGIES.

1 (III) “STREET LIGHTING EQUIPMENT” DOES NOT INCLUDE JOINT
2 USE UTILITY POLES ON WHICH THE EQUIPMENT IS FIXED.

3 (B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

4 (1) LOCAL GOVERNMENTS ARE MANDATED TO PAY ELECTRIC
5 COMPANIES LARGE SUMS EVERY YEAR TO LIGHT STREETS IN COUNTIES AND
6 MUNICIPALITIES;

7 (2) COUNTIES AND MUNICIPALITIES ARE LIMITED IN HOW THIS
8 PUBLIC SAFETY RESOURCE CAN BE MANAGED BECAUSE THE COUNTIES AND
9 MUNICIPALITIES OFTEN DO NOT OWN OR CONTROL THE STREET LIGHTING
10 EQUIPMENT WITHIN THEIR JURISDICTIONS;

11 (3) STREET LIGHTING IS A SIGNIFICANT ENERGY EXPENSE FOR
12 COUNTIES AND MUNICIPALITIES AND PRESENTS AN OPPORTUNITY FOR
13 COMMUNITIES TO REDUCE THEIR CARBON FOOTPRINT AND ADDRESS CLIMATE
14 CHANGE THROUGH EFFICIENCY UPGRADES;

15 (4) THERE IS OFTEN INSUFFICIENT INCENTIVE IN THE APPLICABLE
16 ELECTRIC RATE TARIFF FOR INSTALLING ENERGY EFFICIENT LIGHTING
17 TECHNOLOGIES THAT MAY REDUCE BOTH POWER AND MAINTENANCE EXPENSES;

18 (5) THERE IS NO ADEQUATE PROVISION IN THE APPLICABLE
19 ELECTRIC RATE TARIFF FOR COUNTIES AND MUNICIPALITIES TO WORK
20 COLLECTIVELY TO MANAGE THE MAINTENANCE OF STREET LIGHTING EQUIPMENT;

21 (6) COUNTIES AND MUNICIPALITIES AROUND THE COUNTRY HAVE
22 SAVED CONSIDERABLE RESOURCES BY PURCHASING THEIR STREET LIGHTING
23 EQUIPMENT FROM ELECTRIC COMPANIES AND CONTRACTING FOR THE
24 MAINTENANCE INDEPENDENTLY; AND

25 (7) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE
26 SHOULD BE IMPROVED BY:

27 (I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT
28 PROVIDE BETTER ILLUMINATION;

29 (II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES
30 AND MUNICIPALITIES TO OWN THE STREET AND AREA LIGHTING WITHIN THEIR
31 JURISDICTIONS AND TO ENTER INTO REGIONAL MAINTENANCE SERVICE
32 CONTRACTS;

(III) REDUCING WHOLE SYSTEM COST THROUGH COUNTY OR MUNICIPAL OWNERSHIP AND BY ADOPTING TARIFFS THAT INCLUDE ONLY THE DISTRIBUTION ENERGY CONSUMED;

(IV) PROVIDING FOR THE USE OF INNOVATIVE TECHNOLOGIES FOR MORE EFFICIENT LIGHTING; AND

(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING REPAIRS.

[(b)] (C) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS section applies to all counties and municipalities.

(2) THIS SECTION DOES NOT APPLY TO STREET LIGHTING EQUIPMENT OWNED BY A MUNICIPAL ELECTRIC UTILITY.

[(c)] On written request by a county or municipality, an electric company shall sell to the county or municipality some or all of the electric company's existing street lighting equipment that is located in the county or municipality.]

(D) (1) AFTER GIVING 60 DAYS' WRITTEN NOTICE TO THE ELECTRIC COMPANY AND THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY THAT RECEIVES STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN ACCORDANCE WITH A TARIFF PROVIDING FOR THE USE BY THE COUNTY OR MUNICIPALITY OF STREET LIGHTING EQUIPMENT OWNED BY THE ELECTRIC COMPANY MAY:

(I) CONVERT ITS STREET LIGHTING SERVICE TO A CUSTOMER-OWNED STREET LIGHTING TARIFF SET IN ACCORDANCE WITH § 4-212 OF THE PUBLIC UTILITIES ARTICLE;

(II) SUBMIT A REQUEST TO ACQUIRE THE STREET LIGHTING EQUIPMENT FROM THE ELECTRIC COMPANY AT SOME OR ALL LOCATIONS WITHIN THE COUNTY OR MUNICIPALITY; AND

(III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY.

(2) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE EQUIPMENT BY CONDEMNATION.

[(d)] (E) (1) If the county or municipality [purchases] ACQUIRES street lighting equipment from an electric company AND CONVERTS THE STREET LIGHTING

SERVICE TO A CUSTOMER–OWNED STREET LIGHTING TARIFF IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric company the fair market value of the street lighting equipment.

(2) (I) AFTER ACQUIRING STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE COUNTY OR MUNICIPALITY MAY REQUEST THAT THE ELECTRIC COMPANY REMOVE THE STREET LIGHTING EQUIPMENT THAT IS LOCATED IN THE COUNTY’S OR MUNICIPALITY’S JURISDICTION THAT HAS NOT BEEN ACQUIRED FROM THE ELECTRIC COMPANY.

(II) THE COUNTY OR MUNICIPALITY SHALL PAY TO THE ELECTRIC COMPANY:

1. THE COST OF THE REMOVAL OF THE STREET LIGHTING EQUIPMENT BY THE ELECTRIC COMPANY; AND

2. THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT THAT IS REMOVED.

[(e)] (F) A county or municipality that [purchases] ACQUIRES street lighting equipment in accordance with SUBSECTION (D) OF this section:

(1) shall be responsible for the maintenance of the street lighting equipment; [and]

(2) may contract with an outside entity for the maintenance of the street lighting equipment; AND

(3) SHALL NOTIFY THE ELECTRIC COMPANY OF ANY ALTERATION TO THE COUNTY’S OR MUNICIPALITY’S STREET LIGHTING EQUIPMENT INVENTORY WITHIN 30 DAYS AFTER THE ALTERATION.

[(f)] (G) (1) Any person who controls the right to use space on any pole, lamppost, or other mounting surface previously used in the county or municipality by the electric company for street lighting equipment shall allow a county or municipality that has purchased the street lighting equipment to assume the rights and obligations of the electric company with respect to the space for the unexpired term of any lease or other agreement under which the electric company used the space.

(2) Notwithstanding paragraph (1) of this subsection, the county or municipality may not restrict or prohibit universal access for electricity or any other service by assuming the rights and obligations of an electric company as to space on any pole, lamppost, or other mounting surface used for street lighting equipment.

(H) ANY AGREEMENT OR CONTRACT FOR SALE OR LICENSE AGREEMENT THAT APPLIES TO EQUIPMENT MOUNTED ON JOINT USE POLES MAY NOT INCLUDE ANY FEES OR OTHER COSTS NOT INCLUDED IN THE CUSTOMER-OWNED STREET LIGHTING TARIFF UNDER § 4-212 OF THE PUBLIC UTILITIES ARTICLE.

(I) AN ELECTRIC COMPANY MAY NOT REQUIRE FROM A COUNTY OR MUNICIPALITY ACQUIRING STREET LIGHTING EQUIPMENT UNDER SUBSECTION (D) OF THIS SECTION:

(1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

(2) ANY STANDARDS THE ELECTRIC COMPANY DOES NOT CURRENTLY PROVIDE OR REQUIRE OF THE ELECTRIC COMPANY IN THE OPERATION AND MAINTENANCE OF STREET LIGHTING EQUIPMENT.

(J) ALL WORKERS EMPLOYED BY A COUNTY OR MUNICIPALITY TO OPERATE AND MAINTAIN STREET LIGHTING EQUIPMENT SHALL BE FULLY QUALIFIED AND MEET ANY FEDERAL AND STATE REQUIREMENTS.

[(3)] (K) (1) [Any] EXCEPT AFTER A COUNTY OR MUNICIPALITY INITIATES A CONDEMNATION PROCEEDING, ANY dispute between an electric company and a county or municipality [arising under this subsection shall] REGARDING THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT OR ANY OTHER MATTER ARISING IN CONNECTION WITH THE ACQUISITION OF STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH SUBSECTION (D)(1) OF THIS SECTION MAY be submitted to the Public Service Commission for resolution.

(2) WITHIN 75 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE PUBLIC SERVICE COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION PROCEEDING, A JURY IN THE PROCEEDING SHALL DETERMINE THE FAIR MARKET VALUE AS PROVIDED FOR IN THIS SECTION.

Article – Public Utilities

4-212.

(A) IN THIS SECTION, “STREET LIGHTING EQUIPMENT” HAS THE MEANING STATED IN § 1-1309 OF THE LOCAL GOVERNMENT ARTICLE.

(B) THIS SECTION DOES NOT APPLY TO MUNICIPAL ELECTRIC UTILITIES.

1 **(C) (1) ON OR BEFORE OCTOBER 1, 2022, EACH ELECTRIC COMPANY, IN**
2 **CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL FILE WITH**
3 **THE COMMISSION A CUSTOMER-OWNED STREET LIGHTING TARIFF FOR STREET**
4 **LIGHTING THAT INCLUDES ONLY ELECTRIC DISTRIBUTION FEES.**

5 **(2) (I) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL**
6 **PROVIDE FOR MONTHLY BILLS FOR STREET LIGHTING THAT SHALL INCLUDE A**
7 **SCHEDULE OF ELECTRICITY CHARGES BASED ON A DETERMINATION OF ANNUAL**
8 **KILOWATT-HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES**
9 **OF STREET LIGHTING EQUIPMENT BUT MAY NOT INCLUDE STREET LIGHTING**
10 **FACILITY, SUPPORT, REACTIVE OR PREVENTIVE MAINTENANCE, FIXED**
11 **MAINTENANCE, OR ACCESSORY CHARGES.**

12 **(II) THE DETERMINATION IN SUBPARAGRAPH (I) OF THIS**
13 **PARAGRAPH SHALL BE MADE:**

14 **1. IN ACCORDANCE WITH APPROVED METHODS OF**
15 **DETERMINATION FOR UNMETERED STREET LIGHTS; OR**

16 **2. BASED ON INFORMATION RECEIVED FROM LIGHTING**
17 **CONTROLS THAT MEASURE USAGE AND COMPLY WITH ANSI C12.20.5 STANDARDS**
18 **FOR ACCURACY.**

19 **(3) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL**
20 **PROVIDE FOR OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING:**

21 **(I) CONVENTIONAL DUSK/DAWN OPERATION USING**
22 **PHOTOCELL TECHNOLOGY OR SCHEDULING CONTROLS;**

23 **(II) SCHEDULE-BASED DIMMING OR ON/OFF CONTROLS THAT**
24 **DIM OR TURN OFF STREET LIGHTS DURING PERIODS OF LOW ACTIVITY; AND**

25 **(III) ACTUAL USAGE AS PROVIDED BY CONTROLS THAT PROVIDE**
26 **THAT INFORMATION AND COMPLY WITH ANSI C12.20.5 STANDARDS FOR**
27 **ACCURACY.**

28 **(D) WITHIN 75 DAYS AFTER RECEIVING A CUSTOMER-OWNED STREET**
29 **LIGHTING TARIFF FROM AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE A**
30 **DECISION REGARDING THE ADOPTION OF THE CUSTOMER-OWNED STREET**
31 **LIGHTING TARIFF.**

1 **(E) WITHIN 75 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE**
2 **COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE REGARDING THE**
3 **TERMS OF A CUSTOMER-OWNED STREET LIGHTING TARIFF ADOPTED IN**
4 **ACCORDANCE WITH THIS SECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
6 1, 2022.