

HOUSE BILL 1373

Q1

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By: **Delegate Carr**

Introduced and read first time: February 13, 2013

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utility Property – Operating Personal Property – Definition**

3 FOR the purpose of providing that the term “operating personal property”, for certain
4 purposes of property tax law for public utilities, does not include street lighting
5 equipment; providing for the application of this Act; and generally relating to
6 the taxation of public utility companies.

7 BY repealing and reenacting, with amendments,
8 Article – Tax – Property
9 Section 1–101(v)
10 Annotated Code of Maryland
11 (2012 Replacement Volume)

12 BY repealing and reenacting, without amendments,
13 Article – Tax – Property
14 Section 8–109
15 Annotated Code of Maryland
16 (2012 Replacement Volume)

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

19 **Article – Tax – Property**

20 1–101.

21 (v) (1) “Operating personal property” includes any property, other than
22 real property, used to operate a railroad or public utility.

23 (2) For a public utility, “operating personal property” includes cables,
24 lines, poles, and towers.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) FOR A PUBLIC UTILITY, “OPERATING PERSONAL PROPERTY”**
2 **DOES NOT INCLUDE STREET LIGHTING EQUIPMENT.**

3 8–109.

4 (a) The Department shall annually value the operating unit of a public
5 utility on the basis of the value of the operating property of the public utility, by
6 considering:

7 (1) the earning capacity of the operating unit; and

8 (2) all other factors relevant to a determination of value of the
9 operating unit.

10 (b) The Department shall allocate to this State the value of that part of the
11 operating unit that is reasonably attributable to the part located in this State.

12 (c) (1) From the value allocated to this State under subsection (b) of this
13 section, the Department shall deduct:

14 (i) the fair average value of fuel that represents the percentage
15 reduction or exemption authorized by §§ 7–108, 7–222, and 7–226 of this article; and

16 (ii) the assessment of operating property, if any, that is exempt
17 by law from property tax.

18 (2) (i) The value remaining after making the deductions shall be
19 divided into an operating real property value and an operating personal property
20 value, as determined by the Department.

21 (ii) The value of operating real property is the assessment of
22 operating real property of a public utility.

23 (iii) The value of operating personal property is the assessment
24 of operating personal property of a public utility.

25 (3) Operating land of a public utility is valued and assessed by the
26 Department as part of the operating unit and is not valued and assessed by the
27 supervisor.

28 (4) The provisions of this subsection are not intended to alter the law
29 as codified in former Article 81 of the Code that was in effect as of January 31, 1986.

30 (5) Returns, notices, and appeals of operating property assessments
31 shall be administered pursuant to the sections of this article governing personal
32 property assessments.

1 (d) (1) For operating real property of a domestic public utility, the
2 Department shall apportion the assessment of that operating property among the
3 counties and municipal corporations where the operating property is located.

4 (2) For operating personal property of a domestic public utility placed
5 into service before January 1, 1968, the Department shall apportion the assessment of
6 that operating property on the basis of the ownership of shares of stock, among the
7 counties and municipal corporations where the owners of the shares of stock reside, or
8 if an owner is a nonresident of this State, to the county and any municipal corporation,
9 where the principal office of a domestic corporation is located. The equitable owner of
10 shares held in trust by a resident trustee shall be deemed the owner of the shares and
11 the residence determined as of the date of finality.

12 (3) For operating personal property of a domestic public utility placed
13 into service after December 31, 1967, the Department shall apportion the assessment
14 of that operating property among the counties and municipal corporations, where the
15 operating property is located.

16 (4) For operating property of a foreign public utility, the Department
17 shall apportion the assessment of that operating property among the counties and
18 municipal corporations where the operating property is located.

19 (e) If there is only 1 class of stock, the allocation of the operating personal
20 property assessment under subsection (d)(2) of this section is based on the per share
21 value attributed to each share that is determined by dividing the assessment by the
22 number of outstanding shares of stock.

23 (f) If there is more than 1 class of stock, the allocation of the operating
24 personal property assessment under subsection (d)(2) of this section is made by:

25 (1) multiplying the total assessment of all operating personal property
26 to be allocated by the percentage of value that each class of stock bears to the total
27 value of all classes of stock; and

28 (2) then dividing the product determined for each class in item (1) of
29 this subsection by the number of outstanding shares of stock in that class to produce
30 the assessment allocated to each share of stock.

31 (g) The Department may adopt regulations to carry out the provisions of this
32 section.

33 (h) (1) In determining whether to classify a company as a public utility,
34 the Department shall consider and evaluate whether the company:

1 (i) is subject to the authority of a regulatory body of the State
2 or the federal government, such as the Maryland Public Service Commission, the
3 Federal Communications Commission, or the Federal Energy Regulatory Commission;

4 (ii) uses a significant portion of the real and personal property
5 used in its business operations as an integrated whole or unit;

6 (iii) provides a basic service to the public; and

7 (iv) owns or uses assets that are most appropriately appraised
8 using the unit valuation method.

9 (2) Notwithstanding a company's failure to meet all of the criteria
10 under paragraph (1) of this subsection, the Department may classify the company as a
11 public utility if the Department determines that the company predominantly meets
12 the criteria.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 June 1, 2013, and shall be applicable to all taxable years beginning after June 30,
15 2013.