

HOUSE BILL 905

L6, C5
HB 1549/10 – HRU

11r0362

By: **Delegates Carr, Barkley, Hixson, Hucker, Love, Mizeur, Niemann, Simmons, and Waldstreicher**

Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Street Lighting – Purchase of Equipment by Local Government and Tariff**

3 FOR the purpose of requiring a local government to pay a certain electric company the
4 fair market value of certain street lighting equipment as determined by an
5 agreement between the local government and the electric company or as
6 determined in a condemnation proceeding under certain circumstances;
7 authorizing a local government to include all street lighting equipment that the
8 local government seeks to acquire in its jurisdiction that is owned by one
9 electric company in a single petition of condemnation under certain
10 circumstances; requiring a jury in a certain condemnation proceeding to
11 consider certain factors in determining fair market value of street lighting
12 equipment under certain circumstances; requiring the Public Service
13 Commission to require each electric company to develop a tariff for certain
14 street lighting; requiring a certain tariff to include pole attachment fees or
15 agreements under certain circumstances; and generally relating to the
16 acquisition of street lighting equipment by a local government from an electric
17 company and a tariff for street lighting.

18 BY repealing and reenacting, with amendments,
19 Article 24 – Political Subdivisions – Miscellaneous Provisions
20 Section 5–101
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2010 Supplement)

23 BY adding to
24 Article – Public Utilities
25 Section 4–210
26 Annotated Code of Maryland
27 (2010 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

4 5–101.

5 (a) In this section, “electric company” has the meaning stated in § 1–101 of
6 the Public Utilities Article.

7 (b) On written request by a local government, an electric company shall sell
8 to the local government some or all of the electric company’s existing street lighting
9 equipment that is located within the local jurisdiction.

10 (c) **(1)** If the local government purchases street lighting equipment from
11 an electric company, the local government shall pay to the electric company the fair
12 market value of the street lighting equipment **AS DETERMINED BY AN AGREEMENT**
13 **BETWEEN THE LOCAL GOVERNMENT AND THE ELECTRIC COMPANY OR AS**
14 **DETERMINED IN A CONDEMNATION PROCEEDING.**

15 **(2) A LOCAL GOVERNMENT MAY INCLUDE IN A SINGLE PETITION**
16 **FOR CONDEMNATION ALL STREET LIGHTING EQUIPMENT THAT THE LOCAL**
17 **GOVERNMENT SEEKS TO ACQUIRE WITHIN ITS JURISDICTION THAT IS OWNED BY**
18 **ONE ELECTRIC COMPANY.**

19 **(3) IN A CONDEMNATION PROCEEDING BROUGHT IN**
20 **ACCORDANCE WITH THIS SUBSECTION, IN DETERMINING FAIR MARKET VALUE**
21 **THE JURY SHALL CONSIDER:**

22 **(I) THE AGE, CONDITION, TYPE, AND OPERABILITY OF THE**
23 **STREET LIGHTING EQUIPMENT;**

24 **(II) ANY PAST PAYMENT OR CONTRIBUTION BY THE LOCAL**
25 **GOVERNMENT TO THE ELECTRIC COMPANY FOR THE CONSTRUCTION OF THE**
26 **STREET LIGHTING EQUIPMENT;**

27 **(III) COMPARABLE SALES OR OTHER APPROPRIATE**
28 **INDICATION OF THE VALUE OF THE STREET LIGHTING EQUIPMENT;**

29 **(IV) ANY OBLIGATION BY THE LOCAL GOVERNMENT TO PAY**
30 **FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT IF THE**
31 **OBLIGATION TO PAY FOR THE MAINTENANCE MAY NOT BE TERMINATED**
32 **WITHOUT GIVING AT LEAST 60 DAYS NOTICE; AND**

1 **(V) THE EXPERT VALUATION ADVICE OF THE PUBLIC**
2 **SERVICE COMMISSION.**

3 **(4) ON WRITTEN REQUEST BY A LOCAL GOVERNMENT, THE**
4 **PUBLIC SERVICE COMMISSION SHALL ACT AS THE AGENT OF THE LOCAL**
5 **GOVERNMENT IN A CONDEMNATION PROCEEDING UNDER THIS SECTION.**

6 (d) A local government that purchases the street lighting equipment in
7 accordance with subsection (b) of this section shall be responsible for the maintenance
8 of the street lighting equipment and may contract with an outside entity for the
9 maintenance of the street lighting equipment.

10 (e) (1) Any person who controls the right to use space on any pole,
11 lamppost, or other mounting surface previously used in the local jurisdiction by the
12 electric company for street lighting equipment shall allow a local government that has
13 purchased the street lighting equipment to assume the rights and obligations of the
14 electric company with respect to the space for the unexpired term of any lease or other
15 agreement under which the electric company used the space.

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

20 (3) Any dispute between an electric company and a local government
21 arising under this subsection shall be submitted to the Public Service Commission for
22 resolution.

23 **Article – Public Utilities**

24 **4-210.**

25 **(A) THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO**
26 **DEVELOP A TARIFF FOR STREET LIGHTING WHEN THE STREET LIGHTING**
27 **EQUIPMENT IS OWNED BY A LOCAL GOVERNMENT AND ATTACHED TO UTILITY**
28 **POLES OWNED BY A PUBLIC SERVICE COMPANY.**

29 **(B) A TARIFF ESTABLISHED UNDER THIS SECTION SHALL INCLUDE**
30 **POLE ATTACHMENT FEES OR AGREEMENTS IF THE FEES OR AGREEMENTS ARE**
31 **REQUIRED BY THE ELECTRIC COMPANY.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2011.