

# HOUSE BILL 1455

L5, Q2

(3lr3190)

## ENROLLED BILL

— *Ways and Means/Budget and Taxation* —

Introduced by **Montgomery County Delegation and Prince George’s County Delegation**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o’clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Property Tax –**  
3 **Payment in Lieu of Taxes Agreement**

4 **MC/PG 118–13**

5 FOR the purpose of authorizing the Maryland–National Capital Park and Planning  
6 Commission to enter into an agreement for payment in lieu of certain taxes with  
7 the owner of a facility for the generation of electricity that locates in Prince  
8 George’s County; requiring that a payment in lieu of taxes agreement include  
9 certain provisions; requiring the Commission to obtain certifications of certain  
10 facts from certain officials and approvals from certain officials of Prince  
11 George’s County before entering into or amending a payment in lieu of taxes  
12 agreement; requiring a payment in lieu of taxes to be distributed to funds of the  
13 Commission in a certain manner; exempting real or personal property of a

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 facility for the generation of electricity that locates in Prince George's County  
 2 from certain taxes as specified in a payment in lieu of taxes agreement;  
 3 ~~providing for a delayed effective date;~~ providing for the application of this Act;  
 4 and generally relating to authorizing the Maryland–National Capital Park and  
 5 Planning Commission to enter into a payment in lieu of taxes agreement with a  
 6 facility for the generation of electricity that locates in Prince George's County.

7 BY adding to  
 8 Article – Land Use  
 9 Section 18–309  
 10 Annotated Code of Maryland  
 11 (2012 Volume)

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

14 **Article – Land Use**

15 **18–309.**

16 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE  
 17 COMMISSION MAY ENTER INTO AN AGREEMENT WITH THE OWNER OF A  
 18 FACILITY FOR THE GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE  
 19 GEORGE'S COUNTY FOR A NEGOTIATED PAYMENT BY THE OWNER IN LIEU OF  
 20 TAXES IMPOSED ON REAL OR PERSONAL PROPERTY OF THE FACILITY UNDER  
 21 THIS SUBTITLE.

22 (2) AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF  
 23 TAXES UNDER THIS SECTION SHALL PROVIDE THAT, FOR THE TERM SPECIFIED  
 24 IN THE AGREEMENT:

25 (I) THE OWNER SHALL PAY A SPECIFIED AMOUNT EACH  
 26 YEAR IN LIEU OF THE PAYMENT OF TAXES IMPOSED ON REAL OR PERSONAL  
 27 PROPERTY UNDER THIS SUBTITLE; AND

28 (II) ALL OR A SPECIFIED PART OF THE REAL OR PERSONAL  
 29 PROPERTY AT THE FACILITY SHALL BE EXEMPT FROM TAXES IMPOSED ON REAL  
 30 OR PERSONAL PROPERTY UNDER THIS SUBTITLE FOR THE TERM OF THE  
 31 AGREEMENT.

32 (3) AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF  
 33 TAXES UNDER THIS SECTION SHALL:

34 (I) BE RECORDED IN THE LAND RECORDS OF PRINCE  
 35 GEORGE'S COUNTY; AND

1                   **(II) REQUIRE THAT THE OBLIGATION OF THE OWNER OF A**  
2 **FACILITY FOR THE GENERATION OF ELECTRICITY TO MAKE, IN A TIMELY**  
3 **MANNER, A PAYMENT IN LIEU OF TAXES:**

4                   **1. BE GUARANTEED BY APPROPRIATE ENTITIES**  
5 **AFFILIATED WITH THE OWNER OF THE FACILITY;**

6                   **2. BE A COVENANT RUNNING WITH THE LAND;**

7                   **3. CREATE A LIEN ATTACHED TO THE PROPERTY**  
8 **AND FIXTURES OF THE FACILITY THAT IS ENFORCEABLE IN ACCORDANCE WITH**  
9 **THE MARYLAND CONTRACT LIEN ACT; AND**

10                   **4. BE SECURED BY A SECURITY INTEREST IN ALL OR**  
11 **A SPECIFIED PART OF THE PERSONAL PROPERTY OF THE OWNER OF THE**  
12 **FACILITY THAT IS PERFECTED AND ENFORCEABLE IN ACCORDANCE WITH TITLE**  
13 **9 OF THE MARYLAND UNIFORM COMMERCIAL CODE.**

14           **(B) BEFORE ENTERING INTO OR AMENDING AN AGREEMENT FOR A**  
15 **NEGOTIATED PAYMENT IN LIEU OF TAXES UNDER THIS SECTION, THE**  
16 **COMMISSION SHALL OBTAIN:**

17                   **(1) CERTIFICATES ENDORSED BY THE SECRETARY-TREASURER**  
18 **OF THE COMMISSION AND THE DIRECTOR OF FINANCE OF PRINCE GEORGE'S**  
19 **COUNTY AFFIRMING THAT THE TERMS OF THE AGREEMENT ARE REASONABLY**  
20 **EXPECTED TO GENERATE MORE REVENUE FOR THE COMMISSION THAN WOULD**  
21 **BE GENERATED IF THE FACILITY FOR THE GENERATION OF ELECTRICITY DID**  
22 **NOT LOCATE IN PRINCE GEORGE'S COUNTY; AND**

23                   **(2) THE AFFIRMATIVE APPROVAL OF THE TERMS OF THE**  
24 **AGREEMENT BY THE COUNTY EXECUTIVE, COUNTY COUNCIL, AND PLANNING**  
25 **BOARD OF PRINCE GEORGE'S COUNTY, AS EVIDENCED BY:**

26                   **(I) AN EXECUTIVE ORDER OF THE COUNTY EXECUTIVE;**

27                   **(II) A RESOLUTION OF THE COUNTY COUNCIL; AND**

28                   **(III) A RESOLUTION OF THE PLANNING BOARD.**

29           **(C) EXCEPT AS OTHERWISE PROVIDED IN AN AGREEMENT UNDER THIS**  
30 **SECTION, A PAYMENT IN LIEU OF TAXES THAT THE COMMISSION RECEIVES**  
31 **SHALL BE DISTRIBUTED TO THE FUNDS OF THE COMMISSION IN THE SAME**  
32 **PROPORTION THAT THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY**

1 UNDER THIS SUBTITLE ARE DISTRIBUTED DURING THE FISCAL YEAR WHEN THE  
2 PAYMENT IS RECEIVED.

3 (D) AS SPECIFIED IN AN AGREEMENT FOR A NEGOTIATED PAYMENT IN  
4 LIEU OF TAXES UNDER THIS SECTION, FOR THE TERM SPECIFIED IN THE  
5 AGREEMENT, THE REAL OR PERSONAL PROPERTY AT A FACILITY FOR THE  
6 GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE GEORGE’S COUNTY IS  
7 EXEMPT FROM THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY UNDER  
8 THIS SUBTITLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 June 1, ~~2013~~ ~~2014~~ 2013, and shall be applicable to all taxable years beginning after  
11 June 30, ~~2013~~ 2014.

Approved:

\_\_\_\_\_  
Governor.

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Speaker of the House of Delegates.

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President of the Senate.