

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1168  
Economic Matters

(Southern Maryland Delegation)

Finance

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Electricity - Certificate - Wind Turbines - Limitation

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This bill prohibits the Public Service Commission (PSC) from approving a certificate of public convenience and necessity (CPCN) for the construction of a wind-powered generating station that includes any wind turbine exceeding specified heights within a specified area before July 1, 2015. A person is likewise prohibited from undertaking construction of such a wind-powered generating station. In evaluating any proposal for a wind-powered generating station within the specified area, PSC must review and consider all available pertinent information relating to the potential for interference of the proposed generating station on the maintenance and operations of the Atlantic Test Range utilized by the Patuxent River Naval Air Station and related defense facilities, both as a specific proposal and in combination with other existing and proposed wind-powered generating stations affecting the test range. The CPCN exemption process likewise incorporates the bill's specified height and distance requirements. The bill may not be construed to affect any wind-powered generating station on which construction has begun by March 10, 2014, and for which specified payments have been made.

The bill takes effect June 1, 2014, and terminates June 30, 2015.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State government operations or finances. PSC can implement the bill with existing budgeted resources.

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

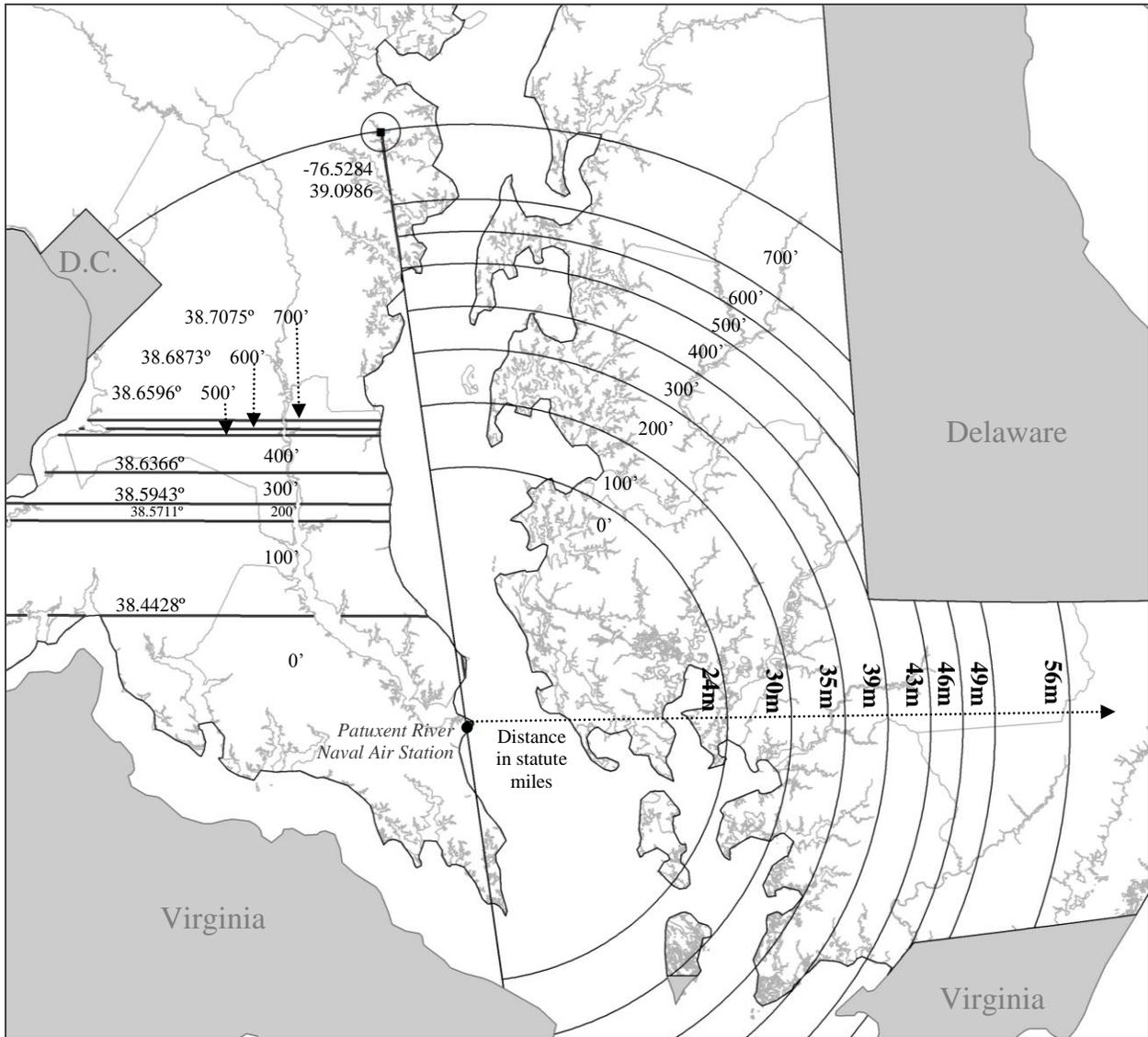
**Small Business Effect:** Meaningful for small businesses involved in the development of wind-powered generating stations delayed or prohibited under the bill.

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## Analysis

**Bill Summary:** The area referenced by the bill is a 56-mile radius measured from the Patuxent River Naval Air Station (38.29667N, 76.37668W). The Department of Legislative Services notes that this is a land area of approximately 3,875 square miles (39.7% of the total State land area of approximately 9,750 square miles). It covers the entirety of the southern Maryland counties, most of the counties east of the Chesapeake Bay, and most of Prince George's and Anne Arundel counties. On the eastern side of the Chesapeake Bay, turbines of any height are prohibited within 24 miles of the Patuxent River Naval Air Station, with increased heights authorized as the distance increases. For most of the defined area on the western side of the Chesapeake Bay, maximum authorized turbine heights are determined by latitude. Turbines of any height are prohibited below 38.4428N. The referenced area and authorized turbine heights are shown in **Exhibit 1**.

**Exhibit 1**  
**Geographic Range – House Bill 1168**  
**Authorized Wind Turbine Height by Distance from Reference Point**



Source: Department of Legislative Services

Note: This map is for illustrative purposes only and should not be used for project siting purposes.

**Current Law:** Generally, 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. PSC regulations define a “generating station” as  
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property or facilities located in Maryland constituting an integral piece of equipment or unit for the production of electric energy, including any new production unit that would be added to an existing production plant.

PSC must take final action on an application for CPCN for a proposed generating station only after due consideration of:

- the recommendation of the governing body of each county or municipality in which any portion of the construction of the generating station is proposed to be located; and
- the effect of the generating station on the stability and reliability of the electric system, economics, esthetics, historic sites, aviation safety, air and water pollution (when applicable), and the availability of means for the required timely disposal of wastes produced by the generating station.

#### *CPCN Exemptions*

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

- the facility is designed to provide on-site 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 on-site, 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 (up to 46 miles), 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.

**Background:** The licensing of new electric power plants in the State 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.

If a commercial wind-powered generating facility is granted a CPCN by PSC, the generating facility may be constructed without regard to local zoning rule, regulation, law, or ordinances. If a generating facility is granted an exemption from the CPCN requirement, PSC evaluation is limited to ensuring safety and reliability of the electric system. All issues other than safety and reliability of the electric system are left up to other State and local agencies.

#### *Patuxent River Naval Air Station*

The Patuxent River Naval Air Station was commissioned in 1943 to consolidate air testing facilities. One of the station's primary functions is air and ground test and evaluation. The station has a large air test range, and is equipped to determine the radar signatures of aircraft so that potential weaknesses and vulnerabilities can be mitigated before an aircraft is deployed in combat.

The Navy has expressed concerns relating to large wind turbines' potential to interfere with the station's radar systems. Navy officials have actively sought engagement in the siting and planning process of wind farm projects in southern Maryland and the Eastern Shore for this reason. In order to alleviate the Navy's concern with wind farm projects, Chapters 643 and 644 of 2012 directed PSC to adopt regulations, in coordination with the Navy, regarding wind energy generating stations within a certain distance of the Patuxent River Naval Air Station. As of March 19, 2014, PSC staff has developed *draft* regulations for further consideration, but final regulations have not yet been promulgated.

#### *Projects Impacted*

The Maryland Energy Administration (MEA) advises that the bill suspends one major wind energy project in Somerset County – the 70-megawatt (Phase 1) Great Bay project. Further, while the bill places a one-year delay on construction, it may result in project failure if certain federal incentives expire or contractual timelines are not met. Regarding the height requirements for turbines specified in the bill, MEA indicates that commercial-scale wind turbines are generally 400 feet in height or taller, although heights can range to more than 500 feet with current technologies.

**Small Business Effect:** MEA advises that there are multiple small businesses involved in the development of the Great Bay project. Those businesses are adversely affected to

the extent that the project is delayed or fails due to the bill's temporary prohibition of CPCN approval and/or project construction.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Public Service Commission, Department of Natural Resources, Maryland Energy Administration, Department of Information Technology, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2014  
mc/lgc Revised - House Third Reader - March 20, 2014  
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