

# HOUSE BILL 749

C5, M3

9lr2262  
CF SB 773

---

By: **Delegate Beitzel**

Introduced and read first time: February 10, 2009

Assigned to: Economic Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Wind-Powered Electric Generating Facilities – Decommissioning and**  
3 **Restoration – Surcharge, Bond or Other Security, and Fund**

4 FOR the purpose of requiring the Public Service Commission to establish a surcharge  
5 on wind-powered electric generating facilities in the State for a certain purpose  
6 on the basis of certain factors; requiring the Comptroller to collect the revenue  
7 from the surcharge and deposit it into the Maryland Wind-Powered Electric  
8 Generating Facility Decommissioning and Restoration Fund; requiring the  
9 Commission to review the amount of the surcharge at certain intervals;  
10 authorizing the Commission to adjust the surcharge on review; authorizing a  
11 wind-powered electric generating facility to post a certain bond or other  
12 security in lieu of a surcharge under certain circumstances; requiring the  
13 Commission to collect the bond or other security and deposit it in the Fund;  
14 requiring the Commission to adopt certain regulations relating to the surcharge  
15 and the bond or other security; establishing the Fund for certain purposes;  
16 providing for the use, accounting, and administration of the Fund; providing for  
17 the investment of the Fund and disbursement of any revenue from the  
18 investment in a certain manner; requiring the Commission to adopt certain  
19 regulations relating to the Fund; requiring the Commission to submit a certain  
20 report by a certain date each year to the Governor and the General Assembly;  
21 and generally relating to the financing of decommissioning and restoration of  
22 wind-powered electric generating facilities in the State.

23 BY adding to

24 Article – Public Utility Companies

25 Section 7-213 and 7-214

26 Annotated Code of Maryland

27 (2008 Replacement Volume and 2008 Supplement)

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Public Utility Companies**

2 **7-213.**

3 (A) THIS SECTION APPLIES TO ALL WIND-POWERED ELECTRIC  
4 GENERATING FACILITIES LOCATED IN THE STATE, INCLUDING FACILITIES FOR  
5 ON-SITE GENERATION.

6 (B) (1) THE COMMISSION SHALL ESTABLISH A SURCHARGE ON  
7 WIND-POWERED ELECTRIC GENERATING FACILITIES FOR THE PURPOSE OF  
8 ENSURING THAT ADEQUATE FUNDS EXIST TO:

9 (I) DECOMMISSION WIND-POWERED ELECTRIC  
10 GENERATING FACILITIES ONCE THEY CEASE TO OPERATE; AND

11 (II) RESTORE THE SITE ON WHICH WIND-POWERED  
12 ELECTRIC GENERATING FACILITIES OPERATED TO ITS PREOPERATION  
13 CONDITION.

14 (2) THE COMMISSION MAY ESTABLISH THE SURCHARGE IN  
15 PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE OUTPUT OR PRODUCTION  
16 CAPACITY OF THE INDIVIDUAL WIND-POWERED ELECTRIC GENERATING  
17 FACILITY.

18 (C) THE COMPTROLLER SHALL COLLECT THE REVENUE FROM THE  
19 SURCHARGE IMPOSED UNDER SUBSECTION (B) OF THIS SECTION AND PLACE  
20 THE REVENUE INTO THE MARYLAND WIND-POWERED ELECTRIC GENERATING  
21 FACILITY DECOMMISSIONING AND RESTORATION FUND UNDER § 7-214 OF  
22 THIS SUBTITLE.

23 (D) (1) THE COMMISSION SHALL REVIEW THE AMOUNT OF THE  
24 SURCHARGE AT STANDARD INTERVALS DETERMINED BY THE COMMISSION.

25 (2) THE COMMISSION MAY ADJUST THE AMOUNT OF THE  
26 SURCHARGE ON REVIEW.

27 (E) (1) IN LIEU OF THE SURCHARGE ESTABLISHED UNDER  
28 SUBSECTION (B) OF THIS SECTION, A WIND-POWERED ELECTRIC GENERATING  
29 FACILITY MAY POST A BOND OR OTHER SECURITY ACCEPTABLE TO THE  
30 COMMISSION.

31 (2) THE COMMISSION SHALL COLLECT THE BOND OR OTHER  
32 SECURITY POSTED BY THE WIND-POWERED ELECTRIC GENERATING FACILITY

1 UNDER PARAGRAPH (1) OF THIS SUBSECTION AND DEPOSIT IT IN THE  
2 WIND-POWERED ELECTRIC GENERATING FACILITY DECOMMISSIONING AND  
3 RESTORATION FUND UNDER § 7-214 OF THIS SUBTITLE.

4 (F) (1) THE COMMISSION SHALL ESTABLISH REGULATIONS TO  
5 IMPLEMENT THIS SECTION.

6 (2) THE REGULATIONS SHALL INCLUDE:

7 (I) CRITERIA FOR ESTABLISHING THE AMOUNT OF THE  
8 SURCHARGE;

9 (II) THE FREQUENCY WITH WHICH THE COMMISSION WILL  
10 REVIEW THE AMOUNT OF THE SURCHARGE;

11 (III) CRITERIA FOR DETERMINING WHETHER OR NOT TO  
12 ADJUST THE AMOUNT OF THE SURCHARGE ON REVIEW; AND

13 (IV) CRITERIA FOR ESTABLISHING THE AMOUNT AND  
14 ADEQUACY OF A BOND OR OTHER SECURITY PROPOSED UNDER SUBSECTION (E)  
15 OF THIS SECTION.

16 7-214.

17 (A) THERE IS A MARYLAND WIND-POWERED ELECTRIC GENERATING  
18 FACILITY DECOMMISSIONING AND RESTORATION FUND.

19 (B) THE PURPOSE OF THE FUND IS TO ENSURE THAT ADEQUATE FUNDS  
20 EXIST TO DECOMMISSION WIND-POWERED ELECTRIC GENERATING FACILITIES  
21 AND TO RESTORE THE SITE ON WHICH THEY OPERATE TO PREOPERATION  
22 CONDITION.

23 (C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
24 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

25 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY  
26 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (D) THE FUND CONSISTS OF THE SURCHARGE OR ANY BOND OR OTHER  
28 SECURITY PAID UNDER § 7-213 OF THIS SUBTITLE.

29 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FUND  
30 MAY BE USED ONLY FOR THE PURPOSE SET FORTH IN SUBSECTION (B) OF THIS  
31 SECTION.

1           **(2) THE COMMISSION MAY ALLOW THE USE OF NOT MORE THAN**  
2 **10% OF THE MONEY PLACED IN THE FUND FOR ADMINISTRATIVE EXPENSES**  
3 **RELATED TO THE FUND, INCLUDING PROJECT REVIEW AND OVERSIGHT.**

4           **(F) (1) SURCHARGES OR BOND OR OTHER SECURITY PAID BY**  
5 **WIND-POWERED ELECTRIC GENERATING FACILITIES UNDER § 7-213 OF THIS**  
6 **SUBTITLE SHALL BE ACCOUNTED FOR SEPARATELY WITHIN THE FUND.**

7           **(2) DISBURSEMENTS FROM THE FUND TO DECOMMISSION A**  
8 **FACILITY OR TO RESTORE A SITE MAY BE PAID ONLY FROM THE ACCOUNT**  
9 **CREATED FOR THE INDIVIDUAL WIND-POWERED ELECTRIC GENERATING**  
10 **FACILITY.**

11           **(G) THE COMMISSION SHALL:**

12                   **(1) ADMINISTER THE FUND;**

13                   **(2) ADOPT ELIGIBILITY CRITERIA FOR PROJECTS SUPPORTED BY**  
14 **THE FUND BY REGULATION;**

15                   **(3) RECEIVE AND REVIEW APPLICATIONS FOR DISBURSEMENTS**  
16 **FROM THE FUND; AND**

17                   **(4) APPROVE OR DISAPPROVE APPLICATIONS FOR**  
18 **DISBURSEMENTS FROM THE FUND.**

19           **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**  
20 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

21                   **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**  
22 **CREDITED TO THE FUND, AND SPLIT EVENLY AMONG INDIVIDUAL**  
23 **WIND-POWERED ELECTRIC GENERATING FACILITY ACCOUNTS.**

24           **(I) (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE**  
25 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**  
26 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON**  
27 **THE STATUS OF THE FUND.**

28                   **(2) THE REPORT SHALL INCLUDE:**

29                   **(I) ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE**  
30 **FUND IN THE PRECEDING CALENDAR YEAR;**

1                   **(II) THE EVALUATION CRITERIA THAT THE COMMISSION**  
2 **USED TO MAKE DISBURSEMENTS FROM THE FUND;**

3                   **(III) THE PROJECTED RECEIPTS OF THE FUND IN THE**  
4 **CURRENT CALENDAR YEAR; AND**

5                   **(IV) PLANS FOR THE USE OF THE FUND IN THE CURRENT**  
6 **CALENDAR YEAR.**

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8   October 1, 2009.