

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1588

(Delegate S. Howard, *et al.*)

Environment and Transportation

Finance

Zoning Amendments – Energy Generating Systems

This bill prohibits a local legislative body from granting an amendment to change a zoning classification on a parcel of land under specified circumstances – relating to the existence of an energy generating system.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill prohibits a local legislative body from granting an amendment to change a zoning classification on a parcel of land – if the primary reason for the proposed amendment is the existence of an energy generating system on that parcel of land or on a parcel of land that is adjacent to or in close proximity to that parcel of land – based on a finding that there was (1) a substantial change in the character of the neighborhood where the property is located or (2) a mistake in the existing zoning classification.

“Energy generating system” is defined as an energy generating system:

- for which a certificate of public convenience and necessity (CPCN) is required by State law; or

- (1) for which a CPCN is not required by State law and (2) that is not considered to be an accessory use under the zoning law of the local jurisdiction where the system is located.

Current Law/Background:

Zoning Reclassification

Maryland courts have indicated that there is a presumption that comprehensive zoning is correct, but the courts, and certain statutory provisions, allow for zoning reclassifications of parcels of land supported by a change in conditions or evidence of mistake in the comprehensive zoning.

Certificate of Public Convenience and Necessity

Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line (project) unless a CPCN is first obtained from the Public Service Commission (PSC). “Generating station” is not defined in statute. However, the PSC definition in regulation excludes a facility with up to two megawatts of capacity if it meets other specified requirements.

The CPCN application process involves notifying specified stakeholders, public hearings, and the consideration of recommendations by State and local government entities and the project’s effect on various aspects of the State infrastructure, economy, and environment. There are conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement; a common exemption applies to many solar facilities.

Small Business Effect: The bill eliminates an avenue, applicable in limited circumstances, by which a property owner could seek a zoning reclassification in order to use the property in a different manner. Under certain circumstances, this may have a meaningful small business impact, whether associated with business opportunities on the subject property or surrounding properties that may be affected by the change in use of the subject property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Energy Administration; Public Service Commission; Maryland Department of Planning; Office of People’s Counsel; State Department of Assessments and Taxation; Baltimore City; Anne Arundel, Harford, and Montgomery counties; Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510