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By: **Chairman, Economic Matters Committee (By Request - Departmental -  
Natural Resources)**

Introduced and read first time: February 2, 2004

Assigned to: Environmental Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 28, 2004

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CHAPTER 181

1 AN ACT concerning

2 **Environmental Trust Fund - Extension of Environmental Surcharge**

3 FOR the purpose of continuing the environmental surcharge on certain electrical  
4 energy generated in the State until a certain date; and generally relating to the  
5 Environmental Trust Fund and the environmental surcharge.

6 BY repealing and reenacting, with amendments,  
7 Article - Natural Resources  
8 Section 3-302  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2003 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Public Utility Companies  
13 Section 7-203  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 2003 Supplement)

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

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**Article - Natural Resources**

2 3-302.

3 (a) There is an Environmental Trust Fund. For the purpose of this subtitle,  
4 there is established as an added cost of electricity distributed to retail electric  
5 customers within the State, an environmental surcharge per kilowatt hour of electric  
6 energy distributed in the State to be paid by any electric company as defined in §  
7 1-101 of the Public Utility Companies Article. The Public Service Commission shall  
8 impose the surcharge per kilowatt hour of electric energy distributed to retail electric  
9 customers within the State and shall authorize the electric companies to add the full  
10 amount of the surcharge to retail electric customers' bills. To the extent that the  
11 surcharge is not collected from retail electric customers, the surcharge shall be  
12 deemed a cost of distribution and shall be allowed and computed as such, together  
13 with other allowable expenses, for rate-making purposes. Revenues from the  
14 surcharge shall be collected by the Comptroller and placed in the Fund.

15 (b) (1) The Secretary, in consultation with the Director of the Maryland  
16 Energy Administration, annually shall coordinate the preparation of a budget  
17 required to carry out the provisions of this subtitle. Upon approval of the budget by  
18 the General Assembly, the Public Service Commission shall establish the amount of  
19 the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for  
20 each subsequent fiscal year.

21 (2) Notwithstanding any other provisions of this subtitle, the amount of  
22 the surcharge for each account for each retail electric customer may not exceed the  
23 lesser of 0.15 mill per kilowatt hour or \$1,000 per month and the surcharge may not  
24 continue beyond fiscal year [2005] 2010.

25 (3) The Comptroller shall maintain the method of collection of the  
26 surcharge from the companies and the collections shall accrue to the Fund. The  
27 Department shall credit against the amount required to be paid into the  
28 Environmental Trust Fund by each electric company an amount equal to 0.75% of the  
29 total surcharge attributed to each company on the basis of the electricity distributed  
30 within Maryland.

31 (c) The Secretary shall administer the Fund. The Fund is subject to the  
32 provisions for financial management and budgeting established by the Department of  
33 Budget and Management. The moneys in the Fund shall be used to carry out the  
34 provisions of this subtitle as provided for in the budget, except that 10% of all moneys  
35 accruing to the Fund from July 1, 1978 through June 30, 1983 shall be used to  
36 supplement funds necessary to carry out the duties of the People's Counsel of the  
37 Public Service Commission. The People's Counsel shall submit an annual budget of  
38 necessary supplemental funds to the Department to be incorporated in the  
39 Department's budget. For the purposes of this subtitle, the Secretary, in consultation  
40 with the Director of the Maryland Energy Administration, may execute appropriate  
41 contracts with any State or federal agency, research organization, industry, or  
42 academic institution to conduct the necessary research, construct or acquire, or both,  
43 real property including physical predictive models, laboratories, buildings, land, and

1 appurtenances, or support the technological development of extraordinary systems  
2 related to power plants designed to minimize environmental impact. The Secretary  
3 may utilize available expertise in any other State unit in the development, execution,  
4 and management of contracts and agreements on projects relating to their areas of  
5 prime responsibility.

6 (d) (1) The Maryland Energy Administration shall receive administrative  
7 and fiscal support from the Fund for studies relating to the conservation or  
8 production of electric energy.

9 (2) Fiscal support to the Maryland Energy Administration from the  
10 Fund may not exceed \$250,000 in any fiscal year.

11 (e) The Legislative Auditor shall conduct post audits of a fiscal and  
12 compliance nature of the Fund and of the appropriations and expenditures made for  
13 the purposes of this subtitle. The cost of the fiscal portion of the post audit  
14 examinations shall be an operating cost of the Fund.

### 15 **Article - Public Utility Companies**

16 7-203.

17 (a) (1) The Commission shall:

18 (i) impose an environmental surcharge per kilowatt hour of  
19 electricity distributed to retail electric customers within the State; and

20 (ii) authorize each electric company to add the full amount of the  
21 surcharge to its customers' bills.

22 (2) To the extent that an electric company fails to collect the surcharge  
23 from its customers, the amount uncollected shall be deemed a cost of power  
24 distribution and allowed and computed as such together with other allowable  
25 expenses for purposes of rate-making.

26 (b) (1) The Comptroller shall collect the revenue from the surcharge  
27 imposed under subsection (a) of this section and place the revenue into a special fund,  
28 the Environmental Trust Fund.

29 (2) The Comptroller shall maintain the method of collection of the  
30 surcharge from each electric company, and the money collected shall accrue to the  
31 Fund.

32 (c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate  
33 the preparation of the annual budget required to carry out the provisions of the Power  
34 Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

35 (2) Each fiscal year, on approval of the annual budget by the General  
36 Assembly for the Power Plant Research Program, the Commission shall establish the  
37 amount of the environmental surcharge per kilowatt hour of electric energy

1 distributed in the State that is to be imposed on each electric company in accordance  
2 with subsection (a) of this section.

3 (d) (1) Notwithstanding any other provision of this subtitle, the amount of  
4 the surcharge for each account of each retail electric customer may not exceed the  
5 lesser of 0.15 mill per kilowatt hour or \$1,000 per month.

6 (2) The Department of Natural Resources shall credit against the  
7 amount the Commission requires each electric company to pay into the  
8 Environmental Trust Fund 0.75% of the total surcharge amount attributed to the  
9 electric company on the basis of the amount of the electricity distributed in the State.

10 (e) To the extent that the Commission requires an electric company to report  
11 the total estimated kilowatt hours of electricity distributed in the State in order to  
12 calculate the surcharge under subsection (a)(1) of this section, a small rural electric  
13 cooperative described in § 7-502(a) of this title may satisfy the requirement by  
14 submitting to the Commission an estimate made in accordance with a formula  
15 approved by the Commission from information that the small rural electric  
16 cooperative submits to the rural utilities service that includes the required  
17 information.

18 (f) The surcharge imposed under this subtitle shall terminate on June 30,  
19 [2005] 2010.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect October 1, 2004.