

HOUSE BILL 459

L6, C5
HB 1083/22 – ECM

3lr1769

By: **Delegates Kaufman, Amprey, Boaf, Boyce, Cullison, Edelson, Fair, Guyton, Harris, Kelly, Lopez, Shetty, Simpson, and Taylor**

Introduced and read first time: January 30, 2023

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Utilities – Street Lighting Equipment – Acquisitions and Reporting**
3 **(County and Municipal Street Lighting Investment Act)**

4 FOR the purpose of authorizing a certain county or municipality to acquire certain street
5 lighting equipment by purchase or condemnation, convert its street lighting service
6 to a customer-owned street lighting tariff, enter into an agreement to purchase
7 electricity, and contract with an electric company for the maintenance of the street
8 lighting equipment; authorizing certain disputes to be submitted to the Public
9 Service Commission for resolution; requiring a certain investor-owned electric
10 company to make a certain report to the Public Service Commission on or before a
11 certain date; and generally relating to ~~the purchase of street lighting equipment by~~
12 ~~a county or municipality from an electric company and tariffs for~~ street lighting
13 equipment.

14 BY repealing and reenacting, with amendments,
15 Article – Local Government
16 Section 1–1309
17 Annotated Code of Maryland
18 (2013 Volume and 2022 Supplement)

19 BY adding to
20 Article – Public Utilities
21 Section 4–212
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2020 Replacement Volume and 2022 Supplement)

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

Article – Local Government

1–1309.

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

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

(3) **“FAIR MARKET VALUE” MEANS THE FAIR MARKET VALUE OF THE PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION (FERC) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE USED FOR STANDARD RATE SETTING.**

(4) **“MAKE–READY WORK” MEANS ANY STREET LIGHTING EQUIPMENT INFRASTRUCTURE MODIFICATIONS:**

(I) **REQUIRED TO FACILITATE A TRANSFER OF STREET LIGHTING EQUIPMENT FROM AN ELECTRIC COMPANY TO A COUNTY OR MUNICIPALITY; AND**

(II) **THAT COMPLY WITH ALL APPLICABLE SAFETY AND ELECTRIC CODES.**

~~(4) “NET BOOK VALUE” MEANS THE NET BOOK VALUE OF THE PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION (FERC) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE USED FOR STANDARD RATE SETTING, AS THE ORIGINAL COST OF THE PROPERTY, LESS DEPRECIATION AND ANY CONTRIBUTION ALREADY PAID TO AN ELECTRIC COMPANY BY A COUNTY OR MUNICIPALITY FOR ACTIVITIES ASSOCIATED WITH THE INSTALLATION OF STREET LIGHTING EQUIPMENT, OF ANY ACTIVE OR INACTIVE EXISTING STREET LIGHTING EQUIPMENT INSTALLED IN THE COUNTY OR MUNICIPALITY AS OF THE DATE THE COUNTY OR MUNICIPALITY ENTERS INTO AN AGREEMENT TO PURCHASE THE PROPERTY, EXERCISES ITS RIGHT OF CONDEMNATION, OR REQUESTS THE REMOVAL OF THE EQUIPMENT.~~

(5) **“STREET LIGHT SERVICE POINT” MEANS THE POINT OF INTERCONNECTION ON A STREET LIGHTING CIRCUIT WHERE OWNERSHIP CHANGES FROM AN ELECTRIC COMPANY TO A COUNTY OR MUNICIPALITY.**

1 **(6) (I) “STREET LIGHTING EQUIPMENT” MEANS ALL EQUIPMENT**
2 **OWNED BY AN ELECTRIC COMPANY USED SOLELY TO LIGHT STREETS IN THE COUNTY**
3 **OR MUNICIPALITY.**

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

5 **1. ALL CAPITAL EQUIPMENT AS DEFINED UNDER FERC**
6 **ACCOUNT 373;**

7 **2. LIGHTING BALLASTS, LUMINAIRES, MAST ARMS,**
8 **PHOTOCELLS, CIRCUITS AND EQUIPMENT FROM THE STREET LIGHT SERVICE POINT**
9 **TERMINATING AT THE LUMINAIRE, AND ANY OTHER EQUIPMENT NECESSARY FOR**
10 **THE CONVERSION OF ELECTRIC ENERGY INTO STREET LIGHTING;**

11 **3. DECORATIVE STREET AND AREA LIGHTING;**

12 **4. SOLID-STATE LED LAMPS;**

13 **5. INDUCTION LAMPS; AND**

14 **6. OLDER LAMP TYPES SUCH AS HIGH PRESSURE**
15 **SODIUM, MERCURY VAPOR, METAL HALIDE, OR INCANDESCENT.**

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

18 **(7) “UTILITY VALUATION EXPERT” MEANS A PERSON HIRED BY A**
19 **COUNTY, A MUNICIPALITY, OR AN ELECTRIC COMPANY FOR THE PURPOSE OF**
20 **CONDUCTING AN ECONOMIC VALUATION OF STREET LIGHTING EQUIPMENT TO**
21 **DETERMINE ITS FAIR MARKET VALUE.**

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

23 **(1) LOCAL GOVERNMENTS PAY ELECTRIC COMPANIES LARGE SUMS**
24 **EVERY YEAR TO LIGHT STREETS IN COUNTIES AND MUNICIPALITIES;**

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

1 **(3) EFFICIENCY UPGRADES TO STREET LIGHTING EQUIPMENT**
2 **PRESENT AN OPPORTUNITY FOR COMMUNITIES TO REDUCE THEIR CARBON**
3 **FOOTPRINT AND ADDRESS CLIMATE CHANGE THROUGH EFFICIENCY UPGRADES;**

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

7 **(5) COUNTIES AND MUNICIPALITIES AROUND THE COUNTRY HAVE**
8 **SAVED CONSIDERABLE RESOURCES BY PURCHASING THEIR STREET LIGHTING**
9 **EQUIPMENT FROM ELECTRIC COMPANIES AND CONTRACTING FOR THE**
10 **MAINTENANCE INDEPENDENTLY; AND**

11 **(6) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE**
12 **SHOULD BE IMPROVED BY:**

13 **(I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT**
14 **PROVIDE BETTER DURABILITY;**

15 **(II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES**
16 **AND MUNICIPALITIES TO OWN THE STREET AND AREA LIGHTING WITHIN THEIR**
17 **JURISDICTIONS AND TO ENTER INTO REGIONAL MAINTENANCE SERVICE**
18 **CONTRACTS;**

19 **(III) REDUCING WHOLE SYSTEM COST THROUGH COUNTY OR**
20 **MUNICIPAL OWNERSHIP AND MAINTENANCE AND BY ADOPTING TARIFFS THAT**
21 **INCLUDE DISTRIBUTION SERVICE COSTS, THE COSTS OF ANY MAKE-READY WORK**
22 **PERFORMED BY AN ELECTRIC COMPANY, AND OPTIONAL ELECTRIC**
23 **COMPANY-PROVIDED MAINTENANCE AND REPAIR COSTS;**

24 **(IV) PROVIDING FOR THE USE OF INNOVATIVE TECHNOLOGIES**
25 **FOR MORE EFFICIENT LIGHTING; AND**

26 **(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING**
27 **REPAIRS.**

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

30 **(2) THIS SECTION DOES NOT APPLY TO STREET LIGHTING**
31 **EQUIPMENT OWNED BY A MUNICIPAL ELECTRIC UTILITY.**

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

4 (D) (1) AFTER GIVING WRITTEN NOTICE TO THE ELECTRIC COMPANY AND
5 THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY THAT RECEIVES
6 STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN ACCORDANCE WITH A
7 TARIFF PROVIDING FOR THE USE BY THE COUNTY OR MUNICIPALITY OF STREET
8 LIGHTING EQUIPMENT OWNED BY THE ELECTRIC COMPANY MAY:

9 (I) SUBMIT A REQUEST TO ACQUIRE THE STREET LIGHTING
10 EQUIPMENT FROM THE ELECTRIC COMPANY AT SOME OR ALL LOCATIONS WITHIN
11 THE COUNTY OR MUNICIPALITY;

12 (II) AFTER ACQUISITION, CONVERT ITS STREET LIGHTING
13 SERVICE TO A CUSTOMER-OWNED STREET LIGHTING TARIFF SET IN ACCORDANCE
14 WITH § 4-212 OF THE PUBLIC UTILITIES ARTICLE; AND

15 (III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY
16 FROM A RETAIL SUPPLIER LICENSED UNDER § 7-507 OF THE PUBLIC UTILITIES
17 ARTICLE OR THE ELECTRIC COMPANY.

18 (2) (I) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC
19 COMPANY FAIL TO AGREE ON THE FAIR MARKET VALUE OF THE STREET LIGHTING
20 EQUIPMENT, THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY SHALL
21 EACH BE RESPONSIBLE FOR HIRING A UTILITY VALUATION EXPERT TO CONDUCT AN
22 APPRAISAL OF THE STREET LIGHTING EQUIPMENT TO DETERMINE THE FAIR
23 MARKET VALUE OF THE STREET LIGHTING EQUIPMENT.

24 (II) EACH UTILITY VALUATION APPRAISAL SHALL BE
25 COMPLETED IN ACCORDANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL
26 APPRAISAL PRACTICE.

27 (III) 1. THE COUNTY OR MUNICIPALITY AND THE ELECTRIC
28 COMPANY SHALL ENGAGE THE SERVICES OF THE SAME LICENSED ENGINEER TO
29 CONDUCT AN ASSESSMENT OF THE TANGIBLE ASSETS OF THE STREET LIGHTING
30 EQUIPMENT.

31 2. THE ASSESSMENT SHALL BE INCORPORATED INTO
32 THE APPRAISALS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

33 (IV) A UTILITY VALUATION EXPERT MAY NOT:

1 1. DERIVE ANY MATERIAL FINANCIAL BENEFIT FROM
 2 THE SALE OF THE STREET LIGHTING EQUIPMENT OTHER THAN FEES FOR SERVICES
 3 RENDERED; OR

4 2. BE AN IMMEDIATE FAMILY MEMBER OF A DIRECTOR,
 5 AN OFFICER, OR AN EMPLOYEE OF EITHER THE ACQUIRING COUNTY OR
 6 MUNICIPALITY OR THE SELLING ELECTRIC COMPANY WITHIN 12 MONTHS BEFORE
 7 THE DATE OF HIRING TO PERFORM AN APPRAISAL UNDER THIS SECTION.

8 **(3) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY**
 9 **FAIL TO AGREE ON THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE**
 10 **STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE**
 11 **EQUIPMENT BY CONDEMNATION IN ACCORDANCE WITH TITLE 12 OF THE REAL**
 12 **PROPERTY ARTICLE.**

13 **[(d)] (E) If the county or municipality [purchases] ACQUIRES street lighting**
 14 **equipment from an electric company AND CONVERTS THE STREET LIGHTING SERVICE**
 15 **TO A CUSTOMER-OWNED STREET LIGHTING TARIFF IN ACCORDANCE WITH**
 16 **SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric**
 17 **company the ~~{fair market} NET BOOK~~ value of the street lighting equipment AND THE**
 18 **COST OF ALL MAKE-READY WORK PERFORMED BY THE ELECTRIC COMPANY.**

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

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

23 (2) may contract with **THE ELECTRIC COMPANY OR** an outside entity for
 24 the maintenance of the street lighting equipment; **AND**

25 **(3) SHALL NOTIFY THE ELECTRIC COMPANY OF ANY CHANGE TO THE**
 26 **COUNTY'S OR MUNICIPALITY'S STREET LIGHTING EQUIPMENT INVENTORY WITHIN**
 27 **30 DAYS AFTER THE ALTERATION.**

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

34 (2) Notwithstanding paragraph (1) of this subsection, the county or
 35 municipality may not restrict or prohibit universal access for electricity or any other service

1 by assuming the rights and obligations of an electric company as to space on any pole,
2 lamppost, or other mounting surface used for street lighting equipment.

3 (H) ANY AGREEMENT OR CONTRACT FOR SALE OR LICENSE AGREEMENT
4 THAT APPLIES TO EQUIPMENT MOUNTED ON JOINT USE POLES MAY NOT INCLUDE
5 ANY FEES OR OTHER COSTS NOT INCLUDED IN THE CUSTOMER-OWNED STREET
6 LIGHTING TARIFF UNDER § 4-212 OF THE PUBLIC UTILITIES ARTICLE.

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

10 (1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

11 (2) ANY STANDARDS THE ELECTRIC COMPANY DOES NOT CURRENTLY
12 PROVIDE OR REQUIRE OF THE ELECTRIC COMPANY IN THE OPERATION AND
13 MAINTENANCE OF STREET LIGHTING EQUIPMENT UNLESS REQUIRED BY STATE LAW
14 OR REGULATION.

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

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

25 (2) A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF
26 THIS SUBSECTION SHALL BE CONSIDERED BY THE PUBLIC SERVICE COMMISSION IN
27 ACCORDANCE WITH THE COMPLAINT PROCEDURES ESTABLISHED UNDER § 3-102 OF
28 THE PUBLIC UTILITIES ARTICLE.

29 (L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION
30 PROCEEDING BROUGHT UNDER THIS SECTION, A JURY IN THE PROCEEDING SHALL
31 DETERMINE THE ~~NET-BOOK~~ FAIR MARKET VALUE AS PROVIDED FOR IN THIS
32 SECTION.

33 Article – Public Utilities

34 4-212.

1 (A) IN THIS SECTION, "STREET LIGHTING EQUIPMENT" HAS THE MEANING
2 STATED IN § 1-1309 OF THE LOCAL GOVERNMENT ARTICLE.

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

4 (C) (1) ON OR BEFORE OCTOBER 1, 2023, EACH ELECTRIC COMPANY
5 SHALL FILE WITH THE COMMISSION A CUSTOMER-OWNED STREET LIGHTING
6 TARIFF FOR STREET LIGHTING THAT INCLUDES ELECTRIC DISTRIBUTION SERVICE
7 COSTS AND THE COSTS OF ANY APPLICABLE MAKE-READY WORK PERFORMED BY
8 THE ELECTRIC COMPANY.

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

16 (II) THE DETERMINATION IN SUBPARAGRAPH (I) OF THIS
17 PARAGRAPH SHALL BE MADE:

18 1. IN ACCORDANCE WITH APPROVED METHODS OF
19 DETERMINATION FOR UNMETERED STREET LIGHTS; OR

20 2. BASED ON INFORMATION RECEIVED FROM LIGHTING
21 CONTROLS THAT MEASURE USAGE AND COMPLY WITH ANSI C12.20.5 STANDARDS
22 FOR ACCURACY.

23 (3) THE CUSTOMER-OWNED STREET LIGHTING TARIFF SHALL
24 PROVIDE FOR OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING:

25 (I) CONVENTIONAL DUSK/DAWN OPERATION USING
26 PHOTOCELL TECHNOLOGY OR SCHEDULING CONTROLS;

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

29 (III) ACTUAL USAGE AS PROVIDED BY CONTROLS THAT PROVIDE
30 THAT INFORMATION AND COMPLY WITH ANSI C12.20.5 STANDARDS FOR
31 ACCURACY.

1 (D) AFTER RECEIVING A CUSTOMER-OWNED STREET LIGHTING TARIFF
2 FROM AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE A DECISION
3 REGARDING THE ADOPTION OF THE CUSTOMER-OWNED STREET LIGHTING TARIFF.

4 (E) THE COMMISSION SHALL ISSUE A FINAL DETERMINATION ON A DISPUTE
5 REGARDING THE TERMS OF A CUSTOMER-OWNED STREET LIGHTING TARIFF
6 ADOPTED IN ACCORDANCE WITH THIS SECTION THAT IS SUBMITTED IN
7 ACCORDANCE WITH THE COMPLAINT PROCEDURES ESTABLISHED IN § 3-102 OF
8 THIS ARTICLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That:

10 (a) In this section, “investor-owned electric company” means an electric company
11 that is not a municipal electric utility or an electric cooperative.

12 (b) On or before July 1, 2024, an investor-owned electric company shall submit a
13 report to the Public Service Commission that includes:

14 (1) the total number of streetlights owned or maintained by the
15 investor-owned electric company; and

16 (2) the total number of streetlights owned or maintained by the
17 investor-owned electric company that use light-emitting diode technology.

18 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 June 1, 2023. Section 2 of this Act shall remain effective for a period of 1 year and 4 months
20 and, at the end of September 30, 2024, Section 2 of this Act, with no further action required
21 by the General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.