

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1404 (Delegate Reilly, *et al.*)
Environment and Transportation

Public Utilities - Energy Generation and Transmission

This bill authorizes an investor-owned electric company or electricity supplier, subject to the requirements of Title 7, Subtitle 2 of the Public Utilities Article (Electric Generation Facility Planning), to construct, acquire, or lease, and operate its own generating facilities and related necessary transmission facilities. The bill also makes clarifying changes to an existing provision under which the Public Service Commission (PSC) may require or allow an investor-owned electric company to construct, acquire, or lease, and operate its own generating facilities and related necessary transmission facilities. An investor-owned electric company that is required or allowed to construct, acquire, or lease, and operate a generating facility may recover all prudently incurred generation investments and costs, as specified. Separately, the bill affirmatively states that, notwithstanding any other provision of law, energy generating systems that produce energy from natural gas may be constructed, permitted, and operated in the State. A person constructing such a system must still comply with specified provisions of the Public Utilities Article relating to approval from PSC for the construction. Finally, the bill specifies findings of the General Assembly related to nuclear energy.

Fiscal Summary

State Effect: The overall effect on State finances cannot be reliably determined at this time, but could be significant, as discussed below. Potential increase in special fund expenditures for PSC and the Office of People’s Counsel (OPC); to the extent PSC and OPC special fund expenditures increase, special fund revenues increase correspondingly from assessments imposed on public service companies. General/special expenditures for the Department of Natural Resources (DNR) may also increase. The potential effect on electricity prices is discussed in the Additional Comments section below.

Local Effect: The effect on local finances cannot be reliably determined at this time, but could be significant, as discussed below. The potential effect on electricity prices is discussed in the Additional Comments section below.

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

Analysis

Bill Summary: An investor-owned electric company that is required or allowed to construct, acquire, or lease, and operate its own generating facility may recover all prudently incurred generation investments and costs, including (1) acquisition, capital, construction, operation, maintenance, financing, fuel, and carrying costs and (2) any other related investments and costs, including investments and costs that became stranded for any reason. This cost recovery may occur through electric rates, or subject to PSC approval, a nonbypassable surcharge.

Further, an investor-owned electric company that is required or allowed to construct, acquire, or lease, and operate its own generating facilities, and is a member of a regional transmission organization, is authorized to (1) operate a generation asset in the markets of that organization and (2) apply any net revenues earned from participation in the markets of that organization against the operating costs of the asset.

A PSC order requiring or allowing an investor-owned electric company to construct, acquire, or lease, and operate its own generating facility with a nameplate capacity greater than 2 megawatts may not go into effect until the company obtains a rating assessment from a premier credit rating agency finding that the terms of PSC's order are unlikely to be negative for the creditworthiness of the company and its affiliates, as specified. "Premier credit rating agency" means a nationally recognized statistical rating organization approved by the U.S. Securities and Exchange Commission, as specified, that ranks among the top two such organizations by market share. "Rating assessment" means a written analysis that is performed by a premier credit rating agency and assesses the likely impact of a transaction or transactions on an investor-owned electric company's creditworthiness.

The General Assembly (1) supports expanding nuclear energy in the State, including small modular reactors and nuclear-natural gas combinations, for reliable clean energy in the State and (2) encourages PJM Interconnection, LLC to provide an expedited interconnection process for new thermal generation resources in the State.

Current Law:

Electric Utility Industry Restructuring

The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland, which deregulated the generation, supply, and

pricing of electricity. As part of restructuring, the State's vertically integrated electric companies divested themselves of their generation assets. With restructuring, generation resources are considered competitive, and the competitive market is relied upon to provide new generation resources and to meet load requirements. Deactivation decisions are made by facility owners as business decisions. PSC does not have regulatory authority over plant closures.

Construction and Operation of Generating Facilities and Related Transmission Facilities

In order to meet long-term, anticipated demand in the State for standard offer service and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

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). Generally, facilities with generating capacities of up to 2 megawatts do not require a CPCN. Energy generating systems that produce energy from natural gas are not prohibited, although the CPCN evaluation process includes consideration of the impact of the generating station on the quantity of annual and long-term statewide greenhouse gas (GHG) emissions and consistency of the CPCN application with the State's climate commitments for reducing GHG emissions.

Other Related Climate and Renewable Energy Initiatives

The Maryland Department of the Environment's (MDE) Climate Change Program leads the State's efforts to reduce GHG emissions, as required by the Greenhouse Gas Emissions Reduction Act (GGRA) and participation and oversight in other initiatives, including the Regional Greenhouse Gas Initiative (RGGI) and the U.S. Climate Alliance. The program also ensures State compliance with climate-related State and federal laws, such as the Climate Solutions Now Act (CSNA), discussed below.

The U.S. Climate Alliance is a bipartisan coalition of governors, including the Governor of Maryland, committed to reducing GHG emissions consistent with the goals of the Paris Agreement. Maryland participates in the multi-state RGGI in order to reduce carbon dioxide (CO₂) emissions from the power sector. Each participating state limits CO₂ emissions from electric power plants, issues CO₂ allowances, and establishes participation in CO₂ allowance auctions. A single CO₂ allowance represents a limited authorization to emit one ton of CO₂.

CSNA made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, CSNA accelerated previous statewide GHG emissions reductions targets originally established under GGRA 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. In December 2023, MDE published [Maryland's Climate Pollution Reduction Plan](#), which was developed to implement CSNA.

Among other actions, Executive Order 01.01.2024.19 directed the Maryland Energy Administration (MEA) to establish a framework for a clean energy standard to achieve 100% clean electricity in Maryland by 2035 and determine if all or part of the proposed clean energy standard can be implemented through existing authority. MEA published the resulting [report](#) in January 2025.

State Fiscal Effect: It is unclear whether and to what extent the bill leads to new generating facilities being constructed in the State. Therefore, the effect on State finances due to the bill is likewise unknown. However, generally, any new generating facility constructed in the State as a direct result of the bill, when it otherwise would not have been, increases State revenues from the associated economic activity. Depending on the size of a particular generating facility, the effect could be significant. The bill may also have fiscal and operational effects on PSC, OPC, and DNR, as discussed below.

The bill's provisions related to natural gas are duplicative of current law as it applies to natural gas generating systems and have no material effect.

Public Service Commission

To the extent the bill facilitates the construction, acquisition, or leasing of new generating facilities by investor-owned electric companies, PSC must hire additional staff and retain consultant support to implement various provisions of the bill.

Among other things, PSC anticipates needing multiple additional staff to navigate the complexity and breadth of the bill's cost recovery provisions, including the development of a surcharge. PSC also anticipates that it needs to engage consultants to assist with specialized technical, financial, and market analyses, including generation cost benchmarking, interconnection and transmission planning review, and evaluation of certain cost recovery issues.

Accordingly, if any new generating facilities are constructed, acquired, or leased by an investor-owned electric company as a result of the bill, special fund expenditures for PSC increase. To the extent that special fund expenditures for PSC increase, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

Office of People's Counsel

To the extent the bill facilitates the construction, acquisition, or leasing of new generating facilities by investor-owned electric companies, OPC requires additional resources to handle an increased workload volume.

OPC advises that, to the extent new generating facilities are constructed, acquired, or leased and operated by investor-owned electric companies under the bill, such activity constitutes a significant expansion of PSC's responsibilities, as the commission at present does not directly regulate costs associated with generating and transmission facilities. Given the bill's potential to affect residential ratepayers and its need to actively participate in any related PSC proceedings, OPC anticipates that it requires commensurate additional resources to do so.

Accordingly, special fund expenditures for OPC may increase due to the bill. As OPC is also funded through assessments on public service companies, any increase in special fund expenditures is funded through a corresponding increase in special fund revenues from assessments imposed on public service companies.

Department of Natural Resources

DNR advises that its Power Plant Research Program (PPRP) requires additional staff and consultant support if investor-owned electric companies seek to construct and operate generating facilities under the bill. DNR estimates that the bill may result in one additional CPCN application each year, although the actual number may vary. According to DNR, for each additional generating facility project resulting from the bill annually, PPRP's consultant expenses increase by approximately \$125,000.

Thus, general/special fund expenditures for DNR may increase as a result of the bill. 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*, page 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 to implement the bill, general funds may be required to cover a portion or all of the costs.

Local Fiscal Effect: The bill's effect on local government finances and operations is also unclear. To the extent that new generating facilities are constructed in the State as a direct result of the bill, when they otherwise would not have been, local governments likely incur an increase in workload associated with planning and zoning reviews, building inspections, and related activities associated with the local review of projects. On the other hand, local revenues increase from any related permit fees as well as the associated economic activity

resulting from any new generating facilities constructed in the State as a direct result of the bill. As discussed in the Additional Comments section below, the bill may also affect the electricity rates paid by local governments.

Small Business Effect: To the extent that new energy generating facilities are constructed in the State as a direct result of the bill, small businesses that provide construction and/or maintenance services for such facilities benefit. Additionally, all small businesses, and particularly small businesses with significant electricity use, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

Additional Comments: The bill's net effect on electricity rates paid by electric customers, including the State, local governments, and small businesses, is unclear. If the bill does not result in investor-owned electric companies constructing and operating new generating facilities, the impact on ratepayers is likely minimal to none. However, to the extent the bill leads investor-owned electric companies to construct and operate new generating facilities, electricity rates could be affected significantly. The extent and direction of any change in rates depends on several factors, including the construction and financing costs for the new generating facilities and conditions in the wholesale electricity market.

Accordingly, the Department of Legislative Services advises that, while the bill could have a significant effect on electricity rates, the direction or magnitude of that effect cannot be reliably estimated at this time.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 643 and HB 1329 of 2025.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; Maryland Energy Administration; Office of People's Counsel; Public Service Commission; Department of Legislative Services

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jg/lgc

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