

CHAPTER 167

(House Bill 1407)

AN ACT concerning

Environmental Trust Fund – Environmental Surcharge – Sunset Extension

FOR the purpose of extending the termination date of a certain surcharge on electrical energy distributed to retail electric customers in the State; repealing an obsolete provision; and generally relating to the Environmental Trust Fund and the environmental surcharge on electricity distributed to retail electric customers.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–302
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–203
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

3–302.

(a) (1) There is an Environmental Trust Fund.

(2) For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utility Companies Article. The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers' bills. To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable

expenses, for rate-making purposes. Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(b) (1) The Secretary, in consultation with the Director of the Maryland Energy Administration, annually shall coordinate the preparation of a budget required to carry out the provisions of this subtitle. Upon approval of the budget by the General Assembly, the Public Service Commission shall establish the amount of the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent fiscal year.

(2) Notwithstanding any other provisions of this subtitle, the amount of the surcharge for each account for each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or \$1,000 per month and the surcharge may not continue beyond fiscal year [2010] **2015**.

(3) The Comptroller shall maintain the method of collection of the surcharge from the companies and the collections shall accrue to the Fund. The Department shall credit against the amount required to be paid into the Environmental Trust Fund by each electric company an amount equal to 0.75% of the total surcharge attributed to each company on the basis of the electricity distributed within Maryland.

(c) (1) **(I)** The Secretary shall administer the Fund.

(II) The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management.

(III) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(IV) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(V) Except as provided in paragraph (2) of this subsection, the moneys in the Fund shall be used to carry out the provisions of this subtitle as provided for in the budget[, except that 10% of all moneys accruing to the Fund from July 1, 1978 through June 30, 1983 shall be used to supplement funds necessary to carry out the duties of the People's Counsel of the Public Service Commission. The People's Counsel shall submit an annual budget of necessary supplemental funds to the Department to be incorporated in the Department's budget].

(VI) For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization,

industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact.

(VII) The Secretary may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed \$250,000 in any fiscal year.

(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an operating cost of the Fund.

Article – Public Utility Companies

7-203.

(a) (1) The Commission shall:

(i) impose an environmental surcharge per kilowatt hour of electricity distributed to retail electric customers within the State; and

(ii) authorize each electric company to add the full amount of the surcharge to its customers' bills.

(2) To the extent that an electric company fails to collect the surcharge from its customers, the amount uncollected shall be deemed a cost of power distribution and allowed and computed as such together with other allowable expenses for purposes of rate making.

(b) (1) The Comptroller shall collect the revenue from the surcharge imposed under subsection (a) of this section and place the revenue into a special fund, the Environmental Trust Fund.

(2) The Comptroller shall maintain the method of collection of the surcharge from each electric company, and the money collected shall accrue to the Fund.

(c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate the preparation of the annual budget required to carry out the provisions of the Power Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

(2) Each fiscal year, on approval of the annual budget by the General Assembly for the Power Plant Research Program, the Commission shall establish the amount of the environmental surcharge per kilowatt hour of electric energy distributed in the State that is to be imposed on each electric company in accordance with subsection (a) of this section.

(d) (1) Notwithstanding any other provision of this subtitle, the amount of the surcharge for each account of each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or \$1,000 per month.

(2) The Department of Natural Resources shall credit against the amount the Commission requires each electric company to pay into the Environmental Trust Fund 0.75% of the total surcharge amount attributed to the electric company on the basis of the amount of the electricity distributed in the State.

(e) To the extent that the Commission requires an electric company to report the total estimated kilowatt hours of electricity distributed in the State in order to calculate the surcharge under subsection (a)(1) of this section, a small rural electric cooperative described in § 7-502(a) of this title may satisfy the requirement by submitting to the Commission an estimate made in accordance with a formula approved by the Commission from information that the small rural electric cooperative submits to the rural utilities service that includes the required information.

(f) The surcharge imposed under this subtitle shall terminate on June 30, [2010] **2015**.

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

Approved by the Governor, April 14, 2009.