

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1591 (Delegate Impallaria)

Environment and Transportation and  
Economic Matters

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**Solar Facilities - Siting Standards**

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This bill establishes specified standards and requirements for commercial solar facilities, unless a local jurisdiction adopts different standards and requirements under its local zoning law. The bill does not apply to specified facilities. Applicants for a Certificate of Public Convenience and Necessity (CPCN) or a CPCN exemption must submit proof of compliance with all applicable local standards and requirements. The Public Service Commission (PSC) must take final action on a CPCN only after due consideration of a commercial solar facility's compliance with those standards and requirements. Compliance with local standards and requirements must be deemed compliance with those established in the bill for purposes of a CPCN application. The bill applies in all counties and Baltimore City.

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**Fiscal Summary**

**State Effect:** PSC can handle the bill's requirements with existing budgeted resources. The bill is not anticipated to otherwise materially affect State finances or operations.

**Local Effect:** Local governments can likely handle any additional administrative requirements with existing staff and resources. Revenues are likely not materially affected.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** Unless otherwise exempt, a commercial solar facility is allowed only by special exception in a business, manufacturing, or rural conservation zone of a local

jurisdiction. In granting a special exception for a solar facility, the local hearing examiner or, on appeal, the local board of appeals may impose conditions or restrictions on the solar facility as necessary to (1) protect the environment and scenic views and (2) lessen the potential impact of the solar facility on the health, safety, and general welfare of surrounding residential properties and communities.

At least 60 days before the public hearing on a special exception for a solar facility, the applicant must send notice by certified mail, return receipt requested, to adjoining property owners and community associations with specified information on the solar facility and the upcoming hearing.

### *Requirements for Commercial Solar Facilities*

The bill specifies several general standards and requirements for proposed commercial solar facilities related to permissible land use, construction limits, ongoing maintenance, and decommissioning. Projects located on specified zoned areas have separate requirements.

For example, a proposed solar facility may not be located on certain types of protected lands. A solar facility structure can be no more than 10 feet in height and must be set back a minimum of 300 feet from the parcel boundary. The setback requirement does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines, which also have specified requirements. The setback requirement may be adjusted by local entities, as specified.

An applicant for a building permit for a commercial solar facility must provide a bond or other form of security acceptable to the local jurisdiction in the form and amount determined by the local administrative officer, which may be used by a local code official to procure the correction of any unsafe or hazardous conditions found at the facility or removal of the facility.

Each party that has a lease or ownership interest in a solar facility is responsible for the maintenance of the solar facility, as specified. A solar facility that has reached the end of its useful life or has been abandoned shall be removed within 150 days, subject to specified requirements and enforcement by local code officials.

### *Exemptions*

The bill does not apply to a commercial solar facility that is located (1) in or on a yard area, building, or structure that is an accessory to a principal residential, agricultural, commercial, or institutional use or (2) on federal, State, or local government-owned or leased land that produces energy for government use.

**Current Law/Background:** Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line (project) unless a CPCN is first obtained from PSC. “Generating station” is not defined in statute. However, the PSC definition in regulation excludes a facility with up to two megawatts of capacity if it meets other specified requirements.

The CPCN application process involves notifying specified stakeholders, public hearings, and the consideration of recommendations by State and local government entities and the project’s effect on various aspects of the State infrastructure, economy, and environment. There are conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement; a common exemption applies to many solar facilities.

PSC must take final action on a CPCN application only after due consideration of the recommendation of the governing body of each county or municipality in which a proposed project will be located. As a practical matter, most CPCNs require compliance with some or all of local zoning ordinances, although CPCNs do technically preempt such ordinances. In the case of a CPCN exemption, local zoning ordinances are in full force and effect.

Baltimore County passed [legislation](#) similar to the bill in 2017.

**Small Business Effect:** Small businesses in the solar industry may have to comply with additional zoning requirements due to the bill, which may alter the costs of potential solar projects.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Public Service Commission; Department of Natural Resources; Maryland Department of Planning; Office of People’s Counsel; Baltimore City; Montgomery County; City of College Park; Department of Legislative Services

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