

SENATE BILL 835

L6, C5

0lr3575
CF HB 1034

By: **Senator Lee**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

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, after giving certain notice
4 to certain persons, to convert its street lighting service to a certain
5 alternative—energy—only tariff, submit a request to acquire certain street lighting
6 equipment from the electric company, and enter into an agreement to purchase
7 electricity for a certain use from any available electricity supplier under certain
8 circumstances; authorizing a county or municipality to acquire certain street lighting
9 equipment by condemnation under a certain circumstance; authorizing a county or
10 municipality to request that an electric company remove certain street lighting
11 equipment under certain circumstances; requiring a county or municipality to pay
12 the fair market value of certain street lighting equipment that is being removed and
13 the costs of its removal under certain circumstances; providing that the fair market
14 value of certain street lighting equipment shall be calculated in a certain manner;
15 requiring a certain county or municipality to notify a certain electric company of any
16 alteration to the county's or municipality's street lighting equipment inventory
17 within a certain period of time under certain circumstances; prohibiting a certain
18 agreement or contract for sale or license agreement from including certain fees or
19 other costs under certain circumstances; prohibiting an electric company from
20 making certain requirements of a certain county or municipality; requiring that
21 certain workers be fully qualified and meet certain requirements; authorizing
22 certain disputes, subject to a certain exception, to be submitted to the Public Service
23 Commission for resolution; requiring the Commission to issue a determination on
24 certain disputes within a certain time period; requiring a jury to determine the fair
25 market value of certain street lighting equipment subject to a condemnation
26 proceeding in a certain manner; requiring each electric company to develop a certain
27 alternative—energy—only tariff for street lighting on or before a certain date; limiting
28 the fees that may be included in a certain alternative—energy—only tariff; requiring
29 that a certain alternative—energy—only tariff provide for monthly bills for street
30 lighting that include a schedule of electricity charges based on a certain
31 determination; prohibiting the alternative—energy—only tariff from including certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



charges; requiring that, for street lighting equipment in use on a certain date, the alternative–energy–only tariff shall use certain calculation methods and rates that existed on a certain date; requiring the alternative–energy–only tariff to provide for reasonable rates for street lighting equipment that is adopted after a certain date; requiring the alternative–energy–only tariff to provide for options for certain street lighting controls; requiring the Commission to issue a decision regarding the adoption of a certain alternative–energy–only tariff within a certain period of time after receiving the alternative–energy–only tariff from an electric company; requiring the Commission to issue a determination on a dispute regarding the terms of an alternative–energy–only tariff within a certain period of time after receiving a request for resolution; stating the findings and declarations of the General Assembly; making certain clarifying changes; defining certain terms; and generally relating to the purchase of certain street lighting equipment by a county or municipality from an electric company and tariffs for street lighting.

BY repealing and reenacting, with amendments,
Article – Local Government
Section 1–1309
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

BY adding to
Article – Public Utilities
Section 4–212
Annotated Code of Maryland
(2010 Replacement Volume and 2019 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 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, 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.

(4) (I) "STREET LIGHTING EQUIPMENT" MEANS ALL EQUIPMENT OWNED BY AN ELECTRIC COMPANY USED TO LIGHT STREETS IN THE COUNTY OR MUNICIPALITY.

(II) "STREET LIGHTING EQUIPMENT" INCLUDES:

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

2. LIGHTING BALLASTS, FIXTURES, MAST ARMS, PHOTOCELLS, LOOPS, AND ANY OTHER EQUIPMENT NECESSARY FOR THE CONVERSION OF ELECTRIC ENERGY INTO STREET LIGHTING EQUIPMENT;

3. DECORATIVE STREET AND AREA LIGHTING;

4. SOLID-STATE LED LIGHTING TECHNOLOGIES; AND

5. INDUCTION LIGHTING TECHNOLOGIES.

(III) "STREET LIGHTING EQUIPMENT" DOES NOT INCLUDE JOINT USE UTILITY POLES ON WHICH THE EQUIPMENT IS FIXED.

(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) TAXPAYERS ARE MANDATED TO PAY ELECTRIC COMPANIES LARGE SUMS EVERY YEAR TO LIGHT STREETS IN COUNTIES AND MUNICIPALITIES;

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

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

(4) THERE IS OFTEN INSUFFICIENT INCENTIVE IN THE APPLICABLE ELECTRIC RATE TARIFF FOR INSTALLING ENERGY EFFICIENT LIGHTING

1 TECHNOLOGIES THAT MAY REDUCE BOTH POWER AND MAINTENANCE EXPENSES;

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

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

9 (7) STREET LIGHTING COSTS SHOULD BE REDUCED AND SERVICE
10 SHOULD BE IMPROVED BY:

11 (I) IMPROVING PUBLIC SAFETY WITH STREET LIGHTS THAT
12 PROVIDE BETTER ILLUMINATION;

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

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

20 (IV) PROVIDING FOR THE USE OF INNOVATIVE TECHNOLOGIES
21 FOR MORE EFFICIENT LIGHTING; AND

22 (V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING
23 REPAIRS.

24 [(b)] (C) This section applies to all counties and municipalities.

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

28 (D) (1) AFTER GIVING 60 DAYS' WRITTEN NOTICE TO THE ELECTRIC
29 COMPANY AND THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY
30 THAT RECEIVES STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN
31 ACCORDANCE WITH A TARIFF PROVIDING FOR THE USE BY THE COUNTY OR
32 MUNICIPALITY OF STREET LIGHTING EQUIPMENT OWNED BY AN ELECTRIC

1 COMPANY MAY:

2 (I) CONVERT ITS STREET LIGHTING SERVICE TO AN
3 ALTERNATIVE-ENERGY-ONLY TARIFF SET IN ACCORDANCE WITH § 4-212 OF THE
4 PUBLIC UTILITIES ARTICLE;

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

8 (III) ENTER INTO AN AGREEMENT TO PURCHASE ELECTRICITY
9 FOR THE USE OF THE STREET LIGHTING EQUIPMENT FROM ANY AVAILABLE
10 ELECTRICITY SUPPLIER.

11 (2) IF THE COUNTY OR MUNICIPALITY AND THE ELECTRIC COMPANY
12 FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE
13 STREET LIGHTING EQUIPMENT, THE COUNTY OR MUNICIPALITY MAY ACQUIRE THE
14 EQUIPMENT BY CONDEMNATION.

15 [(d)] (E) (1) If the county or municipality [purchases] ACQUIRES street
16 lighting equipment from an electric company AND CONVERTS THE STREET LIGHTING
17 SERVICE TO AN ALTERNATIVE-ENERGY-ONLY TARIFF IN ACCORDANCE WITH
18 SUBSECTION (D) OF THIS SECTION, the county or municipality shall pay to the electric
19 company the fair market value of the street lighting equipment.

20 (2) (I) AFTER ACQUIRING STREET LIGHTING EQUIPMENT IN
21 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE COUNTY OR
22 MUNICIPALITY MAY REQUEST THAT THE ELECTRIC COMPANY REMOVE THE STREET
23 LIGHTING EQUIPMENT THAT IS LOCATED IN THE COUNTY'S OR MUNICIPALITY'S
24 JURISDICTION THAT HAS NOT BEEN ACQUIRED FROM THE ELECTRIC COMPANY.

25 (II) THE COUNTY OR MUNICIPALITY SHALL PAY TO THE
26 ELECTRIC COMPANY:

27 1. THE COST OF THE REMOVAL OF THE STREET
28 LIGHTING EQUIPMENT BY THE ELECTRIC COMPANY; AND

29 2. THE FAIR MARKET VALUE OF THE STREET LIGHTING
30 EQUIPMENT THAT IS REMOVED.

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

33 (1) shall be responsible for the maintenance of the street lighting

equipment; [and]

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

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

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

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

(H) ANY AGREEMENT OR CONTRACT FOR SALE OR LICENSE AGREEMENT THAT APPLIES TO EQUIPMENT MOUNTED ON JOINT USE POLES MAY NOT INCLUDE ANY FEES OR OTHER COSTS NOT INCLUDED IN THE ALTERNATIVE-ENERGY-ONLY TARIFF UNDER § 4-212 OF THE PUBLIC UTILITIES ARTICLE.

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

(1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR

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

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

(K) [(3)] (1) [Any] EXCEPT AFTER A COUNTY OR MUNICIPALITY INITIATES A CONDEMNATION PROCEEDING, ANY dispute between an electric company and a county or municipality [arising under this subsection shall] REGARDING THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT OR ANY OTHER MATTER ARISING IN CONNECTION WITH THE ACQUISITION OF STREET LIGHTING EQUIPMENT

IN ACCORDANCE WITH PARAGRAPH (D)(1) OF THIS SECTION MAY be submitted to the Public Service Commission for resolution.

(2) WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE PUBLIC SERVICE COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

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

Article – Public Utilities

4–212.

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

(B) (1) ON OR BEFORE DECEMBER 1, 2020, EACH ELECTRIC COMPANY, IN CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL FILE WITH THE COMMISSION AN ALTERNATIVE–ENERGY–ONLY TARIFF FOR STREET LIGHTING THAT INCLUDES ONLY ELECTRIC DISTRIBUTION FEES.

(2) (I) THE ALTERNATIVE–ENERGY–ONLY TARIFF SHALL PROVIDE FOR MONTHLY BILLS FOR STREET LIGHTING THAT SHALL INCLUDE A SCHEDULE OF ELECTRICITY CHARGES BASED ON A DETERMINATION OF ANNUAL KILOWATT–HOUR USAGE PER LUMEN RATING OR NOMINAL WATTAGE OF ALL TYPES OF STREET LIGHTING EQUIPMENT BUT MAY NOT INCLUDE FACILITY, SUPPORT, REACTIVE OR PREVENTIVE MAINTENANCE, FIXED MAINTENANCE, OR ACCESSORY CHARGES.

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

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

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

(3) (I) FOR STREET LIGHTING EQUIPMENT IN USE IN A COUNTY OR MUNICIPALITY ON OCTOBER 1, 2020, THE ALTERNATIVE–ENERGY–ONLY TARIFF SHALL USE CALCULATION METHODS AND RATES THAT EXISTED ON OCTOBER 1,

1 **2020.**

2 **(II) THE ALTERNATIVE-ENERGY-ONLY TARIFF SHALL PROVIDE**
3 **FOR REASONABLE RATES FOR STREET LIGHTING EQUIPMENT THAT IS ADOPTED**
4 **AFTER OCTOBER 1, 2020.**

5 **(4) THE ALTERNATIVE-ENERGY-ONLY TARIFF SHALL PROVIDE FOR**
6 **OPTIONS FOR VARIOUS STREET LIGHTING CONTROLS, INCLUDING:**

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

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

11 **(III) ACTUAL USAGE AS PROVIDED BY CONTROLS THAT PROVIDE**
12 **THAT INFORMATION AND COMPLY WITH ANSI C12.20.5 FOR ACCURACY.**

13 **(C) WITHIN 60 DAYS AFTER RECEIVING AN ALTERNATIVE-ENERGY-ONLY**
14 **TARIFF FROM AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE A DECISION**
15 **REGARDING THE ADOPTION OF THE ALTERNATIVE-ENERGY-ONLY TARIFF.**

16 **(D) WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FOR RESOLUTION, THE**
17 **COMMISSION SHALL ISSUE A DETERMINATION ON A DISPUTE REGARDING THE**
18 **TERMS OF AN ALTERNATIVE-ENERGY-ONLY TARIFF ADOPTED IN ACCORDANCE**
19 **WITH THIS SECTION.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
21 **1, 2020.**