

HOUSE BILL 628

L6, C5

2lr0461
CF SB 688

By: **Delegates Carr, Beidle, Braveboy, Cullison, Gutierrez, Hixson, Hucker, Kramer, A. Miller, Mizeur, Niemann, Pena-Melnyk, Simmons, Valentino-Smith, and Waldstreicher**

Introduced and read first time: February 7, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Street Lighting – Purchase of Equipment by Local Government and Tariffs**

3 FOR the purpose of requiring a local government to pay a certain electric company the
4 fair market value of certain street lighting equipment as determined by an
5 agreement between the local government and the electric company or as
6 determined in a condemnation proceeding under certain circumstances;
7 authorizing a local government to include all street lighting equipment that the
8 local government seeks to acquire in its jurisdiction that is owned by one
9 electric company in a single petition of condemnation under certain
10 circumstances; requiring a jury in a certain condemnation proceeding to
11 consider certain factors in determining fair market value of street lighting
12 equipment under certain circumstances; requiring the Public Service
13 Commission to require each electric company to develop one or more tariffs for
14 certain street lighting; requiring certain tariffs to include certain pole
15 attachment fees, agreements, or services under certain circumstances; and
16 generally relating to the acquisition of street lighting equipment by a local
17 government from an electric company and tariffs for street lighting.

18 BY repealing and reenacting, with amendments,
19 Article 24 – Political Subdivisions – Miscellaneous Provisions
20 Section 5–101
21 Annotated Code of Maryland
22 (2011 Replacement Volume)

23 BY adding to
24 Article – Public Utilities
25 Section 4–210
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2011 Supplement)

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
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

4 5–101.

5 (a) In this section, “electric company” has the meaning stated in § 1–101 of
6 the Public Utilities Article.

7 (b) On written request by a local government, an electric company shall sell
8 to the local government some or all of the electric company’s existing street lighting
9 equipment that is located within the local jurisdiction.

10 (c) **(1) If the local government purchases street lighting equipment from**
11 **an electric company, the local government shall pay to the electric company the fair**
12 **market value of the street lighting equipment AS DETERMINED BY AN AGREEMENT**
13 **BETWEEN THE LOCAL GOVERNMENT AND THE ELECTRIC COMPANY OR AS**
14 **DETERMINED IN A CONDEMNATION PROCEEDING.**

15 **(2) A LOCAL GOVERNMENT MAY INCLUDE IN A SINGLE PETITION**
16 **FOR CONDEMNATION ALL STREET LIGHTING EQUIPMENT THAT THE LOCAL**
17 **GOVERNMENT SEEKS TO ACQUIRE WITHIN ITS JURISDICTION THAT IS OWNED BY**
18 **ONE ELECTRIC COMPANY.**

19 **(3) IN A CONDEMNATION PROCEEDING BROUGHT IN**
20 **ACCORDANCE WITH THIS SUBSECTION, IN DETERMINING FAIR MARKET VALUE**
21 **THE JURY SHALL CONSIDER:**

22 **(I) THE AGE, CONDITION, TYPE, AND OPERABILITY OF THE**
23 **STREET LIGHTING EQUIPMENT;**

24 **(II) ANY PAST PAYMENT OR CONTRIBUTION BY THE LOCAL**
25 **GOVERNMENT TO THE ELECTRIC COMPANY FOR THE CONSTRUCTION OF THE**
26 **STREET LIGHTING EQUIPMENT;**

27 **(III) COMPARABLE SALES OR OTHER APPROPRIATE**
28 **INDICATION OF THE VALUE OF THE STREET LIGHTING EQUIPMENT; AND**

29 **(IV) ANY OBLIGATION BY THE LOCAL GOVERNMENT TO PAY**
30 **FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT IF THE**
31 **OBLIGATION TO PAY FOR THE MAINTENANCE MAY NOT BE TERMINATED**
32 **WITHOUT GIVING AT LEAST 60 DAYS NOTICE.**

1 (d) A local government that purchases the street lighting equipment in
2 accordance with subsection (b) of this section shall be responsible for the maintenance
3 of the street lighting equipment and may contract with an outside entity for the
4 maintenance of the street lighting equipment.

5 (e) (1) Any person who controls the right to use space on any pole,
6 lamppost, or other mounting surface previously used in the local jurisdiction by the
7 electric company for street lighting equipment shall allow a local government that has
8 purchased the street lighting equipment to assume the rights and obligations of the
9 electric company with respect to the space for the unexpired term of any lease or other
10 agreement under which the electric company used the space.

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

15 (3) Any dispute between an electric company and a local government
16 arising under this subsection shall be submitted to the Public Service Commission for
17 resolution.

18 Article – Public Utilities

19 4-210.

20 (A) THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO
21 DEVELOP ONE OR MORE TARIFFS FOR STREET LIGHTING WHEN:

22 (1) THE STREET LIGHTING EQUIPMENT IS OWNED BY A LOCAL
23 GOVERNMENT AND ATTACHED TO UTILITY POLES OWNED BY A PUBLIC SERVICE
24 COMPANY; OR

25 (2) THE STREET LIGHTING EQUIPMENT AND ASSOCIATED UTILITY
26 POLES ARE OWNED BY THE LOCAL GOVERNMENT.

27 (B) (1) A TARIFF ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS
28 SECTION SHALL INCLUDE POLE ATTACHMENT FEES OR AGREEMENTS IF THE
29 FEES OR AGREEMENTS ARE REQUIRED BY THE ELECTRIC COMPANY.

30 (2) (I) A TARIFF ESTABLISHED UNDER SUBSECTION (A)(2) OF
31 THIS SECTION SHALL INCLUDE UNBUNDLED REACTIVE AND PREVENTATIVE
32 MAINTENANCE SERVICES.

33 (II) THE UNBUNDLED SERVICES MAY BE PERFORMED AT
34 THE REQUEST OF THE LOCAL GOVERNMENT.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.