

HOUSE BILL 224

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P3

1998 Regular Session
8lr6068

By: **Chairman, Environmental Matters Committee (Departmental - Public Service Commission)**

Introduced and read first time: January 26, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission - Obsolete Jurisdiction**

3 FOR the purpose of repealing the jurisdiction of the Public Service Commission over
4 certain utility companies, including railroads, street railroads, airline
5 companies, power boat companies, towing companies, lightering companies, and
6 telegraph companies; and generally relating to the jurisdiction of the Public
7 Service Commission.

8 BY repealing and reenacting, with amendments,
9 Article - Public Utility Companies
10 Section 1-101, 2-118, 4-503, 6-202(b), 6-205(a), 9-101(c), and 12-301(b)(2)
11 Annotated Code of Maryland
12 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
13 1998)

14 BY repealing
15 Article - Public Utility Companies
16 Section 9-401 through 9-403, inclusive, and the subtitle "Subtitle 4.
17 Commission Provisions on Railroad Companies"
18 Annotated Code of Maryland
19 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
20 1998)

21 BY repealing and reenacting, with amendments,
22 Article - Labor and Employment
23 Section 5.5-106
24 Annotated Code of Maryland
25 (1991 Volume and 1997 Supplement)
26 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
27 1998)

28 BY repealing and reenacting, with amendments,

1 Chapter _____ (S.B. 1) of the Acts of the General Assembly of 1998
2 Section 5 3.

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

5 **Article - Public Utility Companies**

6 1-101.

7 (a) In this article the following words have the meanings indicated.

8 (b) "Commission" means the Public Service Commission.

9 (c) (1) "Common carrier" means a person, public authority, or federal, State,
10 district, or municipal transportation unit that is engaged in the public transportation
11 of persons for hire by land[, water, air, or any combination of them].

12 (2) "Common carrier" includes:

13 (i) [an airline company;

14 (ii)] a car company, motor vehicle company, automobile company, or
15 motor bus company;

16 [(iii) a power boat company, vessel-boat company, steamboat
17 company, or ferry company;

18 (iv) a railroad company, street railroad company, or sleeping car
19 company;

20 (v)] (II) a taxicab company;

21 [(vi)] (III) a toll bridge company; and

22 [(vii)] (IV) a transit company.

23 (3) "Common carrier" does not include:

24 (i) a county revenue authority;

25 (ii) a toll bridge or other facility owned and operated by a county
26 revenue authority; or

27 (iii) a vanpool [or launch] service.

28 (d) "Company", as a designation for a type of enterprise, includes a person that
29 owns a company individually or as an agent, trustee, or receiver of a company.

30 (e) "County" means a county of the State or Baltimore City.

1 (f) (1) "Electric company" means a public service company that:

2 (i) owns an electric plant and transmits, sells, or distributes
3 electricity;

4 (ii) generates electricity for distribution or sale; or

5 (iii) is authorized to install or maintain facilities in, over, or under
6 streets for furnishing or distributing electricity.

7 (2) "Electric company" includes a municipal corporation that is in the
8 business of supplying electricity for other than municipal purposes.

9 (3) "Electric company" does not include a company that generates or
10 transmits electricity exclusively for its own use.

11 (g) "Electric plant" means the material, equipment, and property owned by an
12 electric company.

13 (h) (1) "Gas company" means a public service company that:

14 (i) is authorized to install or maintain facilities in, over, or under
15 streets for furnishing or distributing gas; or

16 (ii) owns a gas plant and:

17 1. transmits, sells, supplies, or distributes artificial or
18 natural gas; or

19 2. manufactures gas for distribution or sale.

20 (2) "Gas company" includes a municipal corporation that is in the
21 business of supplying gas for other than municipal purposes.

22 (i) "Gas master meter operator" means a person that owns or operates a
23 pipeline system, other than piping within a building:

24 (1) that distributes gas within, but not limited to, a definable area, such
25 as a mobile home park, housing project, or apartment complex;

26 (2) for which the person purchases metered, artificial, or natural gas
27 from an outside source for resale through the pipeline system; and

28 (3) that supplies the ultimate consumer, who purchases the gas directly
29 through a meter or by other means, such as by rent.

30 (j) "Gas plant" means the material, equipment, and property owned by a gas
31 company.

32 (k) ["Launch service" means a power boat company that transports
33 passengers or freight between the shore and vessels on a body of water in the State.

1 (l)] "Own" includes own, operate, lease to or from, manage, or control.

2 [(m)] (L) "Person" means an individual, receiver, trustee, guardian, personal
3 representative, fiduciary, or representative of any kind and any partnership, firm,
4 association, corporation, or other entity.

5 [(n)] (M) "Plant" includes all material, equipment, and property owned by a
6 public service company and used or to be used for or in connection with a public utility
7 service.

8 [(o)] (N) "Proceeding" includes an action, complaint, hearing, investigation,
9 trial, appeal, order, or similar matter pending before, made, or conducted by an
10 official body.

11 [(p)] (O) "Public service company" means a common carrier company, electric
12 company, gas company, sewage disposal company, steam heating company, [telegraph
13 company,] telephone company, water company, or any combination of public service
14 companies.

15 [(q)] (1) "Railroad" means a common carrier by rail powered in any manner.

16 (2) "Railroad" includes branches, bridges, cars, extensions, ferries, plant,
17 spurs, stations, subways, switches, terminal facilities, tracks, tunnels, and equipment
18 used on or in connection with a railroad.

19 [(r)] (P) (1) "Rate" means a toll, fare, tariff, fee, price, or other charge, or a
20 combination of these items, by a public service company for public utility service.

21 (2) "Rate" includes a schedule, regulation, classification, or practice of a
22 public service company that affects:

23 (i) the amount of a charge; or

24 (ii) the nature and value of the service rendered for the charge.

25 [(s)] (Q) (1) "Record" means the original or a copy of any documentary
26 material.

27 (2) "Record" includes an account, book, chart, contract, document, file,
28 map, paper, profile, report, or schedule.

29 [(t)] (R) "Sewage disposal company" means a privately-owned public service
30 company that owns or maintains facilities for the disposal of sewage.

31 [(u)] (S) "Small rural electric cooperative" means an electric company that:

32 (1) serves only the consumers that exclusively own and control the
33 company;

34 (2) conducts its business on a not-for-profit basis; and

1 (3) supplies electricity to less than 1,000 electric meters in the State.

2 [(v)] (T) "State" means:

3 (1) a state, possession, territory, or commonwealth of the United States;
4 or

5 (2) the District of Columbia.

6 [(w)] (U) "Steam heating company" means a public service company that
7 manufactures, sells, or distributes steam for use, sale, or distribution.

8 [(x)] "Street railroad" means a railroad:

9 (1) that is not part of a trunk line railway system; and

10 (2) whose routes are mainly within Baltimore City or a municipal
11 corporation with a population of at least 2,000.

12 [(y)] (V) (1) "Taxicab" means a motor vehicle for hire that:

13 (i) is designed to carry seven or fewer individuals, including the
14 driver; and

15 (ii) is used to accept or solicit passengers for transportation
16 between points along public streets as the passengers request.

17 (2) "Taxicab" does not include a motor vehicle operated on a regular
18 schedule and between fixed points with the approval of the Commission as defined in
19 Title 11 of the Transportation Article.

20 [(z)] (W) "Telegraph company" means a public service company that:

21 (1) owns telegraph lines to receive, transmit, or communicate telegraphic
22 communications; or

23 (2) leases, licenses, or sells telegraphic communications.

24 [(aa)] (X) "Telegraph lines" means the material, equipment, and property
25 owned by a telegraph company.

26 [(bb)] (Y) (1) "Telephone company" means a public service company that:

27 (i) owns telephone lines to receive, transmit, or communicate
28 telephone or teletype communications; or

29 (ii) leases, licenses, or sells telephone or teletype communications.

30 (2) "Telephone company" does not include a cellular telephone company.

1 [(cc)] (Z) "Telephone lines" means the material, equipment, and property
2 owned by a telephone company.

3 [(dd)] (AA) "Toll bridge" means a bridge operated by a person authorized by
4 the Commission to charge and collect toll from traffic using the bridge.

5 [(ee)] (BB) (1) "Transportation of persons for hire" means the transportation of
6 persons by:

7 (i) regularly scheduled operations;

8 (ii) charter or contract operations; or

9 (iii) tour or sightseeing operations.

10 (2) "Transportation of persons for hire" includes the transportation of
11 persons, whether on the cooperative plan, carried by a corporation, group, or
12 association engaged in the transportation of its stockholders, shareholders, or
13 members.

14 [(ff)] (CC) "Water company" means a public service company that owns a water
15 plant and sells or distributes water for gain.

16 [(gg)] (DD) "Water plant" means the material, equipment, and property
17 owned by a water company.

18 2-118.

19 (a) This section does not apply to taxicabs[, power boat companies,] OR toll
20 bridges[, or towing and lightering companies].

21 (b) The Commission shall require each public service company subject to its
22 jurisdiction to formulate and, after approval by the Commission, to implement
23 long-range plans to provide service.

24 (c) The Commission shall require each electric company in the State to
25 include in the long-range plan adequate provisions to promote energy conservation to
26 decrease or moderate electric and, as appropriate, natural gas demand from
27 customers.

28 (d) (1) The Commission shall review each plan for adequacy under the
29 criteria of § 2-113 of this subtitle, giving attention to the interrelationship of services
30 of other public service companies and to provisions for research and development to
31 ensure adequate service.

32 (2) As part of the review, and subject to any applicable Freedom of
33 Information Act, the Commission shall consult with other state units and provide an
34 opportunity for public comment.

1 (3) The Commission shall require the revisions to a plan that the
2 Commission considers appropriate unless the authority to review and approve a plan
3 has been granted to another state unit by other law.

4 4-503.

5 (a) This section does not apply to service rendered or commodities furnished:

6 (1) to the officers, employees, pensioners, and immediate family
7 members of the officers, employees, and pensioners of a public service company;

8 (2) to the United States, the State, or a local government;

9 (3) to provide relief in cases of general epidemic, pestilence, flood, or
10 other similar calamity;

11 (4) in the case of common carriers, to transport:

12 (i) personnel of another common carrier that reciprocates for
13 personnel of the transporting common carrier;

14 (ii) hospital patients;

15 (iii) indigent, destitute, and homeless individuals;

16 (iv) persons exclusively engaged in charitable work;

17 (v) residents of federal or State veterans homes, including those
18 about to enter a home or those returning from a home;

19 [(vi) railway mail service employees and baggage agents;

20 (vii)] (VI) post office, customs, and immigration inspectors;

21 [(viii)] (VII) newspaper vendors;

22 [(ix)] (VIII) property for exhibition carried to or from fairs and
23 expositions;

24 [(x)] (IX) employees of [sleeping car companies,] express
25 companies[, telegraph companies,] and telephone companies doing business along
26 the line of the common carrier;

27 [(xi)] (X) persons [and property] incident to or connected with
28 contracts for construction, operation, or maintenance of the plant of the
29 transportation company, to the extent provided in the contracts;

30 [(xii)] (XI) individuals injured in accidents and physicians, nurses,
31 or other necessary caretakers attending the injured individuals in transit;

32 [(xiii)] (XII) children under the age of 5 years for no charge;

- 1 [(xiv)] (XIII) children under 12 years for half fare; or
- 2 [(xv)] (XIV) persons at free or reduced rates that are otherwise
- 3 authorized by law;
- 4 (5) in the case of common carriers, for the issuance of mileage, excursion,
- 5 or commuter tickets;
- 6 (6) [to free steamboat excursion transportation from May through
- 7 August of each year, from Baltimore City to any place in the State, in exchange for
- 8 services rendered in advertising the excursion business;
- 9 (7)] to obtain essential data by a method that uses a limited sample of
- 10 customers, in connection with a rate structure study conducted under formal
- 11 proceedings before the Commission; or
- 12 [(8)] (7) to telephone lifeline service provided to eligible subscribers
- 13 under § 8-201 of this article.
- 14 (b) For any service rendered or commodity furnished, a public service
- 15 company may not directly or indirectly, by any means, including special rates,
- 16 rebates, drawbacks, or refunds:
- 17 (1) charge, demand, or receive from a person compensation that is
- 18 greater or less than from any other person under substantially similar circumstances;
- 19 (2) extend a privilege or facility to a person, except those privileges and
- 20 facilities that are extended uniformly to all persons under substantially similar
- 21 circumstances;
- 22 (3) discriminate against a person, locality, or particular class of service;
- 23 or
- 24 (4) give undue or unreasonable preference to or cause undue or
- 25 unreasonable prejudice to a person, locality, or particular class of service.

26 6-202.

- 27 (b) Two public service companies are of the same class, if they are both:

- 28 (1) common carrier companies;
- 29 (2) electric companies;
- 30 (3) gas companies;
- 31 (4) gas and electric companies;
- 32 (5) sewage disposal companies;
- 33 (6) steam heating companies;

1 (7) [telegraph companies;
2 (8)] telephone companies; or
3 [(9)] (8) water companies.

4 6-205.

5 (a) (1) [This subsection does not apply to railroads.

6 (2)] Each public service company shall file with the Commission an
7 annual report containing information on its corporate structure, affiliations of its
8 officers and directors, and debt holdings.

9 [(3)] (2) Notwithstanding any specific reporting requirements in this
10 subtitle, the Commission may prescribe the contents of the annual report to be filed
11 by a public service company whose gross annual revenues for the most recent
12 calendar year for which data are available are less than 0.003% of the total gross
13 annual revenues of all public service companies in the State during the same calendar
14 year.

15 9-101.

16 (c) A common carrier is not required to allow any other common carrier to use
17 its [tracks or] terminal facilities.

18 [Subtitle 4. Commission Provisions on Railroad Companies.]

19 [9-401.

20 (a) Unless the Commission orders otherwise, a railroad company shall have
21 sufficient cars and motive power to meet all requirements that reasonably may be
22 anticipated to transport passengers, property, and freight.

23 (b) (1) If a railroad company does not have sufficient cars to meet the
24 demand to transport freight in carload lots, the railroad company shall distribute
25 available cars to shippers that apply.

26 (2) Except for giving priority to transporting livestock or perishable
27 property, a railroad company may not discriminate in any way, including preferences
28 as to shippers, localities, or competitive or noncompetitive points, when supplying
29 cars under this section.]

30 [9-402.

31 (a) This section does not affect the duties of a railroad company or the powers
32 of the Commission regarding joint rates.

33 (b) A railroad company shall receive freight cars of proper standard from
34 other railroad companies at connecting points and haul the cars:

- 1 (1) to their destination; or
- 2 (2) by the route billed, to the connecting point with the next connecting
- 3 carrier.

4 (c) Except on terms and conditions that the Commission establishes, railroad

5 companies may not be required to interchange cars.]

6 [9-403.

7 (a) If safe to install, reasonably practicable, and justified by the volume of

8 business, a railroad company, on the application of a shipper, shall construct,

9 maintain, and operate on reasonable terms:

10 (1) a switch connection or a connection with a lateral line of railroad or

11 private sidetrack owned by the shipper; or

12 (2) a sidetrack and switch connection for the shipper on property owned

13 by the railroad company.

14 (b) The Commission shall regulate installation, maintenance, and

15 compensation under this section.

16 (c) A railroad company may terminate connections that it provides under this

17 section if the Commission determines that the required conditions are no longer

18 satisfied.]

19 12-301.

20 (b) (2) "Communication service" includes the transmission of intelligence by

21 telephone lines, [telegraph lines,] messenger-call, police, fire alarm, and traffic

22 control circuits and circuits used to transmit standard television or radio signals.

23 **Article - Labor and Employment**

24 5.5-106.

25 (a) [(1)] The proposed budget of the Division of Labor and Industry shall

26 include an appropriation from the General Fund of the State to cover the cost of

27 administering this title.

28 [(2) Unless the Board of Public Works exercises the option under

29 subsection (b) of this section, the Public Service Commission shall reimburse the

30 General Fund for the cost of administering this title from money the Public Service

31 Commission receives under § 2-110 of the Public Utility Companies Article.]

32 (b) (1) The Board of Public Works may adopt a regulation to assess, fairly

33 and as equally as possible, each railroad company operating in the State the cost of

34 the State's share of activities under this title.

1 (2) The amount to be reimbursed to the State General Fund may not
2 exceed \$1 million in any fiscal year.

3 **Chapter _____ (S.B. 1) of the Acts of 1998**

4 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 207 through
5 210, inclusive, of Article 23 - Miscellaneous Companies of the Annotated Code of
6 Maryland be repealed and reenacted, with amendments, and transferred to the
7 Session Laws, to read as follows:

8 **CONSOLIDATIONS AND TRANSFERS OF ASSETS OF RAILROAD COMPANIES**

9 3.

10 It shall be lawful for any railroad company, incorporated under the laws of this
11 State, or of any other state of the United States, owning a railroad in this State,
12 connecting with that of any other railroad company of this State, or of any other state
13 of the United States, in this State, and owning at least two thirds of the capital stock
14 of the latter, to acquire, in the manner hereinafter provided, and thereafter to be
15 possessed of, own, hold, exercise and enjoy, all the property, real and personal, and all
16 the rights, privileges and franchises and credits then possessed, owned, held or
17 exercised by said last-mentioned vendor corporation; and such acquisition shall be
18 effected in the manner and upon the conditions hereinafter stated, to wit:

19 First. The corporations shall, pursuant to resolution duly adopted by the
20 directors of each, make and execute, under their respective corporate seals, duly
21 attested, an agreement providing for such acquisition and sale, specifying all
22 essential details, terms, stipulations and conditions thereof, and particularly showing
23 the number of outstanding shares of capital stock of the vendor corporation, the
24 amount fixed as the price or value per share thereof, and the mode by which the
25 respective holders shall receive payment for the same, and with a map of the railroad
26 to be acquired thereunder, annexed to and made part thereof.

27 Second. Said agreement, after due notice is given all directors of such
28 corporation, shall be submitted for approval or disapproval to the stockholders of each
29 corporation at separate meetings, either annual or special, duly convened, and if said
30 agreement shall be approved by a majority of the stockholders of each corporation
31 present at such meeting, then that fact shall be certified by the secretary of each
32 corporation under its corporate seal[, and a copy of the agreement, with said
33 certificates attached, shall be filed with an application drawn in accordance with the
34 regulations of the Public Service Commission of Maryland, with the Public Service
35 Commission of Maryland, for their approval; and upon the approval thereof by the
36 Public Service Commission of Maryland, a]. A copy of the agreement, [with a certified
37 copy of the order of Public Service Commission of Maryland approving the same,]
38 shall be filed in the office of the Secretary of State of this State; and immediately
39 upon the filing thereof all the property, real and personal and mixed, and all the
40 corporate rights, privileges and franchises and credits, owned, possessed, held, used,
41 or otherwise exercised, by the vendor corporation, shall (subject, however, to full
42 payment in the manner prescribed by said agreement of the stipulated price or value

1 of the whole capital stock of said vendor corporation), become and be vested in the
2 acquiring corporation, subject to all the debts, liabilities and duties of said vendor
3 corporation, and shall thereafter be possessed, held, used, exercised and enjoyed by
4 said acquiring corporation, as fully, completely and absolutely in all respects as the
5 same had been theretofore owned, held, exercised and enjoyed by said vendor
6 corporation; and said acquiring corporation may also, with respect to the property so
7 acquired, have, exercise and enjoy all the rights, powers, privileges and franchises
8 which it has and may exercise respecting its other railroads and property. Upon the
9 filing in the office of the Secretary of State of said copy of agreement as hereinabove
10 provided, the capital stock of said vendor corporation shall be wholly extinguished by
11 payment, in the mode prescribed in said agreement, of the stipulated price or value
12 thereof, and all certificates, representative thereof, shall be delivered to the acquiring
13 corporation for immediate cancellation, and all corporate rights, privileges and
14 franchises and property of every kind and nature acquired under said agreement,
15 shall thereafter be represented by the capital stock of the acquiring corporation, and
16 thereupon the corporate existence of the said vendor corporation shall terminate.

17 Third. That the copy of said agreement, filed in the office of the Secretary of
18 State, as hereinabove as in this section provided, shall be evidence of the lawful
19 holding of the meetings of the stockholders of each corporation, and of the due
20 approval of the said agreement as required by this section[, both] by the stockholders
21 [and Public Service Commission of Maryland], and also of the precedent action of the
22 directors of each corporation. If any stockholder or stockholders of the railroad
23 corporation, whose franchises, corporate property, rights, privileges and credits are
24 acquired under said agreement, shall be dissatisfied with said acquisition, and the
25 terms and conditions thereof contained in said agreement, then it shall and may be
26 lawful for any such stockholder or stockholders, within thirty days after the filing of
27 said agreement in the office of the Secretary of State as hereinabove provided, to
28 apply by petition to the circuit court for the county in which the chief office of the said
29 vendor corporation may be situated, to appoint three disinterested persons to
30 estimate and appraise the damage, if any, which such stockholder or stockholders
31 shall suffer or sustain by reason of the purchase and acquisition provided for by said
32 agreement and whose award, or that of a majority of them, when confirmed by said
33 court, shall be final and conclusive; and the person so appointed shall also appraise
34 the share or shares of said stockholders in the said company, at the market value
35 thereof, without regard to any depreciation resulting from said purchase and
36 acquisition, and the said company may, at its election, either pay to the said holder
37 the amount of damages so found, or the value of the stock so ascertained, and upon
38 payment of the value of the stock, as aforesaid, the same shall be transferred to and
39 be vested in said acquiring company.

40 Fourth. In connection with and upon consummation of such acquisition as
41 aforesaid, the acquiring company may issue its own then authorized capital stock or
42 its own bonds, either or both, at not less than the par or face value thereof, to such
43 amount as may be required by said agreement, or as may be found otherwise
44 necessary for paying and extinguishing the outstanding capital stock and bonded
45 indebtedness, or either, of the corporation whose rights, property, privileges,
46 franchises and credits are so acquired.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1998.