

# HOUSE BILL 1187

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CF SB 887

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By: **Delegate Hucker**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Solar Photovoltaic Systems**

3 FOR the purpose of specifying the contents of an application for a certificate of public  
4 convenience and necessity for a generating station that produces electricity from  
5 a certain solar photovoltaic system; altering the process by which the  
6 Department of Planning shall forward a certain application for a certificate of  
7 public convenience and necessity; exempting a generating station that produces  
8 electricity from a certain solar photovoltaic system from a certain requirement  
9 to obtain a certificate for public convenience and necessity; requiring a person  
10 who constructs a generating station to pay a certain deposit to the Public  
11 Service Commission based on certain criteria; specifying the basis for  
12 calculating a certain deposit; requiring the Maryland Energy Administration, in  
13 consultation with certain persons, to update and post on its Web site the basis  
14 for calculating a certain deposit; requiring the Commission to place certain  
15 deposits into a certain escrow account for a certain period of time; requiring the  
16 Commission to refund certain deposits under certain circumstances; requiring  
17 the Commission to transfer certain money to the Maryland Strategic Energy  
18 Investment Fund under certain circumstances; establishing a process for a  
19 person to receive an extension for a certain project before the Commission  
20 transfers certain money; specifying that the Strategic Energy Investment Fund  
21 may contain certain money transferred from the Commission; and generally  
22 relating to solar photovoltaic systems and certificates of public convenience and  
23 necessity.

24 BY repealing and reenacting, with amendments,  
25 Article – Public Utilities  
26 Section 7–207(b) and (c) and 7–207.1  
27 Annotated Code of Maryland  
28 (2010 Replacement Volume and 2012 Supplement)

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Public Utilities  
2 Section 7–207.2  
3 Annotated Code of Maryland  
4 (2010 Replacement Volume and 2012 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – State Government  
7 Section 9–20B–05(a), (b), (c), and (d)  
8 Annotated Code of Maryland  
9 (2009 Replacement Volume and 2012 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article – State Government  
12 Section 9–20B–05(e)  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume and 2012 Supplement)

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

17 **Article – Public Utilities**

18 7–207.

19 (b) (1) (i) Unless a certificate of public convenience and necessity for  
20 the construction is first obtained from the Commission, a person may not begin  
21 construction in the State of:

22 1. a generating station; or

23 2. a qualified generator lead line.

24 (ii) If a person obtains Commission approval for construction  
25 under § 7–207.1 of this subtitle, the Commission shall exempt a person from the  
26 requirement to obtain a certificate of public convenience and necessity under this  
27 section.

28 (iii) Notwithstanding subparagraph (i) of this paragraph, a  
29 person may not apply to obtain a certificate of public convenience and necessity for  
30 construction of a qualified generator lead line unless:

31 1. at least 90 days before the filing of an application for  
32 a certificate of public convenience and necessity, the person had in good faith offered  
33 the electric company that owns that portion of the electric grid in Maryland to which  
34 the qualified generator lead line would interconnect a full and fair opportunity for the  
35 electric company to construct the qualified generator lead line; and

1                   2.     at any time at least 10 days before the filing of an  
2 application for a certificate of public convenience and necessity, the electric company:

3                   A.     did not accept from the person a proposal or a  
4 negotiated version of the proposal under which the electric company would construct  
5 the qualified generator lead line; or

6                   B.     stated in writing that the electric company did not  
7 intend to construct the qualified generator lead line.

8                   (2)    Unless a certificate of public convenience and necessity for the  
9 construction is first obtained from the Commission, and the Commission has found  
10 that the capacity is necessary to ensure a sufficient supply of electricity to customers  
11 in the State, a person may not exercise a right of condemnation in connection with the  
12 construction of a generating station.

13                   (3)    (i)    Except as provided in paragraph (4) of this subsection,  
14 unless a certificate of public convenience and necessity for the construction is first  
15 obtained from the Commission, an electric company may not begin construction of an  
16 overhead transmission line that is designed to carry a voltage in excess of 69,000 volts  
17 or exercise a right of condemnation with the construction.

18                   (ii)   For construction related to an existing overhead  
19 transmission line, the Commission may waive the requirement in subparagraph (i) of  
20 this paragraph for good cause.

21                   (4)    (i)    Except as provided in subparagraph (ii) of this paragraph,  
22 for construction related to an existing overhead transmission line designed to carry a  
23 voltage in excess of 69,000 volts, the Commission shall waive the requirement to  
24 obtain a certificate of public convenience and necessity if the Commission finds that  
25 the construction does not:

26                   1.     require the electric company to obtain new real  
27 property or additional rights-of-way through eminent domain; or

28                   2.     require larger or higher structures to accommodate:

29                   A.     increased voltage; or

30                   B.     larger conductors.

31                   (ii)   1.     For construction related to an existing overhead  
32 transmission line, including repairs, that is necessary to avoid an imminent safety  
33 hazard or reliability risk, an electric company may undertake the necessary  
34 construction.

1                   2.     Within 30 days after construction is completed under  
2     subsubparagraph 1 of this subparagraph, an electric company shall file a report with  
3     the Commission describing the work that was completed.

4                   **(5) AN APPLICATION FOR A CERTIFICATE OF PUBLIC**  
5     **CONVENIENCE AND NECESSITY FOR A GENERATING STATION THAT PRODUCES**  
6     **ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM THAT IS NOT EXEMPTED**  
7     **UNDER § 7-207.1 OF THIS SUBTITLE SHALL INCLUDE:**

8                   **(I) THE CAPACITY OF THE PROJECT;**

9                   **(II) THE LOCATION OF THE PROJECT BY ZIP CODE;**

10                  **(III) THE INTERCONNECTION, OPERATION, AND**  
11     **MAINTENANCE AGREEMENT;**

12                  **(IV) THE ANTICIPATED DATE THAT THE PROJECT WILL BE**  
13     **ONLINE;**

14                  **(V) THE SOLAR RENEWABLE ENERGY CREDIT MANAGEMENT**  
15     **PLAN; AND**

16                  **(VI) ANY OTHER INFORMATION THE COMMISSION**  
17     **REQUIRES.**

18           (c)   (1)   On receipt of an application for a certificate of public convenience  
19     and necessity under this section, the Commission shall provide notice to the  
20     Department of Planning and to all other interested persons.

21                  (2)   The Department of Planning shall forward the application:

22                  **(I) IF THE APPLICATION PROPOSES A GENERATING**  
23     **STATION THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM**  
24     **THAT IS NOT EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE, TO THE**  
25     **MARYLAND ENERGY ADMINISTRATION, WHICH MAY CHOOSE TO MAKE THE**  
26     **APPLICATION AVAILABLE TO THE PUBLIC; OR**

27                  **(II) IF THE APPLICATION PROPOSES A QUALIFYING**  
28     **GENERATOR LEAD LINE OR A GENERATING STATION THAT PRODUCES**  
29     **ELECTRICITY FROM A SOURCE OTHER THAN A SOURCE UNDER ITEM (I) OF THIS**  
30     **PARAGRAPH,** to each appropriate State unit and unit of local government for review,  
31     evaluation, and comment regarding the significance of the proposal to State,  
32     area-wide, and local plans or programs.

1 7-207.1.

2 (a) This section applies to a person who:

3 (1) constructs a generating station:

4 (i) designed to provide on-site generated electricity if:

5 1. the capacity of the generating station does not exceed  
6 70 megawatts; and

7 2. the electricity that may be exported for sale from the  
8 generating station to the electric system is sold only on the wholesale market pursuant  
9 to an interconnection, operation, and maintenance agreement with the local electric  
10 company; [or]

11 (ii) that produces electricity from wind if:

12 1. the generating station is land-based;

13 2. the capacity of the generating station does not exceed  
14 70 megawatts;

15 3. the electricity that may be exported for sale from the  
16 generating station to the electric system is sold only on the wholesale market pursuant  
17 to an interconnection, operation, and maintenance agreement with the local electric  
18 company;

19 4. the Commission provides an opportunity for public  
20 comment at a public hearing as provided in subsection (e) of this section; and

21 5. the generating station's wind turbines are not located  
22 within a distance from the Patuxent River Naval Air Station that is determined by  
23 regulations adopted by the Commission in coordination with the Commander, Naval  
24 Air Warfare Center Aircraft Division, provided that the distance requirement under  
25 the regulation is:

26 A. not greater than is necessary to encompass an area in  
27 which utility scale wind turbines could create Doppler radar interference for missions  
28 at the Patuxent River Naval Air Station;

29 B. not greater than 46 miles, measured from location  
30 38.29667N, 76.37668W; and

31 C. subject to modification if necessary to reflect changes  
32 in missions or technology at the Patuxent River Naval Air Station or changes in wind  
33 energy technology; or

1                   **(III) THAT PRODUCES ELECTRICITY FROM A SOLAR**  
2 **PHOTOVOLTAIC SYSTEM IF:**

3                   **1. THE CAPACITY OF THE GENERATING STATION**  
4 **DOES NOT EXCEED 10 MEGAWATTS; AND**

5                   **2. THE ELECTRICITY THAT MAY BE EXPORTED FOR**  
6 **SALE FROM THE GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY**  
7 **ON THE WHOLESALE MARKET UNDER AN INTERCONNECTION, OPERATION, AND**  
8 **MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC COMPANY; OR**

9                   (2) constructs a generating station if:

10                   (i) the capacity of the generating station does not exceed 25  
11 megawatts;

12                   (ii) the electricity that may be exported for sale from the  
13 generating station to the electric system is sold only on the wholesale market pursuant  
14 to an interconnection, operation, and maintenance agreement with the local electric  
15 company; and

16                   (iii) at least 10% of the electricity generated at the generating  
17 station each year is consumed on-site.

18                   (b) (1) The Commission shall require a person that is exempted from the  
19 requirement to obtain a certificate of public convenience and necessity to obtain  
20 approval from the Commission under this section before the person may construct a  
21 generating station described in subsection (a) of this section.

22                   (2) An application for approval under this section shall:

23                   (i) be made to the Commission in writing on a form adopted by  
24 the Commission;

25                   (ii) be verified by oath or affirmation; and

26                   (iii) contain information that the Commission requires,  
27 including:

28                   1. proof of compliance with all applicable requirements  
29 of the independent system operator; and

30                   2. a copy of an interconnection, operation, and  
31 maintenance agreement between the generating station and the local electric  
32 company.

1 (c) When reviewing an application for approval under this section, the  
2 Commission shall:

3 (1) ensure the safety and reliability of the electric system;

4 (2) require the person constructing the generating station to notify the  
5 Commission 2 weeks before the first export of electricity from a generating station  
6 approved under this section; and

7 (3) conduct its review and approval in an expeditious manner.

8 (d) The Commission may waive an element of the approval process under  
9 this section if the Commission determines that the waiver is in the public interest.

10 (e) (1) The Commission shall provide an opportunity for public comment  
11 and hold a public hearing as provided under this subsection on an application for  
12 approval made under subsection (a)(1)(ii) of this section in each county and municipal  
13 corporation in which any portion of the construction of a generating station is proposed  
14 to be located.

15 (2) Upon the request of the governing body of a county or municipal  
16 corporation in which any portion of the construction of a generating station is proposed  
17 to be located, the Commission shall hold the public hearing jointly with the governing  
18 body.

19 (3) Once in each of 2 successive weeks immediately before the hearing  
20 date, the Commission, at the expense of the applicant, shall provide weekly notice of  
21 the public hearing and opportunity for public comment by advertisement in a  
22 newspaper of general circulation in the county or municipal corporation affected by the  
23 application.

24 **7-207.2.**

25 (A) (1) **THIS SUBSECTION APPLIES TO A PERSON WHO CONSTRUCTS A**  
26 **GENERATING STATION THAT:**

27 (I) **HAS THE CAPACITY TO PRODUCE AT LEAST 2**  
28 **MEGAWATTS AND NOT MORE THAN 10 MEGAWATTS OF ELECTRICITY FROM A**  
29 **SOLAR PHOTOVOLTAIC SYSTEM; AND**

30 (II) **IS EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE FROM**  
31 **THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND**  
32 **NECESSITY.**

1           **(2) IF A PERSON HAS FILED AN APPLICATION FOR APPROVAL TO**  
2 **CONSTRUCT A GENERATING STATION DESCRIBED IN PARAGRAPH (1) OF THIS**  
3 **SUBSECTION, THE COMMISSION SHALL REQUIRE THE PERSON TO PAY A**  
4 **DEPOSIT OF 1% OF TOTAL INSTALLED COSTS.**

5           **(B) (1) THIS SUBSECTION APPLIES TO A PERSON WHO CONSTRUCTS A**  
6 **GENERATING STATION THAT:**

7                   **(I) HAS THE CAPACITY TO PRODUCE MORE THAN 10**  
8 **MEGAWATTS OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM; AND**

9                   **(II) IS NOT EXEMPTED FROM THE REQUIREMENT TO OBTAIN**  
10 **A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

11           **(2) IF A PERSON HAS FILED AN APPLICATION FOR A CERTIFICATE**  
12 **OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A GENERATING**  
13 **STATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE**  
14 **COMMISSION SHALL REQUIRE THE PERSON TO PAY A DEPOSIT OF 2% OF TOTAL**  
15 **INSTALLED COSTS.**

16           **(C) (1) THE AMOUNT OF TOTAL INSTALLED COSTS SHALL BE BASED**  
17 **ON AVERAGE INSTALLED COSTS DATA PROVIDED BY THE MARYLAND ENERGY**  
18 **ADMINISTRATION.**

19                   **(2) THE MARYLAND ENERGY ADMINISTRATION, IN**  
20 **CONSULTATION WITH MEMBERS OF THE SOLAR INDUSTRY, SHALL DEVELOP AND**  
21 **POST AVERAGE INSTALLED COSTS DATA ON ITS WEB SITE ON A QUARTERLY**  
22 **BASIS.**

23                   **(3) THE AVERAGE INSTALLED COSTS DATA SHALL BE CLASSIFIED**  
24 **BASED ON CAPACITY OF A GENERATING STATION TO PRODUCE ELECTRICITY, IN**  
25 **5-MEGAWATT-HOUR INCREMENTS.**

26           **(D) (1) THE COMMISSION SHALL PLACE ANY DEPOSITS COLLECTED**  
27 **UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION INTO AN ESCROW ACCOUNT.**

28                   **(2) IF A PERSON BEGINS A PROJECT WITHIN 3 YEARS AFTER**  
29 **FILING AN APPLICATION FOR APPROVAL OR AN APPLICATION FOR A**  
30 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE COMMISSION**  
31 **SHALL REFUND THE DEPOSIT.**

32                   **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
33 **IF A PERSON DOES NOT BEGIN A PROJECT WITHIN 3 YEARS AFTER FILING AN**



1 APPLICATION FOR APPROVAL OR AN APPLICATION FOR A CERTIFICATE OF  
2 PUBLIC CONVENIENCE AND NECESSITY, THE MONEY HELD IN THE ESCROW  
3 ACCOUNT SHALL BE:

4 1. DEEMED TO BE ABANDONED; AND

5 2. TRANSFERRED TO THE MARYLAND STRATEGIC  
6 ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT  
7 ARTICLE.

8 (ii) 1. A PERSON MAY REQUEST AN EXTENSION FOR A  
9 PROJECT THAT DOES NOT BEGIN WITHIN 3 YEARS AFTER THE FILING OF AN  
10 APPLICATION FOR APPROVAL OR AN APPLICATION FOR A CERTIFICATE OF  
11 PUBLIC CONVENIENCE AND NECESSITY.

12 2. THE COMMISSION MAY GRANT THE REQUEST  
13 BASED ON FACTORS THE COMMISSION CONSIDERS COMPELLING, INCLUDING  
14 THE OCCURRENCE OF EVENTS OUTSIDE THE PERSON'S CONTROL.

15 Article – State Government

16 9-20B-05.

17 (a) There is a Maryland Strategic Energy Investment Fund.

18 (b) The purpose of the Fund is to implement the Strategic Energy  
19 Investment Program.

20 (c) The Administration shall administer the Fund.

21 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
22 7-302 of the State Finance and Procurement Article.

23 (2) The Treasurer shall hold the Fund separately and the Comptroller  
24 shall account for the Fund.

25 (e) The Fund consists of:

26 (1) all of the proceeds from the sale of allowances under § 2-1002(g) of  
27 the Environment Article;

28 (2) money appropriated in the State budget to the Program;

29 (3) repayments and prepayments of principal and interest on loans  
30 made from the Fund;

- 1                   (4)    interest and investment earnings on the Fund;
- 2                   (5)    compliance fees paid under § 7-705 of the Public Utilities Article;
- 3   [and]
- 4                   (6)    money received from any public or private source for the benefit of
- 5   the Fund; AND

6                   **(7)    MONEY TRANSFERRED FROM THE PUBLIC SERVICE**

7   **COMMISSION UNDER § 7-207.2(D)(3) OF THE PUBLIC UTILITIES ARTICLE.**

8                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

9   October 1, 2013.