HB 298

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 298 (Delegate Charkoudian)
Economic Matters Finance

Utility Regulation - Consideration of Climate and Labor

This bill requires the Power Plant Research Program (PPRP) to include an evaluation of the impact of electric power plants on climate change as part of its ongoing research, as specified. Separately, the Public Service Commission (PSC), in supervising and regulating public service companies, must consider (1) the maintenance of fair and stable labor standards for affected workers and (2) additional specified climate effects and greenhouse gas (GHG) emissions. Relatedly, PSC may not take final action on a Certificate of Public Convenience and Necessity (CPCN) without considering the effect of climate change on the project and, for a generating station, the impact of the project on GHG emissions and its consistency with the State's GHG emissions reduction goals.

Fiscal Summary

State Effect: Special fund expenditures increase by $219,500 in FY 2022. Future year expenditures reflect annualization and ongoing costs. Special fund revenues increase correspondingly from assessments imposed on public service companies. General fund expenditures increase by $30,000 to $40,000 annually beginning in FY 2022. Other costs likely can be absorbed within existing budgeted resources, as discussed below.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	$219,500	$260,100	$267,700	$277,000	$286,600
GF Expenditure	$35,000	$35,000	$35,000	$35,000	$35,000
SF Expenditure	$219,500	$260,100	$267,700	$277,000	$286,600
Net Effect	($35,000)	($35,000)	($35,000)	($35,000)	($35,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law:

Greenhouse Gas Emissions Reduction Act

The Greenhouse Gas Emissions Reduction Act, originally enacted in 2009 and made permanent and expanded in 2016, was enacted in light of Maryland's particular vulnerability to the impacts of climate change. Under the Act, the State was required to develop plans, adopt regulations, and implement programs to reduce GHG emissions by 25% from 2006 levels by 2020 and must further reduce GHG emissions by 40% from 2006 levels by 2030; the 2030 reduction requirement terminates December 31, 2023.

Power Plant Research Program

PPRP in the Department of Natural Resources (DNR) is required to undertake a continuing research program for electric power plant site evaluation and related environmental and land use considerations. PPRP is funded through an assessment on electricity used in the State, which accrues to the Environmental Trust Fund (ETF).

Public Service Commission Supervisory and Regulatory Powers

PSC must supervise and regulate public service companies subject its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. In doing so, PSC must consider the public safety, the economy of the State, the conservation of natural resources, and the preservation of environmental quality. PSC must also enforce compliance with legal requirements by public service companies.

Certificates of Public Convenience and Necessity

For information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

State Fiscal Effect: PSC requires expert staff for both the labor and climate change aspects PSC must consider under the bill. Additionally, both the Maryland Department of the Environment (MDE) and DNR advise that they require contractual services to assist with additional evaluations under the bill's CPCN process, although DNR indicates that it can absorb such costs within its existing budget.

PSC

Special fund expenditures for PSC increase by $219,537 in fiscal 2022, which accounts for the bill's October 1, 2021 effective date. This estimate reflects the cost of hiring three staff to handle the additional workload and provide the necessary expertise related to public service company labor standards and climate change under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	$197,168
Other Operating Expenses	22,369
Total FY 2022 PSC Expenditures	**$219,537**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Special fund revenues increase correspondingly from assessments imposed on public service companies as authorized under current law.

MDE

MDE anticipates one or two consultant assessments of potential GHG emissions will be needed each year, at a cost of $15,000 to $20,000 each. Accordingly, general fund expenditures for MDE increase by $30,000 to $40,000 annually beginning in fiscal 2022.

DNR

DNR advises that it anticipates additional consultant costs of approximately $100,000 each year associated with CPCN evaluations, but that it can absorb such costs in its existing budget. To the extent that such costs cannot be absorbed, special fund expenditures for ETF increase.

Additional Information

Prior Introductions: SB 656 of 2020, a similar bill, passed the Senate and was jointly referred to the House Economic Matters Committee and the House Environment and Transportation Committee, but no further action was taken. Its cross file, HB 531, received a hearing from the House Economic Matters Committee, but no further action was taken.

Designated Cross File: SB 83 (Senator Kramer) - Finance.

Information Source(s): Public Service Commission; Maryland Department of the Environment; Department of Natural Resources; Office of People's Counsel; Department of Legislative Services

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Appendix – Certificate of Public Convenience and Necessity

General Overview

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCN). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment.

Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line unless a CPCN is first obtained from 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 process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project's effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations.

Notification Process

On receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly that requests a copy.

Public Hearing and Comment

PSC must provide an opportunity for public comment and hold a public hearing on a CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality, and must provide weekly notice during the four weeks prior to the hearing, both in a newspaper and online. PSC must also coordinate with each local government to identify additional options for providing notice of the hearing through other types of media. PSC must ensure presentation and recommendations from each interested State unit, and must allow representatives of each State unit to sit during hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

Public Service Commission Considerations

PSC must take final action on a CPCN application only after due consideration of recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located and various aspects of the State infrastructure, economy, and environment. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations for an overhead transmission line, including the need to meet existing and future electric demand.

Generating Station Exemptions

There are three general conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person that is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.