

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 604 (Delegate Beitzel)
Economic Matters

**Garrett County - County Commissioners - Commercial Grade Wind Turbines -
Authority to Set Standards**

This bill authorizes the Garrett County Commissioners to enact ordinances regulating the height, size, location, and setback of a commercial wind turbine structure.

Fiscal Summary

State Effect: None. The bill does not affect State finances or operations.

Local Effect: None. Garrett County can enact specified ordinances with existing resources.

Small Business Effect: None.

Analysis

Current Law: Generally, counties have authority to specifically restrict or authorize the construction of wind-power generating facilities through local zoning rule, regulation, law, or ordinance. If a commercial wind-power generating facility is granted a certificate of public convenience and necessity (CPCN) the generating facility may be constructed without regard to local zoning rule, regulation, law, or ordinances.

Wind-power generating facilities with a capacity over 70 megawatts must obtain a CPCN prior to construction. Wind-power generating facilities with a capacity under 70 megawatts may apply for a CPCN or may request an exemption from CPCN requirements. The Public Service Commission (PSC) may grant an exemption from CPCN requirements as long as certain conditions are met: (1) the wind-powered facility

is land-based; (2) the generating capacity is 70 megawatts or less; (3) the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and (4) PSC provides an opportunity for public comment at a public hearing. The Code of Maryland Regulations (COMAR 20.79.01.02) specifies that a small generating facility under 373 kilowatts does not need prior approval of PSC.

Background: The licensing of new electric power plants in Maryland is a comprehensive two-part process involving PSC and several other State agencies, *e.g.*, the Department of Natural Resources and the Maryland Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. Companies wishing to obtain a license for a new power plant must apply to PSC for a CPCN.

During the CPCN application process, the agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. Concerns are identified and the State agencies incorporate those concerns into their evaluation.

Prior to CPCN being issued for a proposed power plant, the State agencies provide PSC the results of their evaluation and a consolidated set of recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also provide detailed recommendations on conditions that should be attached to CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, noise, and land use.

Commercial wind-powered electric generation has been slow to develop in Maryland. As of February 2009, PSC has only received two applications for a CPCN exemption. There are currently two potential wind energy projects in Garrett County under consideration that may come for approval in 2009. One has design capacity of 50 megawatts and the other has a capacity of 60 megawatts. **Appendix 1** shows proposed wind-powered generating stations in the State.

Local Fiscal Effect: The bill has no affect on commercial wind-generating facilities that obtain a CPCN. Garrett County has the authority to adopt county-wide zoning but the county has not adopted an implementing ordinance and a comprehensive plan, as is required to exercise this authority. As a result, Garrett County does not have authority to implement zoning restrictions for a single commercial use. It is assumed that Garrett County can enact specified ordinances with existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 584 (Senator Edwards) - Finance.

Information Source(s): Garrett County, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2009
mam/rhh

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Appendix 1

Status of Maryland Wind Projects

Date Granted	Company	Location	Rated Capacity (MW)	Applicati on Date	Exemption Application	Current Status
10-29-2008	Criterion Power Partners, LLC	Garrett County	70	1-23-2008	Yes	Exemption Approved 10/29/2008; Construction to begin in 2009
Pending	Dans Mountain Wind Force, LLC	Allegany County	69.6	11-5-2008	Yes	Public hearing and comments phase
10-30-2006 (proposed order)	Synergics Wind Energy	Garrett County	40	6-30-2004	No	CPCN withdrawn: May 2008
3-20-2003	US Wind Force LLC	Garrett and Allegany Counties	40	8-30-2002	No	Construction has not commenced; construction required to be completed by 3/20/2010
3-26-2003	Clipper Windpower, Inc.	Garrett County	110	8-26-2002	No	CPCN expired

Notes: In January 2008, Clipper-under the name Criterion Power Partners-filed a CPCN Exemption for 70 MW of wind powered energy. The US Wind Force and Synergics projects were submitted before Chapter 163 of 2007, which provides qualifying wind facilities with the option of applying for a CPCN exemption, was enacted.

Source: Public Service Commission