C5, L6 7lr2886 CF 7lr3073

By: Senator Ready

Introduced and read first time: February 3, 2017

Assigned to: Finance

A BILL ENTITLED

4	A TAT		•
L	AN	ACT	concerning

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

- FOR the purpose of requiring the Public Service Commission to provide a copy of certain 4 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 comprehensive plan to a determination made under this Act; altering a certain 14 definition; and generally relating to an application for a certificate of public 15 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 2 3	Section 7–207(d) and (e) Annotated Code of Maryland (2010 Replacement Volume and 2016 Supplement)
4 5	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 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 11	(i) a special exception under § 1–101(p) of this title (Definitions – "Special exception"); or
12 13	(ii) plan implementation and review under $\$ 1–417 of this title or $\$ 3–303 of this article;
14 15	(2) a requirement under § 9–505(a)(1) of the Environment Article and § 4–415(c) of the Local Government Article (Municipal annexation); [or]
16 17	(3) a required finding under §§ $9-506(a)(1)$ and $9-507(b)(2)$ of the Environment Article (Water and sewer plan review); OR
18 19 20	(4) A DETERMINATION UNDER § 7–207(D)(1) OF THE PUBLIC UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REVIEW).
21	1–302.
22	This subtitle applies to:
23 24	(1) a special exception under $\S 1-101(p)$ of this title (Definitions – "Special exception");
25 26	(2) plan implementation and review under $\S 1-417$ of this title or $\S 3-303$ of this article;
27 28	(3) §§ $9-505(a)(1)$, $9-506(a)(1)$, and $9-507(b)(2)$ of the Environment Article (Water and sewer plan review); [and]
29	(4) § 4–414(c) of the Local Government Article (Annexation plan); AND

- 1 A DETERMINATION UNDER § 7-207(D)(1) OF THE PUBLIC 2 UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY 3 REVIEW). 1 - 303. 4 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 with" a comprehensive plan, the term shall mean an action taken that will further, and not 7 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; timing of rezoning; 12 **(4)** development patterns; 13 (5)14 land uses; and (6)15 (7)densities or intensities. Article - Public Utilities 16 7-207.17 18 **(1)** BEFORE HOLDING A PUBLIC HEARING, THE COMMISSION (d) **(I)** 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 23CARRY 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
- 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.

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L	(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.

- [(1)] (2) [The] IF AN APPLICATION IS DETERMINED TO BE CONSISTENT WITH A JURISDICTION'S COMPREHENSIVE PLAN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, an overhead transmission line designed to carry a voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be located.
- [(2)] (3) The Commission shall hold the public hearing jointly with the governing body of the 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, unless the governing body declines to participate in the hearing.
- [(3)] (4) (i) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment:
- 20 by advertisement in a newspaper of general circulation in 21 the county or municipal corporation affected by the application;
 - 2. on two types of social media; and
- 23 on the Commission's Web site.
 - (ii) Before a public hearing, the Commission shall coordinate with the governing body of the 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 to identify additional options for providing, in an efficient and cost–effective manner, notice of the public hearing through other types of media that are familiar to the residents of the county or municipal corporation.
- [(4)] (5) (i) On the day of a public hearing, an informational sign shall be posted prominently at or near each public entrance of the building in which the public 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

1	2. be at least 17 by 22 inches in size.
2 3 4	[(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.
5 6	(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.
7 8	(e) (1) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:
9 10 11	[(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
12 13	[(2)] (II) the effect of the generating station, overhead transmission line or qualified generator lead line on:
4	[(i)] 1. the stability and reliability of the electric system;
5	[(ii)] 2. economics;
6	[(iii)] 3. esthetics;
17	[(iv)] 4. historic sites;
18	[(v)] 5. aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
20	[(vi)] 6. when applicable, air and water pollution; and
21 22	[(vii)] 7. the availability of means for the required timely disposal of wastes produced by any generating station.
23 24 25 26	(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

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October 1, 2017.