

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1532 (The Speaker, *et al.*)
Environment and Transportation

Continuing the Next Generation Energy Act

This bill makes various changes to the Next Generation Energy Act of 2025, including (1) modifying certain deadlines under the EmPOWER Maryland Program; (2) requiring the Public Service Commission (PSC) to study, solicit proposals for, and, if cost-effective, select by June 1, 2028, a single third-party administrator to manage programs and services offered under the EmPOWER Maryland Program; (3) imposing specified restrictions on the approval and administration of multi-year rate plans; (4) lowering the threshold for electric customers to qualify for large load rate schedules; (5) revising specified definitions in the Public Utilities Article; and (6) making other technical and conforming changes. The bill also requires the Power Plant Research Program (PPRP) within the Department of Natural Resources (DNR) to conduct a study on streamlining the permitting process for energy development in the State and report to the Governor and the General Assembly on the study by December 31, 2026. **The bill takes effect June 1, 2026.**

Fiscal Summary

State Effect: No effect in FY 2026. General/special fund expenditures for DNR increase by \$245,100 in FY 2027 only. Special fund expenditures for PSC may increase by up to \$200,000 in FY 2027 only; special fund revenues for PSC increase correspondingly from assessments imposed on public service companies. The effect on electricity prices is discussed in the Additional Comments section below.

Local Effect: Local government expenditures for municipal electric utilities may increase, as discussed below. The effect on electricity prices is discussed in the Additional Comments section below. No effect on revenues.

Small Business Effect: Meaningful. The effect on electricity prices is discussed in the Additional Comments section below.

Analysis

Bill Summary:

EmPOWER Maryland Program

Energy Efficiency and Conservation Plans: PSC must, by regulation or order, require each electric company and each affected gas company to develop and implement a plan by January 1, 2027, January 1, 2029, and January 1 of every third year thereafter that (1) covers appropriate ratepayer classes; (2) starting in 2029, covers a three-year program cycle; and (3) achieves the greenhouse gas (GHG) emissions reduction target established for the company through specified programs and services (under existing law, the plan must be developed and implemented by January 1, 2025, January 1, 2027, and January 1 every third year thereafter, and, starting in 2027, cover a three-year program cycle).

Greenhouse Gas Emissions Reduction Targets: PSC must establish a GHG emissions reduction target for each electric company and each affected gas company on an annual basis for 2027 and 2028, and for each three-year program cycle starting in 2029 (under existing law, PSC must establish the targets for 2025 and 2026, and for each three-year program cycle starting in 2027). Specific to electric companies, PSC must also establish a GHG emissions reduction target for each electric company plan that will achieve at least the GHG emissions reduction equivalent of specified annual electricity savings percentages, which are set at 2.25% for 2027 and 2028, and 2.5% for each year thereafter (under existing law, the percentage is set at 2.5% beginning in 2027).

Consultations and Plan Submissions: If directed by PSC on or before July 1, 2026, July 1, 2028, and July 1 every third year thereafter, each electric company and each affected gas company must consult with the commission's technical staff and specified State agencies regarding the design and adequacy of its plan (under existing law, if required, consultations must occur in 2024 and by July 1, 2026, and July 1 every third year thereafter). Additionally, if directed by PSC on or before September 1, 2026, September 1, 2028, and September 1 every third year thereafter, each electric company and each affected gas company must submit its plan to the commission (under existing law, if required, submissions must occur in 2024 and by September 1, 2026, and September 1 every third year thereafter).

Also, the bill requires that the plan submitted in 2026 must detail a proposal for achieving GHG emissions reduction targets for the two subsequent calendar years.

Programs and Services for Low-Income Individuals: By January 1, 2027, January 1, 2029, and January of every third year thereafter, under the EmPOWER Maryland Program, the Department of Housing and Community Development (DHCD) must procure or provide

certain programs and services to low-income individuals to achieve specified GHG emission reduction targets (under existing law, DHCD must comply by January 1, 2025, by January 1, 2027, and by January 1 every third year thereafter). If directed by PSC on or before September 1, 2026, September 1, 2028, and September 1 every third year thereafter, DHCD must submit its plans for any of these programs and services to the commission for its review and approval (under existing law, if applicable, the submission deadlines are 2024, September 1, 2026, and September 1 every third year thereafter).

Public Service Commission Approval: In addition to existing applicable approval requirements, PSC may not approve a plan submitted by an electric company, an affected gas company, or DHCD if the plan includes a residential sector subprogram with a benefit-to-cost ratio of less than 1.0 under the primary State jurisdiction-specific test, as developed, updated, or approved by the commission.

Third-Party Administrator for Programs and Services: By July 1, 2026, PSC must issue a request for information on the use of a third-party, single-implementer program for the administration of programs and services under the EmPOWER Maryland Program. The request for information, which must specify a completion date of July 1, 2027, must seek (1) determinations of what effect the use of a single, third-party administrator would have on costs; (2) identification of technical and logistical barriers to transitioning to a single, third-party administrator; and (3) an analysis of the advantages and disadvantages of a private, third-party administrator as opposed to a State administrator.

Within 30 days after receiving the information requested, PSC must issue a request for proposals for a third-party administrator. The request for proposals must specify that responses to the request should minimize short-term and long-term costs for utility ratepayers.

By June 1, 2028, PSC must select, through this request for proposals process, a third-party administrator for the administration of these programs and services. However, PSC may decline to select a third-party administrator if it determines that the use of a third-party administrator would not be cost effective. In the event PSC declines to select a third-party administrator, the commission must notify the General Assembly within five days of making that decision.

Multi-year Rate Plans

Under the Next Generation Energy Act, PSC approval of a multi-year rate plan for the distribution base rates of a gas, electric, or combination gas and electric company is conditioned on the plan demonstrating customer benefits from the investment and prohibiting reconciliation that would result in additional customer charges. The bill modifies this restriction and further prohibits approval of a plan that allows for:

- the company to file for reconciliation of cost or revenue variances of the approved revenue component used by PSC to establish just and reasonable rates *if the reconciliation would result in additional customer charges*; or
- the use of cost-sharing mechanisms that would result in additional customer charges above the approved revenue component used by PSC to establish just and reasonable rates.

A gas, electric, or combination gas and electric company that files or has filed an application for a multi-year rate plan may not subsequently file for reconciliation of cost or revenue variances *that would result in additional customer charges due to the company spending more than the approved revenue component used by PSC to establish the multi-year rates* unless the filing for reconciliation was made on or before January 1, 2025.

PSC may require a gas, electric, or combination gas and electric company to include a reconciliation procedure in its multi-year rate plan to refund customers the difference between the company's (1) forecast revenue requirement and (2) actual revenue requirement during the term of the multi-year rate plan.

Large Load Rate Schedule

An investor-owned electric company, electric cooperative, or municipal electric utility (if applicable) must make service available, under its approved specific rate schedule, to large load customers that, within the initial contract term, will use either (1) a monthly maximum demand exceeding 25 megawatts at a single location (reduced from 100 megawatts under existing law) or (2) an aggregated contract capacity exceeding 100 megawatts within the electric company's service territory (unchanged by the bill).

Nuclear Energy Generation Projects

The bill amends § 7-1220 of the Public Utilities Article by redefining “zero-emission credit (ZEC)” to mean a credit equal to the environmental impact of 1 megawatt-hour of electricity that is derived from a nuclear energy station approved by PSC under § 7-1217 of the Public Utilities Article.

Additionally, the bill authorizes PSC to approve an increase of the total cost of a nuclear energy generation project under a long-term pricing purchase obligation, provided that the increase does not exceed the original cost by more than 15%.

Definition of Large Capacity Energy Resource

The bill repeals part of the definition of large capacity energy resource in § 7-1201 of the Public Utilities Article. Under the bill, a “large capacity energy resource” means a

generating station or energy storage device that has a capacity rating equal to or greater than 20 megawatts after accounting for the effective load carrying capability.

Study on Streamlining the Permitting Process for Energy Development

PPRP, in consultation with the Maryland Department of the Environment (MDE) and the Maryland Energy Administration (MEA), must conduct a study to identify ways to streamline the permitting process for energy development in the State. In conducting the study, PPRP must:

- identify up to 50 priority energy sites suitable for new or expanded generating stations or energy storage devices, including brownfields, industrial sites surrounded by areas with low-population density, and sites with old or decommissioned generating units that may be repowered or repurposed, with special consideration given to sites with surplus interconnection capacity;
- identify current bottlenecks and barriers in Maryland that extend State and local permitting timelines; and
- develop recommendations on what a State-level zoning or permitting structure should look like in order to promote fast-tracked development at the priority energy sites identified as part of the study.

By December 31, 2026, PPRP must report to the Governor and the General Assembly on the results of the study.

Current Law:

EmPOWER Maryland Program

Program History: In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in *per capita* electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018-2020 and 2021-2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company's 2016 sales. The Climate Solutions Now Act (CSNA) (Chapter 38 of 2022), which is discussed below, further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter.

Chapter 539 of 2024 altered the EmPOWER Maryland Program by, among other things, explicitly requiring each electric company, each large gas company, and DHCD to develop and implement energy efficiency, conservation, demand response, and beneficial electrification programs to achieve specified GHG emission reduction goals and targets, subject to review and PSC approval.

Program Requirements: Under the current program, PSC must encourage and promote the efficient use and conservation of energy in support of these goals and targets by requiring each electric company and gas company to establish any program or service that PSC determines to be appropriate and cost-effective. Additionally, PSC is required to adopt rate-making policies that, through a surcharge line item (the EmPOWER surcharge) on customer bills, provide:

- full cost recovery of reasonably incurred costs for the programs and services, including full recovery on a current basis by January 1, 2028;
- by December 31, 2032, the elimination of any unpaid costs and unamortized costs that (1) existed on December 31, 2024, or were incurred before January 1, 2028, and (2) were accrued for the purposes of achieving EmPOWER goals;
- compensation for any of these unpaid costs and unamortized costs at not more than each electric and gas company's average cost of outstanding debt; and
- reasonable financial performance incentives and penalties for investor-owned electric companies and gas companies, as appropriate.

Administration of Programs and Services: Programs and services under the EmPOWER Maryland Program are administered primarily by the State's electric and gas utilities, under the oversight of PSC. However, certain programs and services that provide assistance to low- and moderate-income households are administered by DHCD.

As directed by PSC, each municipal electric or gas utility, each small gas company exempt from specified requirements, each small rural electric cooperative, and, if required in accordance with a determination process established by Chapter 539, each midsize electric cooperative, must include energy efficiency and conservation, demand response, and beneficial electrification programs or services as part of their service to their customers. (This requirement distinguishes the State's large utilities from the smaller utilities for purposes of EmPOWER.)

As part of the EmPOWER Maryland Program, beginning January 1, 2025, and by January 1 every three years thereafter starting in 2027, DHCD must procure or provide to low-income individuals energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services that are on a trajectory to achieve GHG reductions of at least 0.9% of a 2016 baseline after 2027, determined as specified. The requirement applies to the 2025-2033 time period. The reductions count toward the overall GHG emissions reduction targets under the EmPOWER Maryland Program.

DHCD participates in the EmPOWER Maryland Program through two special fund programs: (1) the Low Income Energy Efficiency Program (LIEEP); and (2) the

Multifamily Energy Efficiency and Housing Affordability (MEEHA) Program. LIEEP helps low-income households undertake energy conservation projects in their homes at no charge, while MEEHA promotes energy efficiency and affordability in the State's multifamily rental housing developments for low- and moderate-income households. Approved program costs are recovered by electric companies on customer bills.

Climate Solutions Now Act

CSNA made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Multi-year Rate Plans

The Next Generation Energy Act specifies that, unless otherwise authorized by law, PSC may approve the use of a multi-year rate plan for distribution base rates for a gas, electric, or combination gas and electric company only if the plan:

- demonstrates the customer benefits of the investment; and
- does not allow for the company to file for reconciliation of cost or revenue variances of the approved revenue component used by PSC to establish just and reasonable rates.

A gas, electric, or combination gas and electric company that files or has filed an application for a multi-year rate plan may not subsequently file for reconciliation of cost or revenue variances of the approved revenue component used by PSC to establish the multi-year rates unless the filing for reconciliation was made on or before January 1, 2025.

Large Load Rate Schedule

The Next Generation Energy Act established the intent of the General Assembly that residential retail electric customers in the State should not bear the financial risks associated with large load customers interconnecting to the electric system serving the State. "Large load customer" means a commercial or industrial customer for retail electric service that has or is projected to have an aggregate monthly demand of at least 100 megawatts and a load factor of over 80%.

By September 1, 2026, each investor-owned electric company and each electric cooperative must submit to PSC for approval a specific rate schedule for large load

customers that accomplishes the above-described intent of the General Assembly. Each municipal electric utility that receives an application for retail electric service from a large load customer must also submit a specific rate schedule for approval.

Service under a specific rate schedule must be available to large load customers that will use, within the initial contract term, either (1) a monthly maximum demand of more than 100 megawatts at a single location or (2) an aggregated contract capacity in the electric company's service territory of more than 100 megawatts.

In making a determination on whether to approve a specific rate schedule for large load customers, PSC must consider whether the rate schedule:

- requires a large load customer to cover the just and reasonable costs associated with any electric transmission or distribution system buildout required to (1) interconnect the customer to the electric system serving the State or (2) serve the customer;
- protects residential retail electric customers from the financial risks associated with large load customers through specified means; and
- sufficiently ensures that the allocation of costs to large load customers under the schedule does not result in other customers unreasonably subsidizing the costs of large load customers.

Nuclear Energy Generation Projects

Procurement and Cost Recovery: The Next Generation Energy Act established a process, consisting of a minimum of three rounds of applications and related requirements, for PSC approval of one or more proposed nuclear energy generation projects funded through electric distribution rates. PSC is required to adopt regulations that:

- establish the nuclear energy long-term pricing purchase obligation sufficiently in advance to allow an electric company to reflect nuclear energy long-term pricing costs as a nonbypassable surcharge that is added to the electric company's base distribution rate on customer bills;
- define rules that facilitate and ensure the secure and transparent transfer of revenues and long-term pricing payments among parties;
- define the terms and procedures of the nuclear energy long-term pricing schedule obligations, as specified, by establishing a formula and process to adjust the value of the schedule every two years and a per-megawatt-hour cap;
- require PSC to establish an escrow account; and
- to meet the total statewide long-term pricing purchase obligation for all approved applications, require PSC to annually establish each electric company's ZEC

purchase obligation, based on specified electricity sales data and each electric company's proportional share of statewide electricity load.

A "ZEC" is defined as the difference between the price that a nuclear energy generating station with a long-term pricing schedule approved in a PSC order under the Act may receive on the wholesale market and the cost of constructing the nuclear energy generating station.

A debt, an obligation, or a liability of a nuclear energy generation project or of an owner or operator of a nuclear energy generation project may not be considered a debt, an obligation, or a liability of the State.

Project Approval: Pursuant to § 7-1217 of the Public Utilities Article, a PSC order approving a proposed nuclear energy generation project must (1) specify the long-term pricing schedule and its duration, up to 30 years; (2) provide that a payment may not be made under a long-term pricing schedule until electricity supply is generated from the project; (3) provide that ratepayers and the State must be held harmless for any cost overruns associated with the system; and (4) require that any debt issued in connection with the project include language specifying that the debt instrument does not establish a debt, an obligation, or a liability of the State. An order approving a project vests the owner with the right to receive payments according to the terms in the order. The long-term pricing schedule must be based only on any new generation proposed in the application, including new generation at an existing nuclear energy generating station.

Definition of Large Capacity Energy Resource

Under § 7-1201 of the Public Utilities Article, "large capacity energy resource" means a generating station or energy storage device that (1) by January 1, 2025, has applied to PJM Interconnection, LLC (PJM) for interconnection approval or has been approved by PJM for interconnection and (2) has a capacity rating equal to or greater than 20 megawatts after accounting for the effective load carrying capability.

State Fiscal Effect: There is no effect on State finances in fiscal 2026, despite the bill's June 1, 2026 effective date. General/special fund expenditures for DNR increase by \$245,101 in fiscal 2027 only to complete the required study. Special fund expenditures for PSC may increase by up to \$200,000 in fiscal 2027 only to hire a consultant; special fund revenues for PSC increase correspondingly from assessments imposed on public service companies. The bill is assumed to have no effect on DHCD special fund finances associated with administering aspects of the EmPOWER Maryland Program, as discussed below. More detail on the effects by agency is included below.

Department of Natural Resources

General/special fund expenditures for DNR increase by \$245,101 in fiscal 2027 only, which reflects a 30-day start-up delay from the bill's June 1, 2026 effective date. This estimate reflects the cost of hiring two contractual site assessors within PPRP for a period of six months to complete the study, as well as costs to engage an independent consultant to assist with technical aspects of the study. DNR advises that PPRP cannot complete the required study with existing resources and must retain a consultant and contractual staff to do so. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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 PPRP's costs under the bill, general funds may be required to cover a portion or all of the costs.

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| Contractual Positions | 2.0 |
| Salaries and Fringe Benefits | \$103,208 |
| Consultant Expenses | 125,000 |
| Other Operating Expenses | <u>16,893</u> |
| Total FY 2027 DNR Expenditures | \$245,101 |

This estimate assumes that the two contractual positions terminate December 31, 2026 (concurrent with PPRP's deadline to complete the study and report on the study results).

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Public Service Commission

Under the bill, PSC must issue, by July 1, 2026, a request for information on the use of a third-party, single-implementer program for the administration of programs and services under the EmPOWER Maryland Program. The completion date for the request for information may not extend beyond July 1, 2027, and must be followed, within 30 days of PSC receiving the information requested, by the commission issuing a request for proposals for a third-party administrator. Unless PSC declines to utilize a third-party administrator, PSC must select a third-party administrator by June 1, 2028.

PSC advises that it may need to hire a consultant to assist in developing and reviewing the request for information and, subsequently, the request for proposals for the selection of a third-party administrator. PSC anticipates that consultant costs – if incurred – likely range from \$100,000 to \$200,000.

Accordingly, special fund expenditures for PSC may increase by at least \$100,000 – and up to \$200,000 – in fiscal 2027 only, to the extent PSC must hire a consultant. (For purposes of this analysis, it is assumed that any consultant expenses incurred by PSC under the bill are paid in fiscal 2027.) Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, to the extent PSC incurs costs under the bill, special fund revenues increase correspondingly from assessments imposed on public service companies.

The bill's other provisions can be implemented by PSC with existing budgeted resources.

The fiscal effect of selecting a third-party administrator cannot be determined at this time because it depends on the payment structure adopted. This analysis assumes, however, that EmPOWER surcharge revenues are transferred directly from the State's electric and gas utilities to the third-party administrator. If instead the revenues are transferred to PSC and then disbursed to the administrator, PSC special fund revenues and expenditures would increase accordingly beginning as early as fiscal 2028.

Department of Housing and Community Development

The Department of Legislative Services notes that the bill does not modify DHCD's statutory mandate to provide specified programs and services to low-income individuals. Accordingly, this analysis assumes that DHCD continues to administer the LIEEP and MEEHA programs and that overall DHCD finances are unaffected by the bill. While the bill specifies that a third-party administrator selected by PSC is responsible for administering programs and services under the EmPOWER Maryland Program broadly, this analysis assumes that the administrator would manage only those programs and services currently provided by the State's electric and gas utilities.

Maryland Department of the Environment and Maryland Energy Administration

PPRP must consult with MDE and MEA in completing the study required under the bill. Both MDE and MEA advise that they can consult with PPRP using existing budgeted resources.

Local Expenditures: Pursuant to current law, municipal electric utilities must submit a large load customer schedule to PSC for approval upon receipt of an application for service. By lowering the threshold at which electric customers (*e.g.*, data centers) qualify for a large

load rate schedule, the bill may require affected municipal electric utilities to submit additional rate schedules to PSC for approval. As a result, municipal electric utilities may incur additional administrative costs. The five municipal electric utilities are located in Berlin (Worcester County), Easton (Talbot County), Hagerstown (Washington County), Thurmont (Frederick County), and Williamsport (Washington County).

Additional Comments: Electric utility rates decrease – or future rate increases may be minimized – as a result of several provisions in the bill. First, by reducing the GHG emissions reduction targets for electric company plans in 2027 and 2028, the bill decreases the EmPOWER surcharge on customer bills relative to what the surcharge would have been absent the bill. Second, by lowering the threshold at which large load customers qualify for a large-load rate schedule, the bill requires additional data centers to take service under that schedule, thereby reducing the likelihood that their power needs result in an increase in electricity rates for retail customers. Finally, the bill’s modifications to specified reconciliation procedures and cost-sharing mechanisms for multi-year rate plans are anticipated to result in lower electricity prices for retail customers.

Although the magnitude of any electricity rate reductions cannot be reliably estimated at this time, the bill could have a significant impact on electricity prices. In any case, the State, local governments, and all businesses, including small businesses, are affected by any decrease in rates that result from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Public Service Commission; Office of People’s Counsel; Department of Housing and Community Development; Department of Natural Resources; Maryland Energy Administration; Maryland Department of the Environment; Department of General Services; Anne Arundel, Baltimore, Charles, Dorchester, and Garrett counties; City of Laurel; Town of La Plata; Department of Legislative Services

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