

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 780 (Senator Brooks)
 Education, Energy, and the Environment

Certificate of Public Convenience and Necessity - BURDEN Analysis (CHERISH Our Communities Act)

This bill requires an application for a Certificate of Public Convenience and Necessity (CPCN) for the construction of a generating station (excluding a solar, wind, or geothermal energy generating station) located within an “at-risk census tract” to include a “BURDEN report.” The bill also alters the existing notice requirements related to a CPCN application (excluding an application for a solar, wind, or geothermal energy generating station). For a CPCN application for which a BURDEN report is required, the Public Service Commission (PSC) must make certain determinations and, depending on those determinations, either deny the application or approve it, subject to specified conditions.

Fiscal Summary

State Effect: Potential increase in special fund expenditures for PSC, as discussed below; to the extent PSC special fund expenditures increase, special fund revenues increase correspondingly from assessments imposed on public service companies. General/special fund expenditures for the Department of Natural Resources (DNR) increase by at least \$208,900 in FY 2027 and by similar amounts in future years.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
SF Revenue	-	-	-	-	-
SF Expenditure	-	-	-	-	-
GF/SF Exp.	\$208,900	\$217,100	\$220,400	\$223,600	\$226,900
Net Effect	(\$208,900)	(\$217,100)	(\$220,400)	(\$223,600)	(\$226,900)

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

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“BURDEN report” means a baseline understanding of risk, disparities, and environmental needs report prepared in accordance with the bill.

“At-risk census tract” means any geographic area within a 1.5-mile radius of the boundaries of any census tract for which:

- the final environmental justice (EJ) Score as determined using the Maryland EJ tool is at or above the 75th percentile;
- six or more of the environmental health indicators listed in the definition of “overburdened community” in § 1-701 of the Environment Article are at or above the 75th percentile;
- the proximity to mining operations, emitting power plants, or a hazardous waste landfill is at or above the 95th percentile in the State; or
- the proximity to a concentrated animal feeding operation, as defined in COMAR 26.08.01.01, is at or above the 99th percentile in the State.

Certificate of Public Convenience and Necessity – BURDEN Report Requirement

PSC may not consider a CPCN application for the construction of a generating station (excluding a solar, wind, or geothermal energy generating station) located within an at-risk census tract unless the application includes a BURDEN report.

A BURDEN report must describe (1) the existing environmental and public health burden for the at-risk census tract in which the generating station is to be located and (2) the potential or current contributions to the existing environmental and public health burden by the generating station. At a minimum, the report must include:

- using the Maryland EJ tool, the EJ Score for the census tract in which the generating station is to be located and the EJ Scores for each census tract located within a 1.5-mile radius of the boundary of the proposed generating station, including a description of the indicators contributing to the EJ Score;
- a comprehensive list of each existing pollution source, or category of sources, that is impacting the at-risk census tract or census tracts within a 1.5-mile radius of the proposed generating station, including a description of potential routes of human exposure to pollution from each source or category identified;

- ambient concentrations of regulated air pollutants and regulated or unregulated hazardous air pollutants;
- an existing traffic count in at-risk census tracts within a 1.5-mile radius of the proposed generating station and anticipated contributions to the traffic count from the proposed generating station, as specified;
- existing noise and odor levels in at-risk census tracts within a 1.5-mile radius of the proposed generating station and anticipated contributions to noise and odor levels from the proposed generating station;
- exposure or potential exposure to lead (including lead-based paint) or contaminated drinking water supplies;
- proximity of the proposed generating station to existing sources of pollution;
- the potential or projected contribution of the proposed generating station to existing pollution burdens in the at-risk census tract, as specified;
- an evaluation of existing environmental and public health stressors and indicators borne by the at-risk census tract or census tracts within a 1.5-mile radius of the proposed generating station; and
- an evaluation of any environmental and public health stressors and indicators posed by the proposed generating station.

Notice Requirements

For all CPCN applications (excluding those for solar, wind, or geothermal energy generating stations), the bill specifies that the notice otherwise required to be sent to designated recipients at the time the application is received – pursuant to current law – must include the following additional information: (1) the EJ Scores for each census tract located within a 1.5-mile radius of the boundary of the proposed generating station, including a description of the indicators contributing to each EJ Score; and (2) a link to the PSC webpage where the associated BURDEN report is posted.

Public Service Commission Review and Determination

After reviewing a BURDEN report, PSC must issue a determination on whether approving a CPCN application will, together with other environmental or public health stressors or indicators affecting the at-risk census tract, cause or contribute to adverse environmental or public health stressors or indicators in the census tract that are higher than those borne by other areas within the State.

If PSC determines that approving a CPCN application will cause or contribute to these stressors or indicators, PSC must deny the application unless the applicant can demonstrate that the activity requiring the CPCN will serve a public interest in the at-risk census tract where the generating station is to be located. If PSC determines that a CPCN application

may be approved, it must impose conditions on the CPCN to protect environmental and public health.

Current Law:

Certificate of Public Convenience and Necessity Process

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 (MDE).

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. When a CPCN application is received, 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.

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**.

Certificate of Public Convenience Necessity Application Requirements that Relate to Environmental Impacts

PSC regulations require a CPCN applicant to provide extensive information about the project's potential environmental impact, including (1) a summary of the environmental effects of the construction and operation of the project, including a description of the unavoidable impact and recommended mitigation; (2) a copy of all studies of the environmental impact of the proposed project prepared by the applicant; and (3) a statement of the ability to conform to the applicable environmental standards. For the construction or modification of a generating station specifically, a CPCN applicant must also provide the following environmental information:

- a description of the effect on air quality, as specified;
- a description of the effect on water quality and appropriation, as specified;
- a description of the extent and effect on State or private tidal wetlands, nontidal wetlands and their buffers, or waterways and floodplains, as specified;
- a discussion of the economics and availability of means for the disposal of plant-generated wastes; and
- a discussion of the project’s impact on the State’s ability to satisfy the State’s Renewable Energy Portfolio Standard and greenhouse gas reduction requirements.

Environmental Justice Screening

A person who is applying for specified permits under § 1-601(a) of the Environment Article must include, as part of the permit application, the “EJ Score” from the “Maryland EJ tool” for the census tract where the applicant is seeking a permit, unless the permit requires the applicant to use a tool developed by the U.S. Environmental Protection Agency. MDE must review the EJ Score for the census tract where the applicant is seeking a permit using the Maryland EJ tool to verify the applicant’s information.

“EJ Score” means an overall evaluation of an area’s environment and existing environmental justice indicators, as defined by MDE in regulation, including pollution burden exposure, pollution burden environmental effects, sensitive populations, and socioeconomic factors. “Maryland EJ tool” means a publicly available State mapping tool that allows users to (1) explore layers of EJ concern; (2) determine an overall EJ Score for census tracts in the State; and (3) view additional context layers relevant to an area.

Overburdened Communities

Under § 1-701 of the Environment Article, “overburdened community” is defined as any census tract for which three or more specified environmental health indicators are above the 75th percentile statewide.

Those environmental health indicators include: (1) particulate matter (PM) 2.5; (2) ozone; (3) National Air Toxics Assessment (NATA) diesel PM; (4) NATA cancer risk; (5) NATA respiratory hazard index; (6) traffic proximity; (7) lead paint indicator; (8) National Priorities List Superfund site proximity; (9) Risk Management Plan facility proximity; (10) hazardous waste proximity; (11) wastewater discharge indicator; (12) proximity to a Concentrated Animal Feeding Operation; (13) percent of the population lacking broadband coverage; (14) asthma emergency room discharges; (15) myocardial infarction discharges; (16) low-birth-weight infants; (17) proximity to emitting power plants; (18) proximity to a Toxic Release Inventory facility; (19) proximity to a brownfields site; (20) proximity to mining operations; and (21) proximity to a hazardous waste landfill.

State Fiscal Effect: To the extent the bill necessitates PSC to engage consultant support to evaluate BURDEN reports, special fund expenditures for PSC increase; any increase in special fund expenditures for PSC results in a corresponding increase in special fund revenues. General/special fund expenditures for DNR increase by at least \$208,917 in fiscal 2027 and by similar amounts in future years. The bill's effects on PSC and DNR are discussed in further detail below.

Public Service Commission

PSC advises that it may need to hire a consultant to provide technical assistance with evaluating any BURDEN reports that are submitted as part of CPCN applications for the construction of a proposed generating station (excluding a solar, wind, or geothermal generating station). PSC estimates that it will receive two CPCN applications per year that require the inclusion of a BURDEN report.

Accordingly, PSC special fund expenditures may increase due to additional consultant costs associated with the bill. To the extent that special fund expenditures for PSC increase, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

Department of Natural Resources

PPRP's evaluation of CPCN applications is a highly time-intensive task and requires significant technical expertise to complete. Because PPRP independently assesses CPCN projects for potential environmental impacts, PPRP advises that it needs to review and evaluate any BURDEN reports submitted with CPCN applications under the bill. According to DNR, existing staff within PPRP cannot handle the anticipated increase in workload and it needs additional staff – as well as technical support from consultants – to review and evaluate BURDEN reports.

In general, special funds from the Environmental Trust Fund are used to fund a significant portion of PPRP's operations. PPRP also receives funding from the Strategic Energy Investment Fund in the fiscal 2027 budget as introduced (see the *Governor's Fiscal 2027 Budget Books, Volume I*, p. 462). However, PPRP's workload and costs have been increasing and, to the extent sufficient special funds are not available to cover the costs of the bill, general funds may be required to cover a portion or all of the costs.

Accordingly, general/special fund expenditures for DNR increase by at least \$208,917 in fiscal 2027, accounting for the bill's October 1, 2026 effective date. This estimate reflects the cost of hiring one part-time (50%) power plant siting assessor to oversee and assist with the evaluation of any BURDEN reports received in CPCN applications. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses, in addition to at

least \$150,000 in consultant costs. This estimate assumes that two CPCN applications are submitted each year for which a BURDEN report is required, although the actual number may vary. Consultant costs increase by approximately \$75,000 for each additional CPCN submitted with a BURDEN report.

Position	0.5
Salary and Fringe Benefits	\$50,818
Minimum Consultant Costs	150,000
Other Operating Expenses	<u>8,099</u>
Minimum FY 2027 DNR Expenditures	\$208,917

Future year expenditures reflect (1) a full salary with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) ongoing consultant costs of at least \$150,000 annually.

Additional Comments: The Department of Legislative Services notes that the bill’s changes to existing notice requirements appear to apply to all CPCN applications except those submitted for the construction of a solar, wind, or geothermal energy generating station, not just those applications for which a BURDEN report is required.

Separately, PSC advises that no criteria are specified and no weighting or burden-of-proof methodology is provided in the bill for approving a CPCN in an at-risk census tract when an applicant claims the project serves the public interest.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 1406 of 2025.

Designated Cross File: HB 1287 (Delegate A. Johnson) - Environment and Transportation.

Information Source(s): Public Service Commission; Office of People’s Counsel; Department of Natural Resources; Maryland Department of the Environment; Maryland Department of Planning; Maryland Association of County Health Officers; Baltimore City; Harford and Wicomico counties; City of College Park; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2026
caw/lgc

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Appendix – Certificate of Public Convenience and Necessity

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 (CPCNs). 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, qualified generator lead line, overhead transmission line designed to carry more than 69,000 volts, or certain energy storage devices 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.

Exemptions Under § 7-207.1 of the Public Utilities Article

Section 7-207.1 of the Public Utilities Article specifies three 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.

Exemptions Under § 7-207.4 of the Public Utilities Article

The Renewable Energy Certainty Act of 2025 (Chapters 623 and 624) establishes the Distributed Generation Certificate of Public Convenience and Necessity (DGCPCN), a certificate that PSC may issue – in lieu of a CPCN – to a person seeking to construct and operate community solar projects that have a generating capacity of 2 megawatts to 5 megawatts and meet other specified requirements. A DGCPCN carries the same force and effect as a CPCN while offering applicants a streamlined review process; however, until PSC begins accepting applications for DGCPCNs (likely in 2027), a CPCN will still be required to construct a community solar project.

As with the CPCN process, PSC must provide an opportunity for public comment and hold a public hearing on a DGCPCN application in each county where any portion of the project is proposed to be located.

Additional Information

For a more thorough discussion of the above topics, along with legislative history and recent data trends, see [The Maryland Certificate of Public Convenience and Necessity](#) on the Department of Legislative Services' website.