

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1350
Economic Matters

(Delegate Rose, *et al.*)

Finance

Public Service Commission - Application for Certificate of Public Convenience
and Necessity - Consistency With Comprehensive Plan

This bill requires the Public Service Commission (PSC), rather than the Maryland Department of Planning (MDP), to provide a copy of a certificate of public convenience and necessity (CPCN) application to each appropriate unit of State and local government. PSC must also provide a copy to members of the General Assembly representing areas located in or near the proposed project upon request – under current law, only notice of the application, and not the application itself, is provided to those members of the General Assembly. PSC must also notify the county executive, if applicable, in addition to the affected county governing body, of the CPCN application. PSC may take final action on a CPCN application for a generating station only after due consideration of (1) the consistency of the application with the comprehensive plan and zoning of each county or municipality where any portion of the generating station is proposed to be located and (2) the efforts to resolve any issues presented by a county or municipality where any portion of the generating station is proposed to be located.

Fiscal Summary

State Effect: PSC can handle the bill’s requirements with existing budgeted resources. State finances and operations are not otherwise materially affected.

Local Effect: Local government finances and operations are not materially affected.

Small Business Effect: None.

Analysis

Current Law/Background:

Certificate of Public Convenience and Necessity Process

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

Upon receipt of a CPCN application, PSC must immediately provide notice to (1) MDP; (2) the governing body of each county or municipality in which any portion of the project is proposed to be located or is within one mile of the proposed location; (3) each member of the General Assembly representing an area in which any portion of the project is proposed to be located or within one mile of the proposed location; and (4) all other interested persons. MDP must forward the CPCN application to each appropriate State and local unit of government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

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 take final action on an application for a CPCN 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, overhead transmission line, or qualified generator lead line is proposed to be located; and
- the effect of the generating station, overhead transmission line, or qualified generator lead line 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 any generating station.

Local Government Comprehensive Plans

MDP describes a comprehensive plan as “a document, officially adopted by the local governing body, which spells out the manner in which a municipality, county, or sub-area of a county must develop.” The local jurisdiction’s zoning, provision of water and sewer facilities, and other actions must be consistent with the plan’s recommendations. Under current law, to be “consistent with” a comprehensive plan means an action taken that will further, and not be contrary to, the following items in the plan: (1) policies; (2) timing of implementation of the plan; (3) timing of development; (4) timing of rezoning; (5) development patterns; (6) land uses; and (7) densities or intensities.

Local jurisdictions are required to enact, adopt, amend, and execute a comprehensive plan in accordance with State law. Certain elements must be included in a comprehensive plan and additional permissive elements may be included. A comprehensive plan also must include or implement specified visions stated in the law. At least once every 10 years, the planning commission of a local jurisdiction must review the comprehensive plan and, if necessary, revise or amend the plan to include all required elements and the specified visions. A planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if each plan is reviewed and, if necessary, revised or amended at least once every 10 years.

Additional Information

Prior Introductions: None.

Cross File: SB 851 (Senator Ready) - Finance.

Information Source(s): Public Service Commission; Maryland Department of Planning; Department of Legislative Services

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