

HOUSE BILL 1350

C5, L6

7lr3073
CF SB 851

By: **Delegates Rose, S. Howard, Afzali, Krebs, Lisanti, McKay, and Shoemaker**

Introduced and read first time: February 10, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission – Application for Certificate of Public Convenience**
3 **and Necessity – Consistency With Comprehensive Plan**

4 FOR the purpose of requiring the Public Service Commission to provide a copy of certain
5 application materials for a certificate of public convenience and necessity to each
6 appropriate unit of local government in which the construction of a generating
7 station or of a certain overhead transmission line is proposed to be located; requiring
8 each unit of local government to review the application materials and make a certain
9 determination as to whether the application is consistent with the jurisdiction's
10 comprehensive plan; prohibiting the Commission from holding a public hearing on
11 an application or issuing a certificate of public convenience and necessity if any unit
12 of local government determines that an application is not consistent with the
13 comprehensive plan; applying certain provisions of law regarding consistency with a
14 comprehensive plan to a determination made under this Act; altering a certain
15 definition; and generally relating to an application for a certificate of public
16 convenience and necessity.

17 BY repealing and reenacting, with amendments,
18 Article – Land Use
19 Section 1–301 and 1–302
20 Annotated Code of Maryland
21 (2012 Volume and 2016 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Land Use
24 Section 1–303
25 Annotated Code of Maryland
26 (2012 Volume and 2016 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Public Utilities

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7–207(d) and (e)
 2 Annotated Code of Maryland
 3 (2010 Replacement Volume and 2016 Supplement)

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

6 **Article – Land Use**

7 1–301.

8 In this subtitle, “action” means:

9 (1) the adoption of a local law or regulation concerning:

10 (i) a special exception under § 1–101(p) of this title (Definitions –
 11 “Special exception”); or

12 (ii) plan implementation and review under § 1–417 of this title or §
 13 3–303 of this article;

14 (2) a requirement under § 9–505(a)(1) of the Environment Article and §
 15 4–415(c) of the Local Government Article (Municipal annexation); [or]

16 (3) a required finding under §§ 9–506(a)(1) and 9–507(b)(2) of the
 17 Environment Article (Water and sewer plan review); **OR**

18 **(4) A DETERMINATION UNDER § 7–207(D)(1) OF THE PUBLIC**
 19 **UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**
 20 **REVIEW).**

21 1–302.

22 This subtitle applies to:

23 (1) a special exception under § 1–101(p) of this title (Definitions – “Special
 24 exception”);

25 (2) plan implementation and review under § 1–417 of this title or § 3–303
 26 of this article;

27 (3) §§ 9–505(a)(1), 9–506(a)(1), and 9–507(b)(2) of the Environment Article
 28 (Water and sewer plan review); [and]

29 (4) § 4–414(c) of the Local Government Article (Annexation plan); **AND**

1 **(5) A DETERMINATION UNDER § 7-207(D)(1) OF THE PUBLIC**
2 **UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**
3 **REVIEW).**

4 1-303.

5 Except as provided in § 1-304 of this subtitle, when a provision in a statute listed
6 under § 1-302 of this subtitle requires an action to be “consistent with” or have “consistency
7 with” a comprehensive plan, the term shall mean an action taken that will further, and not
8 be contrary to, the following items in the plan:

- 9 (1) policies;
- 10 (2) timing of the implementation of the plan;
- 11 (3) timing of development;
- 12 (4) timing of rezoning;
- 13 (5) development patterns;
- 14 (6) land uses; and
- 15 (7) densities or intensities.

16 **Article – Public Utilities**

17 7-207.

18 **(d) (1) (I) BEFORE HOLDING A PUBLIC HEARING, THE COMMISSION**
19 **SHALL PROVIDE A COPY OF ALL APPLICATION MATERIALS RECEIVED FOR A**
20 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EACH APPROPRIATE**
21 **UNIT OF LOCAL GOVERNMENT IN WHICH ANY PORTION OF THE CONSTRUCTION OF A**
22 **GENERATING STATION OR OF AN OVERHEAD TRANSMISSION LINE DESIGNED TO**
23 **CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS IS PROPOSED TO BE LOCATED.**

24 **(II) EACH UNIT OF LOCAL GOVERNMENT SHALL:**

25 **1. REVIEW THE APPLICATION MATERIALS PROVIDED**
26 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

27 **2. DETERMINE WHETHER THE APPLICATION IS**
28 **CONSISTENT WITH THE JURISDICTION’S COMPREHENSIVE PLAN AS SPECIFIED IN §**
29 **1-303 OF THE LAND USE ARTICLE.**

1 (III) IF ANY UNIT OF LOCAL GOVERNMENT DETERMINES THAT AN
2 APPLICATION IS NOT CONSISTENT WITH THE JURISDICTION'S COMPREHENSIVE
3 PLAN, THE COMMISSION MAY NOT HOLD A PUBLIC HEARING ON THE APPLICATION.

4 [(1) (2) [The] IF AN APPLICATION IS DETERMINED TO BE
5 CONSISTENT WITH A JURISDICTION'S COMPREHENSIVE PLAN IN ACCORDANCE WITH
6 PARAGRAPH (1) OF THIS SUBSECTION, THE Commission shall provide an opportunity
7 for public comment and hold a public hearing on the application for a certificate of public
8 convenience and necessity in each county and municipal corporation in which any portion
9 of the construction of a generating station, an overhead transmission line designed to carry
10 a voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be
11 located.

12 [(2) (3) The Commission shall hold the public hearing jointly with the
13 governing body of the county or municipal corporation in which any portion of the
14 construction of the generating station, overhead transmission line, or qualified generator
15 lead line is proposed to be located, unless the governing body declines to participate in the
16 hearing.

17 [(3) (4) (i) Once in each of the 4 successive weeks immediately before
18 the hearing date, the Commission shall provide weekly notice of the public hearing and an
19 opportunity for public comment:

20 1. by advertisement in a newspaper of general circulation in
21 the county or municipal corporation affected by the application;

22 2. on two types of social media; and

23 3. on the Commission's Web site.

24 (ii) Before a public hearing, the Commission shall coordinate with
25 the governing body of the county or municipal corporation in which any portion of the
26 construction of the generating station, overhead transmission line, or qualified generator
27 lead line is proposed to be located to identify additional options for providing, in an efficient
28 and cost-effective manner, notice of the public hearing through other types of media that
29 are familiar to the residents of the county or municipal corporation.

30 [(4) (5) (i) On the day of a public hearing, an informational sign shall
31 be posted prominently at or near each public entrance of the building in which the public
32 hearing will be held.

33 (ii) The informational sign required under subparagraph (i) of this
34 paragraph shall:

35 1. state the time, room number, and subject of the public
36 hearing; and

2. be at least 17 by 22 inches in size.

[(5)] (6) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

(e) (1) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:

[(1)] (I) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located; and

[(2)] (II) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

[(i)] 1. the stability and reliability of the electric system;

[(ii)] 2. economics;

[(iii)] 3. esthetics;

[(iv)] 4. historic sites;

[(v)] 5. aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;

[(vi)] 6. when applicable, air and water pollution; and

[(vii)] 7. the availability of means for the required timely disposal of wastes produced by any generating station.

(2) IF ANY UNIT OF LOCAL GOVERNMENT DETERMINES THAT AN APPLICATION IS NOT CONSISTENT WITH THE JURISDICTION'S COMPREHENSIVE PLAN AS REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION, THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.