

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 851
Finance

(Senator Ready)

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

This bill requires the Public Service Commission (PSC), before holding a public hearing on a certificate of public convenience and necessity (CPCN) application for the construction of a generating station or overhead transmission line, to provide a copy of the application materials to each unit of local government in which any portion of the proposed project is located. Each unit of local government must review the materials and make a determination as to whether a CPCN application is consistent with its comprehensive plan. If *any* unit of local government determines that a CPCN application is inconsistent with its comprehensive plan, PSC is prohibited from holding a public hearing on the CPCN application or issuing the CPCN.

Fiscal Summary

State Effect: PSC can handle the bill's requirements with existing budgeted resources. Revenues are not affected.

Local Effect: Local government expenditures may increase minimally to evaluate CPCN applications for consistency with comprehensive plans. Any increase cannot be reliably estimated at this time and depends on existing expertise at each unit of local government and the extent to which expenditures increase for any public hearings. Revenues are not 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.

Regardless of the position of the local government, 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

The Maryland Department of Planning 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 Comments: The bill does not establish a time limit for evaluation of CPCN applications by local governments. As the bill requires an affirmative decision by a local government prior to PSC holding public hearings on a CPCN application, the lack of a time limit could indefinitely delay the CPCN application process.

Additional Information

Prior Introductions: None.

Cross File: HB 1350 (Delegate Rose, *et al.*) - Economic Matters.

Information Source(s): Public Service Commission; Maryland Department of Planning; Baltimore City; Caroline, Prince George's, and Montgomery counties; City of Bowie; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2017
md/lgc

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