

# HOUSE BILL 1013

C5, M3  
HB 749/09 – ECM

0lr3266  
CF SB 200

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By: **Delegate Beitzel**

Introduced and read first time: February 15, 2010

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Wind–Powered Electric Generating Facilities – Decommissioning and**  
3 **Restoration – Surcharge, Bond, or Other Security, and Fund**

4 FOR the purpose of requiring the Public Service Commission to establish a surcharge  
5 on certain wind–powered electric generating facilities in the State for a certain  
6 purpose on the basis of certain factors; requiring the Comptroller to collect the  
7 revenue from the surcharge and deposit it into the Maryland Wind–Powered  
8 Electric Generating Facility Decommissioning and Restoration Fund; requiring  
9 the Commission to review the amount of the surcharge at certain intervals;  
10 authorizing the Commission to adjust the surcharge on review; authorizing a  
11 wind–powered electric generating facility to post a certain bond or other  
12 security in lieu of a surcharge under certain circumstances; requiring the  
13 Commission to collect the bond or other security and deposit it in the Fund;  
14 requiring the Commission to adopt certain regulations relating to the surcharge  
15 and the bond or other security; establishing the Fund for certain purposes;  
16 providing for the use, accounting, and administration of the Fund; providing for  
17 the investment of the Fund and disbursement of any revenue from the  
18 investment in a certain manner; requiring the Commission to adopt certain  
19 regulations relating to the Fund; requiring the Commission to submit a certain  
20 report by a certain date each year to the Governor and the General Assembly;  
21 and generally relating to the financing of decommissioning and restoration of  
22 wind–powered electric generating facilities in 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 2009 Supplement)

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

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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 WIND-POWERED ELECTRIC GENERATING FACILITIES LOCATED IN THE STATE WITH AN ELECTRIC GENERATING CAPACITY THAT DOES NOT EXCEED 70 MEGAWATTS, INCLUDING FACILITIES FOR ON-SITE GENERATION.

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

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

(II) RESTORE THE SITES ON WHICH WIND-POWERED ELECTRIC GENERATING FACILITIES OPERATED TO PREOPERATION CONDITION.

(2) THE COMMISSION MAY ESTABLISH THE SURCHARGE IN PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE OUTPUT OR PRODUCTION CAPACITY OF THE INDIVIDUAL WIND-POWERED 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 WIND-POWERED ELECTRIC GENERATING FACILITY DECOMMISSIONING AND RESTORATION FUND 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, A WIND-POWERED ELECTRIC GENERATING FACILITY MAY POST A BOND OR OTHER SECURITY ACCEPTABLE TO THE COMMISSION.

(2) THE COMMISSION SHALL COLLECT THE BOND OR OTHER SECURITY POSTED BY THE WIND-POWERED ELECTRIC GENERATING FACILITY

1 UNDER PARAGRAPH (1) OF THIS SUBSECTION AND DEPOSIT IT IN THE  
2 MARYLAND WIND-POWERED ELECTRIC GENERATING FACILITY  
3 DECOMMISSIONING AND RESTORATION FUND UNDER § 7-214 OF THIS  
4 SUBTITLE.

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

7 (2) THE REGULATIONS SHALL INCLUDE:

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

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

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

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

17 7-214.

18 (A) THERE IS A MARYLAND WIND-POWERED ELECTRIC GENERATING  
19 FACILITY DECOMMISSIONING AND RESTORATION FUND.

20 (B) THE PURPOSE OF THE FUND IS TO ENSURE THAT ADEQUATE FUNDS  
21 EXIST TO DECOMMISSION WIND-POWERED ELECTRIC GENERATING FACILITIES  
22 AND TO RESTORE THE SITES ON WHICH THEY OPERATE TO PREOPERATION  
23 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 THE 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 BOND OR OTHER SECURITY PAID BY**  
8 **WIND-POWERED ELECTRIC GENERATING FACILITIES UNDER § 7-213 OF THIS**  
9 **SUBTITLE SHALL BE ACCOUNTED FOR SEPARATELY WITHIN THE FUND.**

10           **(2) DISBURSEMENTS FROM THE FUND TO DECOMMISSION A**  
11 **FACILITY OR TO RESTORE A SITE MAY BE PAID ONLY FROM THE ACCOUNT**  
12 **CREATED FOR THE INDIVIDUAL WIND-POWERED ELECTRIC GENERATING**  
13 **FACILITY.**

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

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

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

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

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

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

24                   **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**  
25 **CREDITED TO THE FUND, AND SPLIT EVENLY AMONG INDIVIDUAL**  
26 **WIND-POWERED ELECTRIC GENERATING FACILITY ACCOUNTS.**

27           **(I) (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE**  
28 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**  
29 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON**  
30 **THE STATUS OF THE FUND.**

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

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

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

5                   **(III) THE PROJECTED RECEIPTS OF THE FUND IN THE**  
6 **CURRENT CALENDAR YEAR; AND**

7                   **(IV) PLANS FOR THE USE OF THE FUND IN THE CURRENT**  
8 **CALENDAR YEAR.**

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2010.