

# HOUSE BILL 1034

L6, C5

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CF SB 835

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By: **Delegates Carr, Acevero, Barve, Chang, Charkoudian, Kelly, Korman, R. Lewis, Love, Palakovich Carr, Qi, Shetty, Solomon, and P. Young**

Introduced and read first time: February 5, 2020

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, 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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

16 BY repealing and reenacting, with amendments,  
 17 Article – Local Government  
 18 Section 1–1309  
 19 Annotated Code of Maryland  
 20 (2013 Replacement Volume and 2019 Supplement)

21 BY adding to  
 22 Article – Public Utilities  
 23 Section 4–212  
 24 Annotated Code of Maryland  
 25 (2010 Replacement Volume and 2019 Supplement)

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

28 **Article – Local Government**

29 1–1309.

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

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

34 **(3)** **“FAIR MARKET VALUE”** MEANS THE NET BOOK VALUE OF THE  
 35 PROPERTY, CALCULATED USING FEDERAL ENERGY REGULATORY COMMISSION  
 36 (FERC) ACCOUNTING METHODS, AND NOT USING METHODS OTHER THAN THOSE  
 37 USED FOR STANDARD RATE SETTING, AS THE ORIGINAL COST OF THE PROPERTY,  
 38 LESS DEPRECIATION, OF ANY ACTIVE OR INACTIVE EXISTING STREET LIGHTING

1 EQUIPMENT INSTALLED IN THE COUNTY OR MUNICIPALITY AS OF THE DATE THE  
2 COUNTY OR MUNICIPALITY ENTERS INTO AN AGREEMENT TO PURCHASE THE  
3 PROPERTY, EXERCISES ITS RIGHT OF CONDEMNATION, OR REQUESTS THE REMOVAL  
4 OF THE EQUIPMENT.

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

8 (II) "STREET LIGHTING EQUIPMENT" INCLUDES:

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

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

14 3. DECORATIVE STREET AND AREA LIGHTING;

15 4. SOLID-STATE LED LIGHTING TECHNOLOGIES; AND

16 5. INDUCTION LIGHTING TECHNOLOGIES.

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

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

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

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

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

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

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

7           **(6) 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           **(7) 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 ILLUMINATION;**

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 BY ADOPTING TARIFFS THAT INCLUDE ONLY THE**  
21 **DISTRIBUTION ENERGY CONSUMED;**

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

24                   **(V) PROVIDING MORE RESPONSIVE SERVICE FOR LIGHTING**  
25 **REPAIRS.**

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

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

30           **(D) (1) AFTER GIVING 60 DAYS' WRITTEN NOTICE TO THE ELECTRIC**  
31 **COMPANY AND THE PUBLIC SERVICE COMMISSION, A COUNTY OR MUNICIPALITY**  
32 **THAT RECEIVES STREET LIGHTING SERVICE FROM AN ELECTRIC COMPANY IN**

1 ACCORDANCE WITH A TARIFF PROVIDING FOR THE USE BY THE COUNTY OR  
2 MUNICIPALITY OF STREET LIGHTING EQUIPMENT OWNED BY AN ELECTRIC  
3 COMPANY MAY:

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

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

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

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

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

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

27 (II) THE COUNTY OR MUNICIPALITY SHALL PAY TO THE  
28 ELECTRIC COMPANY:

29 1. THE COST OF THE REMOVAL OF THE STREET  
30 LIGHTING EQUIPMENT BY THE ELECTRIC COMPANY; AND

31 2. THE FAIR MARKET VALUE OF THE STREET LIGHTING  
32 EQUIPMENT THAT IS REMOVED.

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

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

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

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

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

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

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

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

25 **(1) ANY PROTECTIONS OR INDEMNIFICATIONS; OR**

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

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

32 **(K) [(3)] (1) [Any] EXCEPT AFTER A COUNTY OR MUNICIPALITY**  
33 **INITIATES A CONDEMNATION PROCEEDING, ANY dispute between an electric company**  
34 **and a county or municipality [arising under this subsection shall] REGARDING THE FAIR**

1 MARKET VALUE OF THE STREET LIGHTING EQUIPMENT OR ANY OTHER MATTER  
2 ARISING IN CONNECTION WITH THE ACQUISITION OF STREET LIGHTING EQUIPMENT  
3 IN ACCORDANCE WITH PARAGRAPH (D)(1) OF THIS SECTION MAY be submitted to the  
4 Public Service Commission for resolution.

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

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

12 Article – Public Utilities

13 4-212.

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

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

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

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

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

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

1           **(3) (I) FOR STREET LIGHTING EQUIPMENT IN USE IN A COUNTY OR**  
2 **MUNICIPALITY ON OCTOBER 1, 2020, THE ALTERNATIVE-ENERGY-ONLY TARIFF**  
3 **SHALL USE CALCULATION METHODS AND RATES THAT EXISTED ON OCTOBER 1,**  
4 **2020.**

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

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

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

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

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

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

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

23           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**  
24 **1, 2020.**