

# HOUSE BILL 459

L6, C5  
HB 1083/22 – ECM

3lr1769

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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

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

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

16 BY adding to  
17 Article – Public Utilities  
18 Section 4–212  
19 Annotated Code of Maryland  
20 (2020 Replacement Volume and 2022 Supplement)

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

23 **Article – Local Government**

24 1–1309.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

30 1. **ALL CAPITAL EQUIPMENT AS DEFINED UNDER FERC**  
31 **ACCOUNT 373;**

32 2. **LIGHTING BALLASTS, LUMINAIRES, MAST ARMS,**  
33 **PHOTOCELLS, CIRCUITS AND EQUIPMENT FROM THE STREET LIGHT SERVICE POINT**

1 TERMINATING AT THE LUMINAIRE, AND ANY OTHER EQUIPMENT NECESSARY FOR  
2 THE CONVERSION OF ELECTRIC ENERGY INTO STREET LIGHTING;

3                   3.     DECORATIVE STREET AND AREA LIGHTING;

4                   4.     SOLID-STATE LED LAMPS;

5                   5.     INDUCTION LAMPS; AND

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

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

10            (B)    THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

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

13                   (2)   COUNTIES AND MUNICIPALITIES ARE LIMITED IN HOW THIS  
14 PUBLIC SAFETY RESOURCE CAN BE MANAGED BECAUSE THE COUNTIES AND  
15 MUNICIPALITIES OFTEN DO NOT OWN OR CONTROL THE STREET LIGHTING  
16 EQUIPMENT WITHIN THEIR JURISDICTIONS;

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

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

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

27                   (6)   STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE  
28 SHOULD BE IMPROVED BY:

29                            (I)   IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT  
30 PROVIDE BETTER DURABILITY;

1                   **(II) REDUCING MAINTENANCE COSTS BY ALLOWING COUNTIES**  
2 **AND MUNICIPALITIES TO OWN THE STREET AND AREA LIGHTING WITHIN THEIR**  
3 **JURISDICTIONS AND TO ENTER INTO REGIONAL MAINTENANCE SERVICE**  
4 **CONTRACTS;**

5                   **(III) REDUCING WHOLE SYSTEM COST THROUGH COUNTY OR**  
6 **MUNICIPAL OWNERSHIP AND MAINTENANCE AND BY ADOPTING TARIFFS THAT**  
7 **INCLUDE DISTRIBUTION SERVICE COSTS, THE COSTS OF ANY MAKE-READY WORK**  
8 **PERFORMED BY AN ELECTRIC COMPANY, AND OPTIONAL ELECTRIC**  
9 **COMPANY-PROVIDED MAINTENANCE AND REPAIR COSTS;**

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

12                   **(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING**  
13 **REPAIRS.**

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

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

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

21           **(D) (1) AFTER GIVING WRITTEN NOTICE TO THE ELECTRIC COMPANY AND**  
22 **THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY THAT RECEIVES**  
23 **STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN ACCORDANCE WITH A**  
24 **TARIFF PROVIDING FOR THE USE BY THE COUNTY OR MUNICIPALITY OF STREET**  
25 **LIGHTING EQUIPMENT OWNED BY THE ELECTRIC COMPANY MAY:**

26                   **(I) SUBMIT A REQUEST TO ACQUIRE THE STREET LIGHTING**  
27 **EQUIPMENT FROM THE ELECTRIC COMPANY AT SOME OR ALL LOCATIONS WITHIN**  
28 **THE COUNTY OR MUNICIPALITY;**

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

32                   **(III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY**  
33 **FROM A RETAIL SUPPLIER LICENSED UNDER § 7-507 OF THE PUBLIC UTILITIES**

1 **ARTICLE OR THE ELECTRIC COMPANY.**

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

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

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

15 (1) shall be responsible for the maintenance of the street lighting  
16 equipment; **[and]**

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

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

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

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

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

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

4 (1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

5 (2) ANY STANDARDS THE ELECTRIC COMPANY DOES NOT CURRENTLY  
6 PROVIDE OR REQUIRE OF THE ELECTRIC COMPANY IN THE OPERATION AND  
7 MAINTENANCE OF STREET LIGHTING EQUIPMENT UNLESS REQUIRED BY STATE LAW  
8 OR REGULATION.

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

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

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

23 (L) IF STREET LIGHTING EQUIPMENT IS THE SUBJECT OF A CONDEMNATION  
24 PROCEEDING BROUGHT UNDER THIS SECTION, A JURY IN THE PROCEEDING SHALL  
25 DETERMINE THE NET BOOK VALUE AS PROVIDED FOR IN THIS SECTION.

26 Article – Public Utilities

27 4-212.

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

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

31 (C) (1) ON OR BEFORE OCTOBER 1, 2023, EACH ELECTRIC COMPANY  
32 SHALL FILE WITH THE COMMISSION A CUSTOMER-OWNED STREET LIGHTING  
33 TARIFF FOR STREET LIGHTING THAT INCLUDES ELECTRIC DISTRIBUTION SERVICE

1 COSTS AND THE COSTS OF ANY APPLICABLE MAKE-READY WORK PERFORMED BY  
2 THE ELECTRIC COMPANY.

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

10 (II) THE DETERMINATION IN SUBPARAGRAPH (I) OF THIS  
11 PARAGRAPH SHALL BE MADE:

12 1. IN ACCORDANCE WITH APPROVED METHODS OF  
13 DETERMINATION FOR UNMETERED STREET LIGHTS; OR

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

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

19 (I) CONVENTIONAL DUSK/DAWN OPERATION USING  
20 PHOTOCELL TECHNOLOGY OR SCHEDULING CONTROLS;

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

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

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

29 (E) THE COMMISSION SHALL ISSUE A FINAL DETERMINATION ON A DISPUTE  
30 REGARDING THE TERMS OF A CUSTOMER-OWNED STREET LIGHTING TARIFF  
31 ADOPTED IN ACCORDANCE WITH THIS SECTION THAT IS SUBMITTED IN  
32 ACCORDANCE WITH THE COMPLAINT PROCEDURES ESTABLISHED IN § 3-102 OF  
33 THIS ARTICLE.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
2 1, 2023.