

HOUSE BILL 1455

L5, Q2

3lr3190

By: **Montgomery County Delegation and Prince George's County Delegation**

Introduced and read first time: February 21, 2013

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

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
14 facility for the generation of electricity that locates in Prince George's County
15 from certain taxes as specified in a payment in lieu of taxes agreement;
16 providing for the application of this Act; and generally relating to authorizing
17 the Maryland–National Capital Park and Planning Commission to enter into a
18 payment in lieu of taxes agreement with a facility for the generation of
19 electricity that locates in Prince George's County.

20 BY adding to

21 Article – Land Use

22 Section 18–309

23 Annotated Code of Maryland

24 (2012 Volume)

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

27 **Article – Land Use**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **18-309.**

2 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE
3 COMMISSION MAY ENTER INTO AN AGREEMENT WITH THE OWNER OF A
4 FACILITY FOR THE GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE
5 GEORGE'S COUNTY FOR A NEGOTIATED PAYMENT BY THE OWNER IN LIEU OF
6 TAXES IMPOSED ON REAL OR PERSONAL PROPERTY OF THE FACILITY UNDER
7 THIS SUBTITLE.

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

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

14 (II) ALL OR A SPECIFIED PART OF THE REAL OR PERSONAL
15 PROPERTY AT THE FACILITY SHALL BE EXEMPT FROM TAXES IMPOSED ON REAL
16 OR PERSONAL PROPERTY UNDER THIS SUBTITLE FOR THE TERM OF THE
17 AGREEMENT.

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

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

22 (II) REQUIRE THAT THE OBLIGATION OF THE OWNER OF A
23 FACILITY FOR THE GENERATION OF ELECTRICITY TO MAKE, IN A TIMELY
24 MANNER, A PAYMENT IN LIEU OF TAXES:

25 1. BE GUARANTEED BY APPROPRIATE ENTITIES
26 AFFILIATED WITH THE OWNER OF THE FACILITY;

27 2. BE A COVENANT RUNNING WITH THE LAND;

28 3. CREATE A LIEN ATTACHED TO THE PROPERTY
29 AND FIXTURES OF THE FACILITY THAT IS ENFORCEABLE IN ACCORDANCE WITH
30 THE MARYLAND CONTRACT LIEN ACT; AND

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

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

8 **(1) CERTIFICATES ENDORSED BY THE SECRETARY–TREASURER**
9 **OF THE COMMISSION AND THE DIRECTOR OF FINANCE OF PRINCE GEORGE’S**
10 **COUNTY AFFIRMING THAT THE TERMS OF THE AGREEMENT ARE REASONABLY**
11 **EXPECTED TO GENERATE MORE REVENUE FOR THE COMMISSION THAN WOULD**
12 **BE GENERATED IF THE FACILITY FOR THE GENERATION OF ELECTRICITY DID**
13 **NOT LOCATE IN PRINCE GEORGE’S COUNTY; AND**

14 **(2) THE AFFIRMATIVE APPROVAL OF THE TERMS OF THE**
15 **AGREEMENT BY THE COUNTY EXECUTIVE, COUNTY COUNCIL, AND PLANNING**
16 **BOARD OF PRINCE GEORGE’S COUNTY, AS EVIDENCED BY:**

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

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

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

20 **(C) EXCEPT AS OTHERWISE PROVIDED IN AN AGREEMENT UNDER THIS**
21 **SECTION, A PAYMENT IN LIEU OF TAXES THAT THE COMMISSION RECEIVES**
22 **SHALL BE DISTRIBUTED TO THE FUNDS OF THE COMMISSION IN THE SAME**
23 **PROPORTION THAT THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY**
24 **UNDER THIS SUBTITLE ARE DISTRIBUTED DURING THE FISCAL YEAR WHEN THE**
25 **PAYMENT IS RECEIVED.**

26 **(D) AS SPECIFIED IN AN AGREEMENT FOR A NEGOTIATED PAYMENT IN**
27 **LIEU OF TAXES UNDER THIS SECTION, FOR THE TERM SPECIFIED IN THE**
28 **AGREEMENT, THE REAL OR PERSONAL PROPERTY AT A FACILITY FOR THE**
29 **GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE GEORGE’S COUNTY IS**
30 **EXEMPT FROM THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY UNDER**
31 **THIS SUBTITLE.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 June 1, 2013, and shall be applicable to all taxable years beginning after June 30,
34 2013.