

SENATE BILL 98

Q1

8lr0069

(PRE-FILED)

By: **Senator Kasemeyer (By Request – Departmental – Assessments and Taxation)**

Requested: October 11, 2017

Introduced and read first time: January 10, 2018

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Property Tax – Public Utilities – Assessment Apportionment**

3 FOR the purpose of requiring the State Department of Assessments and Taxation to
4 apportion the assessment of operating property of a public utility among the counties
5 and municipal corporations where the operating property is located; repealing
6 certain requirements for apportioning the assessment of operating personal property
7 of a domestic public utility placed into service before a certain date; and generally
8 relating to apportioning the assessment of operating property of a public utility.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – Property
11 Section 8–109
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2017 Supplement)

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

16 **Article – Tax – Property**

17 8–109.

18 (a) The Department shall annually value the operating unit of a public utility on
19 the basis of the value of the operating property of the public utility, by considering:

20 (1) the earning capacity of the operating unit; and

21 (2) all other factors relevant to a determination of value of the operating
22 unit.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The Department shall allocate to this State the value of that part of the
2 operating unit that is reasonably attributable to the part located in this State.

3 (c) (1) From the value allocated to this State under subsection (b) of this
4 section, the Department shall deduct:

5 (i) the fair average value of fuel that represents the percentage
6 reduction or exemption authorized by §§ 7-108, 7-222, and 7-226 of this article; and

7 (ii) the assessment of operating property, if any, that is exempt by
8 law from property tax.

9 (2) (i) The value remaining after making the deductions shall be
10 divided into an operating real property value and an operating personal property value, as
11 determined by the Department.

12 (ii) The value of operating real property is the assessment of
13 operating real property of a public utility.

14 (iii) The value of operating personal property is the assessment of
15 operating personal property of a public utility.

16 (3) Operating land of a public utility is valued and assessed by the
17 Department as part of the operating unit and is not valued and assessed by the supervisor.

18 (4) The provisions of this subsection are not intended to alter the law as
19 codified in former Article 81 of the Code that was in effect as of January 31, 1986.

20 (5) Returns, notices, and appeals of operating property assessments shall
21 be administered pursuant to the sections of this article governing personal property
22 assessments.

23 (d) [(1)] For operating [real] property of a [domestic] public utility, the
24 Department shall apportion the assessment of that operating property among the counties
25 and municipal corporations where the operating property is located.

26 [(2)] For operating personal property of a domestic public utility placed into
27 service before January 1, 1968, the Department shall apportion the assessment of that
28 operating property on the basis of the ownership of shares of stock, among the counties and
29 municipal corporations where the owners of the shares of stock reside, or if an owner is a
30 nonresident of this State, to the county and any municipal corporation, where the principal
31 office of a domestic corporation is located. The equitable owner of shares held in trust by a
32 resident trustee shall be deemed the owner of the shares and the residence determined as
33 of the date of finality.

34 (3) For operating personal property of a domestic public utility placed into
35 service after December 31, 1967, the Department shall apportion the assessment of that

1 operating property among the counties and municipal corporations, where the operating
2 property is located.

3 (4) For operating property of a foreign public utility, the Department shall
4 apportion the assessment of that operating property among the counties and municipal
5 corporations where the operating property is located.

6 (e) If there is only 1 class of stock, the allocation of the operating personal
7 property assessment under subsection (d)(2) of this section is based on the per share value
8 attributed to each share that is determined by dividing the assessment by the number of
9 outstanding shares of stock.

10 (f) If there is more than 1 class of stock, the allocation of the operating personal
11 property assessment under subsection (d)(2) of this section is made by:

12 (1) multiplying the total assessment of all operating personal property to
13 be allocated by the percentage of value that each class of stock bears to the total value of
14 all classes of stock; and

15 (2) then dividing the product determined for each class in item (1) of this
16 subsection by the number of outstanding shares of stock in that class to produce the
17 assessment allocated to each share of stock.

18 (g) The Department may adopt regulations to carry out the provisions of this
19 section.]

20 **[(h) (E)** (1) In determining whether to classify a company as a public utility,
21 the Department shall consider and evaluate whether the company:

22 (i) is subject to the authority of a regulatory body of the State or the
23 federal government, such as the Maryland Public Service Commission, the Federal
24 Communications Commission, or the Federal Energy Regulatory Commission;

25 (ii) uses a significant portion of the real and personal property used
26 in its business operations as an integrated whole or unit;

27 (iii) provides a basic service to the public; and

28 (iv) owns or uses assets that are most appropriately appraised using
29 the unit valuation method.

30 (2) Notwithstanding a company's failure to meet all of the criteria under
31 paragraph (1) of this subsection, the Department may classify the company as a public
32 utility if the Department determines that the company predominantly meets the criteria.

33 **(F) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE**
34 **PROVISIONS OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2018.