

Chapter 392

(House Bill 1350)

AN ACT concerning

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

FOR the purpose of requiring the Public Service Commission, rather than the Department of Planning, to provide a copy of certain application materials for a certificate of public convenience and necessity to each appropriate unit of local government in which the construction of a generating station ~~or of a certain overhead transmission line~~ is proposed to be located and to certain public officials; requiring ~~each unit of local government to review the application materials and make a certain determination as to whether~~ the Commission to take final action on the application only after due consideration of the consistency of the application is consistent with the jurisdiction’s comprehensive plan and zoning and of certain efforts to resolve certain issues; ~~prohibiting the Commission from holding a public hearing on an application or issuing a certificate of public convenience and necessity if any unit of local government determines that an application is not consistent with the comprehensive plan; applying certain provisions of law regarding consistency with a comprehensive plan to a determination made under this Act; altering a certain definition;~~ and generally relating to an application for a certificate of public convenience and necessity.

~~BY repealing and reenacting, with amendments,
Article – Land Use
Section 1-301 and 1-302
Annotated Code of Maryland
(2012 Volume and 2016 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article – Land Use
Section 1-303
Annotated Code of Maryland
(2012 Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section ~~7-207(d)~~ 7-207(c) and (e)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article—Land Use~~1-301.~~~~In this subtitle, “action” means:~~

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

 - ~~(i) a special exception under § 1-101(p) of this title (Definitions—“Special exception”); or~~
 - ~~(ii) plan implementation and review under § 1-417 of this title or § 3-303 of this article;~~~~
- ~~(2) a requirement under § 9-505(a)(1) of the Environment Article and § 4-415(e) of the Local Government Article (Municipal annexation); [or]~~
- ~~(3) a required finding under §§ 9-506(a)(1) and 9-507(b)(2) of the Environment Article (Water and sewer plan review); OR~~
- ~~(4) A DETERMINATION UNDER § 7-207(D)(1) OF THE PUBLIC UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REVIEW).~~

~~1-302.~~~~This subtitle applies to:~~

- ~~(1) a special exception under § 1-101(p) of this title (Definitions—“Special exception”);~~
- ~~(2) plan implementation and review under § 1-417 of this title or § 3-303 of this article;~~
- ~~(3) §§ 9-505(a)(1), 9-506(a)(1), and 9-507(b)(2) of the Environment Article (Water and sewer plan review); [and]~~
- ~~(4) § 4-414(c) of the Local Government Article (Annexation plan); AND~~
- ~~(5) A DETERMINATION UNDER § 7-207(D)(1) OF THE PUBLIC UTILITIES ARTICLE (CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REVIEW).~~

~~1-303.~~

~~Except as provided in § 1-304 of this subtitle, when a provision in a statute listed 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 be contrary to, the following items in the plan:~~

- ~~(1) policies;~~
- ~~(2) timing of the implementation of the plan;~~
- ~~(3) timing of development;~~
- ~~(4) timing of rezoning;~~
- ~~(5) development patterns;~~
- ~~(6) land uses; and~~
- ~~(7) densities or intensities.~~

Article – Public Utilities

7-207.

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

~~(ii) EACH UNIT OF LOCAL GOVERNMENT SHALL:~~

~~1. REVIEW THE APPLICATION MATERIALS PROVIDED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH; AND~~

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

~~(iii) IF ANY UNIT OF LOCAL GOVERNMENT DETERMINES THAT AN APPLICATION IS NOT CONSISTENT WITH THE JURISDICTION’S COMPREHENSIVE 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:~~

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

~~2. on two types of social media; and~~

~~3. 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.~~

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

~~1. state the time, room number, and subject of the public 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.~~

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, AND IF APPLICABLE THE EXECUTIVE, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, AND IF APPLICABLE THE EXECUTIVE, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line; and

(vi) all other interested persons.

(2) The [Department of Planning] COMMISSION, WHEN SENDING THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, shall forward A COPY OF the application to:

(I) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs; AND

(II) EACH MEMBER OF THE GENERAL ASSEMBLY INCLUDED UNDER PARAGRAPH (1)(IV) AND (V) OF THIS SUBSECTION WHO REQUESTS A COPY OF THE APPLICATION.

(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; AND

(3) FOR A GENERATING STATION:

(I) THE CONSISTENCY OF THE APPLICATION WITH THE COMPREHENSIVE PLAN AND ZONING OF EACH COUNTY OR MUNICIPAL CORPORATION WHERE ANY PORTION OF THE GENERATING STATION IS PROPOSED TO BE LOCATED; AND

(II) THE EFFORTS TO RESOLVE ANY ISSUES PRESENTED BY A COUNTY OR MUNICIPAL CORPORATION WHERE ANY PORTION OF THE GENERATING STATION IS PROPOSED TO BE LOCATED.

~~**(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.

Approved by the Governor, May 4, 2017.