

SENATE BILL 772

C5, M3

9lr1715
CF 9lr2270

By: **Senator Edwards**

Introduced and read first time: February 6, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Generating Facility Decommissioning and Restoration – Surcharge**
3 **or Bond or Other Security – Fund**

4 FOR the purpose of requiring the Public Service Commission to establish a surcharge
5 on certain electric generating facilities for a certain purpose on the basis of
6 certain factors; requiring the Comptroller to collect the revenue from the
7 surcharge and deposit it into the Maryland Electric Generating Facility
8 Decommissioning and Restoration Fund; requiring the Commission to review
9 the amount of the surcharge at certain intervals; authorizing the Commission to
10 adjust the surcharge on review; authorizing an electric generating facility to
11 post a certain bond or other security in lieu of a surcharge under certain
12 circumstances; requiring the Commission to collect the bond or other security
13 and deposit it in the Fund; requiring the Commission to adopt certain
14 regulations relating to the surcharge and the bond or other security;
15 establishing the Fund for certain purposes; providing for the use, accounting,
16 and administration of the Fund; requiring the Commission to adopt certain
17 regulations relating to the Fund; requiring the State Treasurer to invest the
18 Fund and disburse any revenue from the investment in a certain manner;
19 requiring the Commission to submit a certain report by a certain date each year
20 to the Governor and the General Assembly; and generally relating to the
21 financing of decommissioning and restoration of electric generating facilities in
22 the State.

23 BY adding to

24 Article – Public Utility Companies

25 Section 7–213 and 7–214

26 Annotated Code of Maryland

27 (2008 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Public Utility Companies

7-213.

(A) THIS SECTION APPLIES TO ALL ELECTRIC GENERATING FACILITIES LOCATED IN THE STATE, INCLUDING THOSE EXEMPT FROM CERTIFICATION UNDER § 7-207.1 OF THIS SUBTITLE, EXCEPT:

(1) NUCLEAR GENERATING FACILITIES; AND

(2) FACILITIES FOR ON-SITE GENERATION.

(B) (1) THE COMMISSION SHALL ESTABLISH A SURCHARGE ON ELECTRIC GENERATING FACILITIES FOR THE PURPOSE OF ENSURING THAT ADEQUATE FUNDS EXIST TO:

(I) DECOMMISSION ELECTRIC GENERATING FACILITIES ONCE THEY CEASE TO OPERATE; AND

(II) RESTORE THE SITES ON WHICH ELECTRIC GENERATING FACILITIES OPERATED TO THEIR PREOPERATING CONDITION.

(2) THE COMMISSION MAY ESTABLISH THE SURCHARGE IN PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE OUTPUT OR PRODUCTION CAPACITY OF THE ELECTRIC GENERATING FACILITY.

(C) THE COMPTROLLER SHALL COLLECT THE REVENUE FROM THE SURCHARGE IMPOSED UNDER SUBSECTION (B) OF THIS SECTION AND PLACE THE REVENUE INTO THE MARYLAND ELECTRIC GENERATING FACILITY DECOMMISSIONING AND RESTORATION FUND ESTABLISHED UNDER § 7-214 OF THIS SUBTITLE.

(D) (1) THE COMMISSION SHALL REVIEW THE AMOUNT OF THE SURCHARGE AT STANDARD INTERVALS DETERMINED BY THE COMMISSION.

(2) THE COMMISSION MAY ADJUST THE AMOUNT OF THE SURCHARGE ON REVIEW.

(E) (1) IN LIEU OF THE SURCHARGE ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN ELECTRIC GENERATING FACILITY MAY POST A BOND OR OTHER SECURITY ACCEPTABLE TO THE COMMISSION.

1 (2) THE COMMISSION SHALL COLLECT THE BOND OR OTHER
2 SECURITY POSTED BY THE ELECTRIC GENERATING FACILITY UNDER
3 PARAGRAPH (1) OF THIS SUBSECTION AND DEPOSIT IT IN THE ELECTRIC
4 GENERATING FACILITY DECOMMISSIONING AND RESTORATION FUND UNDER §
5 7-214 OF THIS SUBTITLE.

6 (F) (1) THE COMMISSION SHALL ESTABLISH REGULATIONS TO
7 IMPLEMENT THIS SECTION.

8 (2) THE REGULATIONS SHALL INCLUDE:

9 (I) CRITERIA FOR ESTABLISHING THE AMOUNT OF THE
10 SURCHARGE;

11 (II) THE FREQUENCY WITH WHICH THE COMMISSION WILL
12 REVIEW THE AMOUNT OF THE SURCHARGE;

13 (III) CRITERIA FOR DETERMINING WHETHER OR NOT TO
14 ADJUST THE AMOUNT OF THE SURCHARGE ON REVIEW; AND

15 (IV) CRITERIA FOR ESTABLISHING THE AMOUNT AND
16 ADEQUACY OF A BOND OR OTHER SECURITY PROPOSED UNDER SUBSECTION (E)
17 OF THIS SECTION.

18 7-214.

19 (A) THERE IS A MARYLAND ELECTRIC GENERATING FACILITY
20 DECOMMISSIONING AND RESTORATION FUND.

21 (B) THE PURPOSE OF THE FUND IS TO ENSURE THAT ADEQUATE FUNDS
22 EXIST TO DECOMMISSION ELECTRIC GENERATING FACILITIES AND TO RESTORE
23 THE SITE ON WHICH THEY OPERATE TO PREOPERATING CONDITION.

24 (C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
25 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

26 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY
27 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

28 (D) THE FUND CONSISTS OF SURCHARGE OR ANY BOND OR OTHER
29 SECURITY PAID UNDER § 7-213 OF THIS SUBTITLE.

1 (E) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FUND**
2 **MAY BE USED ONLY FOR THE PURPOSE SET FORTH IN SUBSECTION (B) OF THIS**
3 **SECTION.**

4 (2) **THE COMMISSION MAY ALLOW THE USE OF NOT MORE THAN**
5 **10% OF THE MONEY PLACED IN THE FUND FOR ADMINISTRATIVE EXPENSES**
6 **RELATED TO THE FUND, INCLUDING PROJECT REVIEW AND OVERSIGHT.**

7 (F) (1) **SURCHARGES OR BONDS OR OTHER SECURITY PAID BY AN**
8 **ELECTRIC GENERATING FACILITY UNDER § 7-213 OF THIS SUBTITLE SHALL BE**
9 **ACCOUNTED FOR SEPARATELY WITHIN THE FUND.**

10 (2) **DISBURSEMENTS FROM THE FUND TO DECOMMISSION A**
11 **FACILITY OR TO RESTORE A SITE MAY ONLY BE PAID FROM THE ACCOUNT**
12 **CREATED FOR THE FACILITY.**

13 (G) **THE COMMISSION SHALL:**

14 (1) **ADMINISTER THE FUND;**

15 (2) **ADOPT ELIGIBILITY CRITERIA FOR PROJECTS SUPPORTED BY**
16 **THE FUND BY REGULATION;**

17 (3) **RECEIVE AND REVIEW APPLICATIONS FOR DISBURSEMENTS**
18 **FROM THE FUND; AND**

19 (4) **APPROVE OR DISAPPROVE APPLICATIONS FOR**
20 **DISBURSEMENTS FROM THE FUND.**

21 (H) (1) **THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
22 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

23 (2) **ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**
24 **CREDITED TO THE FUND AND SPLIT EVENLY AMONG FACILITY ACCOUNTS.**

25 (I) (1) **ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE**
26 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
27 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON**
28 **THE STATUS OF THE FUND.**

29 (2) **THE REPORT SHALL INCLUDE:**

30 (I) **ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE**
31 **FUND IN THE PRECEDING CALENDAR YEAR;**

1 **(II) THE EVALUATION CRITERIA THAT THE COMMISSION**
2 **USED TO MAKE DISBURSEMENTS FROM THE FUND;**

3 **(III) THE PROJECTED RECEIPTS OF THE FUND IN THE**
4 **CURRENT CALENDAR YEAR; AND**

5 **(IV) PLANS FOR THE USE OF THE FUND IN THE CURRENT**
6 **CALENDAR YEAR.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2009.