

Department of Legislative Services  
 Maryland General Assembly  
 2025 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1338 (Delegate Valderrama)  
 Economic Matters

Public Utilities - Certificates of Public Convenience and Necessity - Energy Storage Devices

This bill requires a person to obtain a Certificate of Public Convenience and Necessity (CPCN) before constructing an “energy storage device” in the State. The bill makes conforming changes to provisions relating to the CPCN process. An “energy storage device” means a resource that (1) is capable of absorbing electrical energy, storing it for a period of time, and delivering the energy for use at a later time as needed, regardless of where the resource is located on the electric distribution system; (2) has a minimum energy storage capacity of two megawatts; and (3) is installed in front of the meter. The bill applies only prospectively.

Fiscal Summary

**State Effect:** Special fund expenditures for the Public Service Commission (PSC) increase by \$353,700 in FY 2026; future years reflect annualization, inflation, and ongoing costs. Special fund revenues for PSC increase correspondingly from fees and assessments. General/special fund expenditures for the Department of Natural Resources (DNR) increase by *at least* \$449,100 in FY 2026; future years reflect annualization, inflation, and ongoing consultant costs and operating expenses.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	\$353,700	\$421,700	\$440,400	\$460,000	\$479,600
SF Expenditure	\$353,700	\$421,700	\$440,400	\$460,000	\$479,600
GF/SF Exp.	\$449,100	\$497,700	\$512,800	\$528,700	\$544,500
Net Effect	(\$449,100)	(\$497,700)	(\$512,800)	(\$528,700)	(\$544,500)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** The bill is not expected to materially affect local finances. However, the bill does have an operational effect on local governments, as discussed below.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** PSC is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through the CPCN process, which is a comprehensive process involving several other State agencies, including DNR and its Power Plant Research Program (PPRP) and the Maryland Department of the Environment.

### *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. The application process involves notifying specified stakeholders, public hearings, 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.

PSC must take final action on a CPCN application only after due consideration of the recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located and the effect of the project on various aspects of the State infrastructure, economy, and environment.

For additional information on the CPCN process, please see the **Appendix – Certificate of Public Convenience and Necessity**.

### *Maryland Energy Storage Program*

Chapter 570 of 2023 required PSC to establish the Maryland Energy Storage Program and establish targets for the cost-effective deployment of new energy storage devices in the State with a goal of achieving at least a cumulative total of 750 megawatts by the end of the 2027 PJM Interconnection, LLC (PJM) delivery year, 1,500 megawatts by the end of the 2030 PJM delivery year, and 3,000 megawatts by the end of the 2033 PJM delivery year. If a target cannot be met cost effectively, the target must be reduced to the maximum cost-effective amount for the relevant delivery year. The program must be implemented by July 1, 2025, as specified.

### **State Fiscal Effect:**

#### *Department of Natural Resources*

PPRP's evaluation of CPCN applications is a highly time-intensive task and requires significant technical expertise to complete. By requiring a person to obtain a CPCN before constructing an energy storage device in the State, DNR anticipates that the bill may result

in a significant increase in the number of CPCN applications submitted each year. DNR advises that existing staff within PPRP cannot handle the anticipated increase in workload and that it needs additional staff – as well as technical support from consultants – to prepare the additional evaluations of CPCN applications stemming from the bill. This estimate assumes that DNR spends *at least* \$200,000 annually on consulting costs. However, in any given year, DNR’s expenditures on consultants may be significantly higher based on the actual volume and complexity of the CPCN applications received.

In general, special funds from the Environmental Trust Fund are used to fund PPRP’s operations. However, general funds may be required to cover part or all of the expenses that PPRP incurs under the bill because DNR anticipates a special fund revenue shortfall.

Accordingly, general/special fund expenditures for DNR increase by *at least* \$449,147 in fiscal 2026, which accounts for the bill’s October 1, 2025 effective date. This estimate reflects the cost of PPRP hiring two site assessors to complete evaluations of the additional CPCN applications anticipated to be submitted under the bill, as well as one part-time attorney to provide necessary legal support. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, in addition to *at least* \$200,000 in consulting expenses to implement the bill.

Positions	2.5
Salaries and Fringe Benefits	\$227,455
Consultant Costs	200,000
Other Operating Expenses	<u>21,692</u>
<b>Minimum FY 2026 DNR Expenditures</b>	<b>\$449,147</b>

Future year expenditures – which also reflect minimum costs – reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) annual increases in ongoing consultant costs.

*Public Service Commission*

Likewise, PSC also anticipates an increase in the volume of CPCN applications submitted each year under the bill. PSC advises that the incremental workload required by the bill cannot be absorbed within existing resources and that it needs additional staff to (1) review the additional CPCN applications received under the bill and (2) provide litigation support in the additional CPCN proceedings resulting from the bill.

Accordingly, special fund expenditures for PSC increase by \$353,730 in fiscal 2026, which accounts for the bill’s October 1, 2025 effective date. This estimate reflects the cost of hiring two engineers to review additional CPCN applications and two staff attorneys to

provide litigation support in related CPCN proceedings. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	4.0
Salaries and Fringe Benefits	\$324,255
Other Operating Expenses	<u>29,475</u>
<b>Total FY 2026 PSC Expenditures</b>	<b>\$353,730</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

**Local Fiscal Effect:** The Maryland Municipal League has previously advised for similar legislation in a prior legislative session that requiring energy storage devices to go through the CPCN process would shift significant control over the approval and siting of those devices from local governments to PSC. Whereas municipalities currently have considerable input into whether an energy storage device is constructed and where the device is sited, PSC is only required to consider local zoning and comprehensive plans when rendering a decision to approve or deny a CPCN. Operational impacts to local governments notwithstanding, the bill is not anticipated to materially affect local finances.

**Small Business Effect:** Small businesses engaged in the development of energy storage facilities are required to pay the additional costs of preparing and filing CPCN applications to construct energy storage devices and may incur costs related to litigating CPCN proceedings. Some small business developers may be dissuaded from building energy storage facilities because of not wanting to go through the CPCN process; however, others may benefit from the bill's changes if they can obtain a CPCN and construct an energy storage device that a local government, in the absence of the bill, would not have approved or would have taken longer to approve.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 1367 of 2024.

**Designated Cross File:** None.

**Information Source(s):** Howard and Prince George's counties; Maryland Association of Counties; Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; Office of People's Counsel; Public Service Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2025  
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# Appendix – Certificate of Public Convenience and Necessity

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## *General Overview*

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCN). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment. Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, overhead transmission line, or qualified generator lead line unless a CPCN is first obtained from PSC.

State law provides that a “generating station” excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other requirements).

The CPCN process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project’s effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

### *Notification Process*

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly who requests a copy.

### *Public Hearing and Comment*

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, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

### *Public Service Commission Considerations*

PSC must take final action on a CPCN application only after due consideration of (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide greenhouse gas emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

### *Generating Station Exemptions*

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

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to a specified agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to a specified 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, among other requirements.

However, PSC must require a person who 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.