

# SENATE BILL 376

L6, C5  
SB 835/20 – EHE

2lr2670  
CF 2lr0560

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By: **Senator Lee**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **County and Municipal Street Lighting Investment Act**

3 FOR the purpose of authorizing a certain county or municipality to convert its street  
4 lighting service to a customer-owned street lighting tariff, acquire certain street  
5 lighting equipment by purchase or condemnation, enter into an agreement to  
6 purchase electricity, and request that an electric company remove certain street  
7 lighting equipment in the county's or municipality's jurisdiction; authorizing certain  
8 disputes to be submitted to the Public Service Commission for resolution; requiring  
9 a jury to determine the fair market value of certain street lighting equipment subject  
10 to a condemnation proceeding in a certain manner; requiring each electric company  
11 to file with the Commission a certain customer-owned street lighting tariff for street  
12 lighting on or before a certain date; requiring the Commission to issue a decision  
13 regarding the adoption of a certain customer-owned street lighting tariff within a  
14 certain period of time; requiring the Commission to issue a determination on a  
15 dispute regarding the acquisition of certain street lighting equipment and the terms  
16 of a certain customer-owned street lighting tariff within a certain period of time; and  
17 generally relating to the purchase of street lighting equipment by a county or  
18 municipality from an electric company and tariffs for street lighting.

19 BY repealing and reenacting, with amendments,

20 Article – Local Government  
21 Section 1–1309  
22 Annotated Code of Maryland  
23 (2013 Volume and 2021 Supplement)

24 BY adding to

25 Article – Public Utilities  
26 Section 4–212  
27 Annotated Code of Maryland  
28 (2020 Replacement Volume and 2021 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Local Government**

4 1–1309.

5 (a) (1) In this section[, “electric”] **THE FOLLOWING WORDS HAVE THE**  
6 **MEANINGS INDICATED.**

7 (2) **“ELECTRIC company”** has the meaning stated in § 1–101 of the Public  
8 Utilities Article.

9 (3) **“FAIR MARKET VALUE”** MEANS THE NET BOOK VALUE OF THE  
10 PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION  
11 (FERC) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE  
12 USED FOR STANDARD RATE SETTING, AS THE ORIGINAL COST OF THE PROPERTY,  
13 LESS DEPRECIATION, OF ANY ACTIVE OR INACTIVE EXISTING STREET LIGHTING  
14 EQUIPMENT INSTALLED IN THE COUNTY OR MUNICIPALITY AS OF THE DATE THE  
15 COUNTY OR MUNICIPALITY ENTERS INTO AN AGREEMENT TO PURCHASE THE  
16 PROPERTY, EXERCISES ITS RIGHT OF CONDEMNATION, OR REQUESTS THE REMOVAL  
17 OF THE EQUIPMENT.

18 (4) (I) **“STREET LIGHTING EQUIPMENT”** MEANS ALL EQUIPMENT  
19 OWNED BY AN ELECTRIC COMPANY USED TO LIGHT STREETS IN THE COUNTY OR  
20 MUNICIPALITY.

21 (II) **“STREET LIGHTING EQUIPMENT”** INCLUDES:

22 1. ALL CAPITAL EQUIPMENT AS DEFINED UNDER FERC  
23 ACCOUNT 373;

24 2. LIGHTING BALLASTS, LUMINAIRES, MAST ARMS,  
25 PHOTOCELLS, SUPPLY CIRCUITS TERMINATING AT THE LUMINAIRE, AND ANY OTHER  
26 EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRIC ENERGY INTO STREET  
27 LIGHTING;

28 3. DECORATIVE STREET AND AREA LIGHTING;

29 4. SOLID–STATE LED LIGHTING TECHNOLOGIES; AND

30 5. INDUCTION LIGHTING TECHNOLOGIES.

1                   **(III) “STREET LIGHTING EQUIPMENT” DOES NOT INCLUDE JOINT**  
2 **USE UTILITY POLES ON WHICH THE EQUIPMENT IS FIXED.**

3           **(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

4                   **(1) LOCAL GOVERNMENTS ARE MANDATED TO PAY ELECTRIC**  
5 **COMPANIES LARGE SUMS EVERY YEAR TO LIGHT STREETS IN COUNTIES AND**  
6 **MUNICIPALITIES;**

7                   **(2) COUNTIES AND MUNICIPALITIES ARE LIMITED IN HOW THIS**  
8 **PUBLIC SAFETY RESOURCE CAN BE MANAGED BECAUSE THE COUNTIES AND**  
9 **MUNICIPALITIES OFTEN DO NOT OWN OR CONTROL THE STREET LIGHTING**  
10 **EQUIPMENT WITHIN THEIR JURISDICTIONS;**

11                   **(3) STREET LIGHTING IS A SIGNIFICANT ENERGY EXPENSE FOR**  
12 **COUNTIES AND MUNICIPALITIES AND PRESENTS AN OPPORTUNITY FOR**  
13 **COMMUNITIES TO REDUCE THEIR CARBON FOOTPRINT AND ADDRESS CLIMATE**  
14 **CHANGE THROUGH EFFICIENCY UPGRADES;**

15                   **(4) THERE IS OFTEN INSUFFICIENT INCENTIVE IN THE APPLICABLE**  
16 **ELECTRIC RATE TARIFF FOR INSTALLING ENERGY EFFICIENT LIGHTING**  
17 **TECHNOLOGIES THAT MAY REDUCE BOTH POWER AND MAINTENANCE EXPENSES;**

18                   **(5) THERE IS NO ADEQUATE PROVISION IN THE APPLICABLE**  
19 **ELECTRIC RATE TARIFF FOR COUNTIES AND MUNICIPALITIES TO WORK**  
20 **COLLECTIVELY TO MANAGE THE MAINTENANCE OF STREET LIGHTING EQUIPMENT;**

21                   **(6) COUNTIES AND MUNICIPALITIES AROUND THE COUNTRY HAVE**  
22 **SAVED CONSIDERABLE RESOURCES BY PURCHASING THEIR STREET LIGHTING**  
23 **EQUIPMENT FROM ELECTRIC COMPANIES AND CONTRACTING FOR THE**  
24 **MAINTENANCE INDEPENDENTLY; AND**

25                   **(7) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE**  
26 **SHOULD BE IMPROVED BY:**

27                   **(I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT**  
28 **PROVIDE BETTER ILLUMINATION;**

29                   **(II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES**  
30 **AND MUNICIPALITIES TO OWN THE STREET AND AREA LIGHTING WITHIN THEIR**  
31 **JURISDICTIONS AND TO ENTER INTO REGIONAL MAINTENANCE SERVICE**  
32 **CONTRACTS;**

1 (III) REDUCING WHOLE SYSTEM COST THROUGH COUNTY OR  
2 MUNICIPAL OWNERSHIP AND BY ADOPTING TARIFFS THAT INCLUDE ONLY THE  
3 DISTRIBUTION ENERGY CONSUMED;

4 (IV) PROVIDING FOR THE USE OF INNOVATIVE TECHNOLOGIES  
5 FOR MORE EFFICIENT LIGHTING; AND

6 (V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING  
7 REPAIRS.

8 [(b)] (C) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
9 SUBSECTION, THIS section applies to all counties and municipalities.

10 (2) THIS SECTION DOES NOT APPLY TO STREET LIGHTING  
11 EQUIPMENT OWNED BY A MUNICIPAL ELECTRIC UTILITY.

12 [(c) On written request by a county or municipality, an electric company shall sell  
13 to the county or municipality some or all of the electric company's existing street lighting  
14 equipment that is located in the county or municipality.]

15 (D) (1) AFTER GIVING 60 DAYS' WRITTEN NOTICE TO THE ELECTRIC  
16 COMPANY AND THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY  
17 THAT RECEIVES STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN  
18 ACCORDANCE WITH A TARIFF PROVIDING FOR THE USE BY THE COUNTY OR  
19 MUNICIPALITY OF STREET LIGHTING EQUIPMENT OWNED BY THE ELECTRIC  
20 COMPANY MAY:

21 (I) CONVERT ITS STREET LIGHTING SERVICE TO A  
22 CUSTOMER-OWNED STREET LIGHTING TARIFF SET IN ACCORDANCE WITH § 4-212  
23 OF THE PUBLIC UTILITIES ARTICLE;

24 (II) SUBMIT A REQUEST TO ACQUIRE THE STREET LIGHTING  
25 EQUIPMENT FROM THE ELECTRIC COMPANY AT SOME OR ALL LOCATIONS WITHIN  
26 THE COUNTY OR MUNICIPALITY; AND

27 (III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY.

28 (2) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY  
29 FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE  
30 STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE  
31 EQUIPMENT BY CONDEMNATION.

32 [(d)] (E) (1) If the county or municipality [purchases] ACQUIRES street  
33 lighting equipment from an electric company AND CONVERTS THE STREET LIGHTING

1 SERVICE TO A CUSTOMER-OWNED STREET LIGHTING TARIFF IN ACCORDANCE WITH  
2 SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric  
3 company the fair market value of the street lighting equipment.

4 (2) (I) AFTER ACQUIRING STREET LIGHTING EQUIPMENT IN  
5 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE COUNTY OR  
6 MUNICIPALITY MAY REQUEST THAT THE ELECTRIC COMPANY REMOVE THE STREET  
7 LIGHTING EQUIPMENT THAT IS LOCATED IN THE COUNTY'S OR MUNICIPALITY'S  
8 JURISDICTION THAT HAS NOT BEEN ACQUIRED FROM THE ELECTRIC COMPANY.

9 (II) THE COUNTY OR MUNICIPALITY SHALL PAY TO THE  
10 ELECTRIC COMPANY:

11 1. THE COST OF THE REMOVAL OF THE STREET  
12 LIGHTING EQUIPMENT BY THE ELECTRIC COMPANY; AND

13 2. THE FAIR MARKET VALUE OF THE STREET LIGHTING  
14 EQUIPMENT THAT IS REMOVED.

15 [(e)] (F) A county or municipality that [purchases] ACQUIRES street lighting  
16 equipment in accordance with SUBSECTION (D) OF this section:

17 (1) shall be responsible for the maintenance of the street lighting  
18 equipment; [and]

19 (2) may contract with an outside entity for the maintenance of the street  
20 lighting equipment; AND

21 (3) SHALL NOTIFY THE ELECTRIC COMPANY OF ANY ALTERATION TO  
22 THE COUNTY'S OR MUNICIPALITY'S STREET LIGHTING EQUIPMENT INVENTORY  
23 WITHIN 30 DAYS AFTER THE ALTERATION.

24 [(f)] (G) (1) Any person who controls the right to use space on any pole,  
25 lamppost, or other mounting surface previously used in the county or municipality by the  
26 electric company for street lighting equipment shall allow a county or municipality that  
27 has purchased the street lighting equipment to assume the rights and obligations of the  
28 electric company with respect to the space for the unexpired term of any lease or other  
29 agreement under which the electric company used the space.

30 (2) Notwithstanding paragraph (1) of this subsection, the county or  
31 municipality may not restrict or prohibit universal access for electricity or any other service  
32 by assuming the rights and obligations of an electric company as to space on any pole,  
33 lamppost, or other mounting surface used for street lighting equipment.

34 (H) ANY AGREEMENT OR CONTRACT FOR SALE OR LICENSE AGREEMENT

1 THAT APPLIES TO EQUIPMENT MOUNTED ON JOINT USE POLES MAY NOT INCLUDE  
 2 ANY FEES OR OTHER COSTS NOT INCLUDED IN THE CUSTOMER-OWNED STREET  
 3 LIGHTING TARIFF UNDER § 4-212 OF THE PUBLIC UTILITIES ARTICLE.

4 (I) AN ELECTRIC COMPANY MAY NOT REQUIRE FROM A COUNTY OR  
 5 MUNICIPALITY ACQUIRING STREET LIGHTING EQUIPMENT UNDER SUBSECTION (D)  
 6 OF THIS SECTION:

7 (1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

8 (2) ANY STANDARDS THE ELECTRIC COMPANY DOES NOT CURRENTLY  
 9 PROVIDE OR REQUIRE OF THE ELECTRIC COMPANY IN THE OPERATION AND  
 10 MAINTENANCE OF STREET LIGHTING EQUIPMENT.

11 (J) ALL WORKERS EMPLOYED BY A COUNTY OR MUNICIPALITY TO OPERATE  
 12 AND MAINTAIN STREET LIGHTING EQUIPMENT SHALL BE FULLY QUALIFIED AND  
 13 MEET ANY FEDERAL AND STATE REQUIREMENTS.

14 [(3)] (K) (1) [Any] EXCEPT AFTER A COUNTY OR MUNICIPALITY  
 15 INITIATES A CONDEMNATION PROCEEDING, ANY dispute between an electric company  
 16 and a county or municipality [arising under this subsection shall] REGARDING THE FAIR  
 17 MARKET VALUE OF THE STREET LIGHTING EQUIPMENT OR ANY OTHER MATTER  
 18 ARISING IN CONNECTION WITH THE ACQUISITION OF STREET LIGHTING EQUIPMENT  
 19 IN ACCORDANCE WITH SUBSECTION (D)(1) OF THIS SECTION MAY be submitted to the  
 20 Public Service Commission for resolution.

21 (2) WITHIN 75 DAYS AFTER RECEIPT OF A REQUEST FOR  
 22 RESOLUTION, THE PUBLIC SERVICE COMMISSION SHALL ISSUE A DETERMINATION  
 23 ON A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS  
 24 SUBSECTION.

25 (L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION  
 26 PROCEEDING, A JURY IN THE PROCEEDING SHALL DETERMINE THE FAIR MARKET  
 27 VALUE AS PROVIDED FOR IN THIS SECTION.

## 28 Article – Public Utilities

29 4-212.

30 (A) IN THIS SECTION, “STREET LIGHTING EQUIPMENT” HAS THE MEANING  
 31 STATED IN § 1-1309 OF THE LOCAL GOVERNMENT ARTICLE.

32 (B) THIS SECTION DOES NOT APPLY TO MUNICIPAL ELECTRIC UTILITIES.

1           **(C) (1) ON OR BEFORE OCTOBER 1, 2022, EACH ELECTRIC COMPANY, IN**  
2 **CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL FILE WITH**  
3 **THE COMMISSION A CUSTOMER-OWNED STREET LIGHTING TARIFF FOR STREET**  
4 **LIGHTING THAT INCLUDES ONLY ELECTRIC DISTRIBUTION FEES.**

5           **(2) (I) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL**  
6 **PROVIDE FOR MONTHLY BILLS FOR STREET LIGHTING THAT SHALL INCLUDE A**  
7 **SCHEDULE OF ELECTRICITY CHARGES BASED ON A DETERMINATION OF ANNUAL**  
8 **KILOWATT-HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES**  
9 **OF STREET LIGHTING EQUIPMENT BUT MAY NOT INCLUDE STREET LIGHTING**  
10 **FACILITY, SUPPORT, REACTIVE OR PREVENTIVE MAINTENANCE, FIXED**  
11 **MAINTENANCE, OR ACCESSORY CHARGES.**

12           **(II) THE DETERMINATION IN SUBPARAGRAPH (I) OF THIS**  
13 **PARAGRAPH SHALL BE MADE:**

14                   **1. IN ACCORDANCE WITH APPROVED METHODS OF**  
15 **DETERMINATION FOR UNMETERED STREET LIGHTS; OR**

16                   **2. BASED ON INFORMATION RECEIVED FROM LIGHTING**  
17 **CONTROLS THAT MEASURE USAGE AND COMPLY WITH ANSI C12.20.5 STANDARDS**  
18 **FOR ACCURACY.**

19           **(3) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL**  
20 **PROVIDE FOR OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING:**

21                   **(I) CONVENTIONAL DUSK/DAWN OPERATION USING**  
22 **PHOTOCELL TECHNOLOGY OR SCHEDULING CONTROLS;**

23                   **(II) SCHEDULE-BASED DIMMING OR ON/OFF CONTROLS THAT**  
24 **DIM OR TURN OFF STREET LIGHTS DURING PERIODS OF LOW ACTIVITY; AND**

25                   **(III) ACTUAL USAGE AS PROVIDED BY CONTROLS THAT PROVIDE**  
26 **THAT INFORMATION AND COMPLY WITH ANSI C12.20.5 STANDARDS FOR**  
27 **ACCURACY.**

28           **(D) WITHIN 75 DAYS AFTER RECEIVING A CUSTOMER-OWNED STREET**  
29 **LIGHTING TARIFF FROM AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE A**  
30 **DECISION REGARDING THE ADOPTION OF THE CUSTOMER-OWNED STREET**  
31 **LIGHTING TARIFF.**

32           **(E) WITHIN 75 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE**  
33 **COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE REGARDING THE**

1 TERMS OF A CUSTOMER-OWNED STREET LIGHTING TARIFF ADOPTED IN  
2 ACCORDANCE WITH THIS SECTION.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
4 1, 2022.