

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 563

(Senators Patterson and Benson)

Education, Health, and Environmental Affairs

Environment and Transportation

Zoning - Special Exceptions - Construction or Operation of Landfills

This bill requires a local governing body to require, on application by a property owner for a special exception to construct or operate a landfill in an area zoned for residential use, to prepare an environmental justice analysis, as specified, at the expense of the property owner.

Fiscal Summary

State Effect: Because the bill does not alter the review process for refuse disposal system permits at the State level, the bill does not materially affect State finances or operations.

Local Effect: Potential minimal increase in local expenditures to review and/or complete environmental justice analyses, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The environmental justice analysis must include (1) a description and demographic profile of the surrounding neighborhood; (2) a description of the actual or potential adverse environmental impacts, human health impacts, and economic impacts to the environment and people who live or work within a two-mile radius of the landfill or proposed landfill, as specified; and (3) an assessment of the cumulative impact to the environment and health of the surrounding community resulting from the construction or operation of the landfill when added to the effects of other past, present, and reasonably foreseeable land uses within a two-mile radius of the landfill or proposed landfill.

Current Law/Background: The Secretary of the Environment may not issue a permit to install, materially alter, or materially extend a refuse disposal system until, among other things, the county has completed its review of the proposed system and has provided to the Maryland Department of the Environment (MDE) a written statement that the refuse disposal system meets all applicable county zoning and land use requirements and is in conformity with the county solid waste plan.

MDE has established a number of steps to ensure the complete review of applications for refuse disposal permits for landfills. During Phase I of the review process, MDE examines available preliminary information to see if there are any major, readily identifiable issues related to the proposed landfill, such as endangered species, wetlands, floodplains, scenic rivers, Chesapeake Bay or Coastal Bays Critical Areas, historical sites, proximity to airports, and regulation under the Highway Beautification Act of 1965. Phase II involves a site-specific environmental investigation of the property based on borings and wells installed across the site. During Phase III, an engineering report consisting of detailed plans, operating manuals, contingency plans, and monitoring plans is completed. Phase IV involves an internal review where MDE makes a final check of the application for completeness and satisfaction of all laws and regulatory requirements and prepares the draft permit and public notices. Phase V is the public comment period, in which a formal public hearing is scheduled and held to obtain comment from the local community concerning the application. After these steps are complete, a final determination is made.

It is assumed that most local zoning ordinances prohibit siting landfills in areas zoned for residential use. It is unknown to what extent local governments authorize special exceptions to construct or operate landfills in areas zoned for residential use.

Local Expenditures: To the extent that a local government does not have sufficient expertise to review environmental justice analyses, there may be an increase in workload to attend training. However, MDE advises that the U.S. Environmental Protection Agency provides tools and guidance for conducting environmental justice reviews that local governments could use. In addition, the extent to which applications are submitted for special exceptions to construct or operate landfills in areas zoned for residential use is unknown but likely not significant.

To the extent that a local government itself wishes to establish a locally owned or operated landfill in an area zoned for residential use, costs increase to pay for an environmental justice analysis. The extent to which this might occur is unknown but likely minimal.

Small Business Effect: To the extent that any small business wishes to establish a landfill in an area zoned for residential use, costs increase to conduct an environmental justice review. Any small business involved in the development of such a review benefits from a potential increase in the demand for its services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard and Montgomery counties; Maryland Association of Counties; City of Bowie; Maryland Department of the Environment; Maryland Department of Health; Department of Legislative Services

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