

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 992 (Senator Hester, *et al.*)
 Education, Energy, and the Environment

Public Utilities - Large Load Customers - Registration and Demand Response Program

This bill requires “large load customers” to register with the Public Service Commission (PSC) before interconnecting with the electric system. By January 1, 2027, PSC must establish, by order or regulation, a process to register large load customers. The bill also (1) requires PSC to establish a Demand Response Program for large load customers; (2) exempts large load customers from having to obtain a Certificate of Public Convenience and Necessity (CPCN) under specified circumstances; (3) specifies that PSC must require electric companies and large load customers to take specified actions following certain orders from PJM; (4) expands eligibility for the sales and use tax exemption for qualified data center personal property under § 11-239 of the Tax-General Article; and (5) establishes reporting requirements for PSC. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by \$779,800 in FY 2027 and by increasing amounts annually thereafter; special fund revenues increase correspondingly from fees and/or assessments. General fund and Blueprint for Maryland’s Future Fund (BMFF) revenues may decrease beginning as early as FY 2027 (not reflected in the table below). Other potential effects are discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
SF Revenue	\$779,800	\$830,200	\$845,500	\$861,100	\$876,800
SF Expenditure	\$779,800	\$830,200	\$845,500	\$861,100	\$876,800
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: Local property tax revenues may decrease beginning as early as FY 2027, 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:

Large Load Customers – Interconnection with the Electric System

Registration with the Public Service Commission: In addition to complying with any requirements under § 4-212 of the Public Utilities Article (Specific Rate Schedule for Large Load Customers), a large load customer must register with PSC before interconnecting with the electric system.

“Large load customer” means a commercial or industrial customer for retail electric service that has or is projected to have (1) an aggregate monthly demand of at least 25 megawatts and (2) a load factor of more than 80%. The term does not include a water company or sewage disposal company.

Registration Process: By January 1, 2027, PSC must establish, by order or regulation, a registration process for large load customers that applies to new or expanded interconnections. PSC may charge a reasonable registration fee. The registration process must:

- require a large load customer to disclose specified information to PSC;
- include a method for the large load customer to demonstrate site control for the proposed location of the large load customer’s premises through ownership, lease control, or another method established by PSC;
- include a uniform financial commitment requirement for the large load customer’s development of transmission infrastructure that is needed to serve the customer, as specified;
- establish a procedure to allow PSC to access, while maintaining confidentiality, any information collected by the interconnecting electric company for transmission planning analyses; and
- establish any other standards that PSC considers necessary.

PSC must certify whether a registration is complete within 30 days after receiving the required information from a large load customer. If PSC determines that the information is incomplete, it may extend any time frame specified in the order or regulation establishing the registration process.

Cost Responsibility and System Protections: In addition to the above requirements and any other authority of PSC to curtail or restrict load to a customer, PSC must require that:

- any curtailment order from PJM assigned to an electric company serving one or more large load customers be passed through to the company's large load customers only and not to any other customers (this provision does not prohibit an electric company from taking any actions to maintain system reliability or a large load customer from participating in the demand response program established under the bill);
- any financial obligation assigned to an electric company as a result of an order from PJM for procurement of new energy capacity due to the interconnection of a large load customer be passed through to the large load customer;
- any large load customer whose interconnection to the electric system requires an order from PJM for the procurement of new energy capacity to provide financial security to the State to ensure that residential customers are held harmless for costs associated with the new energy capacity procurement; and
- any large load customer applying for new service provide specified information to PJM, including expected load usage and expected peak load usage.

Demand Response Program

PSC must establish a Demand Response Program for large load customers. PSC must offer each participating large load customer the option of contracting for either (1) 6 nonconsecutive 4-hour periods of load management or demand-side management time slots per calendar year or (2) 10 nonconsecutive 10-hour periods of load management or demand-side management time slots per calendar year.

PSC must:

- develop a clear compensation structure or financial incentives for program participation;
- establish a clearly defined penalty system for nonperformance during any force majeure events by a participating large load customer;
- establish a dispute resolution process;
- establish multiple notification and communication channels for participating large load customers; and

- adopt regulations that prohibit behind-the-meter energy storage facilities from being included in a participating large load customer's load, develop guidelines and limitations for charging such facilities during certain peak demand, and establish a method for measuring a participating large load customer's demand response performance.

In measuring demand response performance, PSC must factor in (1) new virtual power plant aggregation options developed by electric companies; (2) front-of-meter energy storage facilities; and (3) nonwire alternatives, including grid enhancing technologies, that feed electricity back to the electric system.

Each electric company must provide participating large load customers with 24 hours of advance notice of potential demand response periods and 30 minutes of notice before each demand response period.

Exemptions from the Certificate of Public Convenience and Necessity Process

A participating large load customer constructing a behind-the-meter energy storage facility under the Demand Response Program is exempt from having to obtain either a CPCN or an approval to construct from PSC.

Large Load Data Centers – Sales and Use Tax Exemption

A data center that is a large load customer must be considered a qualified data center for purposes of the sales and use tax exemption for qualified data center personal property under § 11-239 of the Tax-General Article if the customer (1) registers as a large load customer with PSC pursuant to the bill; (2) agrees to participate in the Demand Response Program established pursuant to the bill; and (3) provides enough behind-the-meter energy generation to fully operate the data center or agrees to purchase 100% renewable energy located in the PJM service territory sufficient to fully operate the data center.

The bill likewise expands the definition of “qualified data center” under § 11-239 of the Tax-General Article to include a data center that meets the above requirements. The Department of Legislative Services (DLS) notes that it is unclear, given the bill's modifications to § 11-239 of the Tax-General Article, whether a data center that is a qualified data center by way of the above criteria need be located in the State. Nonetheless, this analysis assumes that eligibility for the sales and use tax exemption for qualified data center personal property remains effectively limited to sales of personal property for use at a qualified data center located within the State.

Public Service Commission – Reporting Requirements

By January 1, 2028, and each January 1 thereafter, PSC must report to the Senate Committee on Education, Energy, and the Environment and the House Environment and Transportation Committee on the registration program and the Demand Response Program established under the bill.

Current Law:

Next Generation Energy Act

Chapters 625 and 626 of 2025 (Next Generation Energy Act) specified that it was 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. The Act required electric utilities to establish a specific rate schedule for a “large load customer” (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%), approved by PSC, that:

- 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.

Before signing a contract for service under the schedule, the Act specified that a large load customer must (1) submit a request for a load study to determine the necessary contract capacity for the customer and pay any applicable fees associated with the study; (2) designate a specific site where the customer’s project will be constructed and served by the electric company (the customer must own or have exclusive right to use the land); and (3) meet any other requirements specified under the rate schedule.

PSC must adopt regulations to carry out the requirements specified above by June 1, 2026.

Certificate of Public Convenience and Necessity

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,
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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.

Under State law, facilities with generating capacities of up to 2 megawatts generally do not require a CPCN. Section 7-207.1 of the Public Utilities Article specifies conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement; however, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct such a generating station.

For more information on the CPCN process (under § 7-207 of the Public Utilities Article) and the approval process for a person who is exempted from the CPCN requirement (under § 7-207.1 of the Public Utilities Article), see the **Appendix – Certificate of Public Convenience and Necessity**.

Data Centers – Sales and Use Tax and Property Tax Exemptions

Chapter 640 of 2020 established a sales and use tax exemption for the sale of qualified data center personal property for use at a qualified data center. “Qualified data center” means a data center located in the State in which an individual or a corporation, within three years after submitting an application for the sales and use tax exemption, has invested at least \$5.0 million (for a data center located within a Tier I area, \$2.0 million) in qualified data center personal property and created at least five qualified positions. “Qualified data center” includes (1) a data center that is a co-located or hosting data center where equipment, space, and bandwidth are available to lease to multiple customers and (2) an enterprise data center owned and operated by the company it supports.

Chapter 640 also authorizes local governments to reduce or eliminate the percentage of the assessment of any data center personal property used in a qualified data center (within the meaning of the sales and use tax exemption under § 11-239 of the Tax-General Article). The State Department of Assessments and Taxation is authorized to adopt regulations to implement the personal property tax exemption.

State Sales and Use Tax

The general State sales and use tax rate is 6.0%. Higher sales and use tax rates apply to the retail sale of alcoholic beverages and adult-use cannabis, which is taxed at 9.0% and 12.0%, respectively.

The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$6.1 billion in fiscal 2026 and \$6.2 billion in fiscal 2027, according to the December 2025 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles; 8.0% for specified soft drinks; 14.95% for transient accommodations; 18.0% for motor vehicle parking in commercial lots
Maryland	6.0%; 9.0% for alcoholic beverages; 12.0% for adult-use cannabis
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 1.0% for eligible food items; 1.0% for specified essential personal hygiene items
West Virginia	6.0% plus 1.0% in specified municipalities

* An additional state tax of (1) 0.7% is imposed in localities in Central Virginia, Northern Virginia, and the Hampton Roads region; (2) 1.0% in Charlotte, Gloucester, Halifax, Henry, Northampton, Patrick, and Pittsylvania counties, and the City of Danville; and (3) 1.7% is imposed in James City County, York County, and Williamsburg (Historic Triangle). The sales and use tax rate for food and personal hygiene products decreased to 1.0% as of January 1, 2023.

Source: Department of Legislative Services

Blueprint for Maryland's Future Fund

Chapter 33 of 2022 altered the distribution of sales and use tax revenues beginning in fiscal 2023. Chapter 33 requires the Comptroller, after making certain other distributions, to pay to BMFF the following percentage of the remaining sales and use tax revenues:

- 9.2% for fiscal 2023;
- 11.0% for fiscal 2024;
- 11.3% for fiscal 2025;
- 11.7% for fiscal 2026; and
- 12.1% for fiscal 2027 and each subsequent fiscal year.

Chapter 33 also repealed the distribution of sales and use tax revenues to the BMFF from marketplace facilitators, certain out-of-state vendors, and specified digital products or digital codes.

State Fiscal Effect: As discussed above, the bill expands the definition of “qualified data center” as it applies to the sales and use tax exemption for qualified data center personal property to include registered large load data centers that meet certain criteria. Thus, general fund and BMFF revenues may decrease beginning as early as fiscal 2027 to the extent the bill results in increased utilization of the sales and use tax exemption. Any such effect cannot be reliably predicted at this time.

Other significant effects of the bill are discussed separately below, organized by State agency. Operational effects on any agencies not discussed below are assumed to be generally minimal and absorbable within existing budgeted resources. The effect on State expenditures for electricity is discussed in the Additional Comments section below.

Public Service Commission

The bill creates significant new and incremental requirements for PSC that cannot be absorbed within existing resources. Specifically, PSC must (1) establish, by order or regulation, a process to register large load customers; (2) register those customers; (3) establish and administer the Demand Response Program for large load customers; and (4) prepare annual reports on the registration program and the Demand Response Program.

PSC anticipates that it requires three staff members to implement the various requirements, plus ongoing consultant technical assistance of approximately \$500,000 annually. PSC advises that establishing the registration process is expected to require significant time and stakeholder consultation and – once the process is established – reviewing applications is expected to require substantial staff resources. PSC further advises that the bill’s

curtailment and financial commitment requirements for large load customers are likely to be contentious and difficult to implement. According to PSC, outside consultants are needed to assist with transmission cost allocation analysis, designing and implementing the Demand Response Program, drafting regulations, and coordinating with PJM.

Accordingly, special fund expenditures for PSC increase by \$779,751 in fiscal 2027, which reflects a 90-day start-up delay from the bill’s July 1, 2026 effective date. This estimate reflects the cost of hiring one public service engineer, one regulatory economist, and one staff attorney to handle the various duties described above. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and \$500,000 in costs for a consultant to provide technical assistance.

Positions	3.0
Salaries and Fringe Benefits	\$252,329
Consultant Costs	500,000
Other Operating Expenses	<u>27,422</u>
Total FY 2027 PSC Expenditures	\$779,751

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and ongoing consultant costs of \$500,000 annually.

Generally, PSC is funded through an assessment each fiscal year on the public service companies that it regulates. Under the bill, PSC is also authorized to establish a reasonable registration fee for large load customers. This analysis assumes that any registration fees established and collected by PSC – combined with assessments imposed on public service companies – result in an increase in special fund revenues commensurate to the increase in PSC special fund expenditures each year.

Office of People’s Counsel

The Office of People’s Counsel (OPC) advises that the expanded responsibilities the bill places on PSC may result in an increase in OPC’s workload, given that it is required to review all matters in front of PSC for potential ratepayer impacts. Accordingly, DLS advises that, to the extent OPC must hire additional consultants as a result of the bill, special fund expenditures increase. OPC is also funded through assessments on public service companies; thus, any additional special fund expenditures are funded through a corresponding increase in special fund revenues from assessments imposed on public service companies.

Maryland Department of the Environment

The Maryland Department of the Environment (MDE) advises that to the extent the bill encourages large load customers to install nonemergency fuel-burning generators to serve as a permissible demand response, the department could face significant operational demands and associated fiscal impacts. According to MDE, generators participating in demand response programs must adhere to strict nonemergency emissions standards; therefore, large load customers installing such generators would likely need to obtain comprehensive major source air permits from MDE. MDE anticipates that the review of these permit applications would involve substantial technical complexity.

If the resulting workload proves significant, special fund expenditures for MDE (from SEIF and/or the Maryland Clean Air Fund) may increase to support additional staff or consultant services. Likewise, special fund revenues (for the Maryland Clean Air Fund) would increase from any associated permit fees. However, any fiscal impact on MDE cannot be reliably determined absent actual experience under the bill.

Local Revenues: The bill's expanded definition of "qualified data center" as it applies to the sales and use tax exemption for qualified data center personal property also applies by reference to § 7-248 of the Tax-Property Article, which authorizes local governments to reduce or eliminate the percentage of the assessment of any data center personal property used in a qualified data center. Thus, local property tax revenues may decrease beginning as early as fiscal 2027 to the extent the bill results in increased utilization of any such property tax exemptions offered by local governments.

Small Business Effect: To the extent any large load customers, as defined by the bill, are considered small businesses, they may incur additional costs to (1) register with PSC; (2) pay for any financial obligations assigned to them under a PJM order; and (3) provide, if applicable, a financial security instrument to the State. Large load customers that participate in the Demand Response Program may benefit from the compensation or financial incentives developed by PSC under the program. Further, any small business owners or operators of large load data centers that meet certain criteria benefit from becoming eligible for the sales and use tax exemption for qualified data center personal property under § 11-239 of the Tax-General Article (and any local property tax exemptions that may apply).

Additional Comments: DLS cannot advise on the bill's effect on electricity prices paid by electric customers, including the State, local governments, and small businesses. To the extent that large load customers participate in the Demand Response Program, electricity demand during peak hours may decline, placing downward pressure on wholesale electricity prices. However, the bill also requires compensation to participating large load customers for their ability to reduce electricity demand during peak periods. According to

PSC, it is likely that the cost of this compensation must be recovered through electric rates, placing upward pressure on electricity rates paid by customers.

Additionally, the bill's provision requiring that curtailment orders from PJM assigned to an electric company serving one or more large load customers be passed through only to those customers, rather than to other customers, may increase electricity rates for large load customers and reduce electricity rates for other customers. PSC notes, however, that the bill's prohibition on assigning curtailment to other customers may be unworkable in situations where large load customers curtail their load but additional curtailments are still needed.

DLS advises that the bill's definition of "large load customer" differs from the definition contained in § 4-212 of the Public Utilities Article. Specifically, the bill defines a large load customer as having an aggregate monthly demand of 25 megawatts, compared with 100 megawatts under § 4-212 of the Public Utilities Article.

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; Maryland Department of the Environment; Department of Natural Resources; Maryland Energy Administration; Department of Legislative Services

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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.