

SENATE BILL 121

L1, M3

(PRE-FILED)

1lr1173
CF HB 51

By: **Senators Patterson and Benson**

Requested: October 27, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 14, 2021

CHAPTER _____

1 AN ACT concerning

2 **Zoning – Environmental Justice Considerations**

3 FOR the purpose of ~~requiring~~ authorizing a local governing body, on ~~application by a~~
4 ~~property owner~~ receipt of an application for a certain special exception to construct
5 or operate a ~~landfill~~ certain permitted facility, to require the preparation of ~~an~~
6 ~~environmental justice analysis at the expense of the property owner; requiring an~~
7 ~~environmental justice analysis prepared under this Act to include certain~~
8 ~~descriptions and assessments~~, at the expense of the applicant, of a detailed
9 statement and analysis of certain environmental and public health impacts;
10 authorizing a local governing body to deny or condition the approval of a certain
11 application based on certain environmental or public health impacts; defining a
12 certain term; providing for the application of this Act; requiring the Commission on
13 Environmental Justice and Sustainable Communities to study and make
14 recommendations regarding strategies for increasing State oversight of, and
15 ~~involvement in, local zoning decisions that present~~ support of local governments and
16 communities in addressing environmental justice concerns; requiring the
17 Commission to report certain findings and recommendations to the Governor and, in
18 accordance with a certain provision of law, the General Assembly on or before a
19 certain date; providing for the application of certain provisions of this Act; providing
20 that a certain catchline is not law and may not be considered to have been enacted
21 as part of this Act; and generally relating to zoning and environmental justice
22 considerations.

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Land Use
2 Section 1–401 and 10–103
3 Annotated Code of Maryland
4 (2012 Volume and 2020 Supplement)

5 BY adding to
6 Article – Land Use
7 Section 4–215
8 Annotated Code of Maryland
9 (2012 Volume and 2020 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11 That the Laws of Maryland read as follows:

12 **Article – Land Use**

13 1–401.

14 (a) Except as provided in this section, this division does not apply to charter
15 counties.

16 (b) The following provisions of this division apply to a charter county:

17 (1) this subtitle, including Parts II and III (Charter county –
18 Comprehensive plans);

19 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
20 and “Sensitive area”);

21 (3) § 1–201 (Visions);

22 (4) § 1–206 (Required education);

23 (5) § 1–207 (Annual report – In general);

24 (6) § 1–208 (Annual report – Measures and indicators);

25 (7) Title 1, Subtitle 3 (Consistency);

26 (8) Title 1, Subtitle 5 (Growth Tiers);

27 (9) § 4–104(b) (Limitations – Bicycle parking);

28 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

29 (11) § 4–210 (Permits and variances – Solar panels);

- 1 (12) § 4–211 (Change in zoning classification – Energy generating systems);
- 2 (13) § 4–212 (Agritourism);
- 3 (14) § 4–213 (Alcohol production);
- 4 (15) § 4–214 (Agricultural alcohol production);
- 5 (16) **§ 4–215 (SPECIAL EXCEPTIONS – ~~LANDFILLS~~ PERMITTED**
- 6 **FACILITIES);**
- 7 **(17) § 5–102(d)** (Subdivision regulations – Burial sites);
- 8 **[(17)] (18) § 5–104** (Major subdivision – Review);
- 9 **[(18)] (19)** Title 7, Subtitle 1 (Development Mechanisms);
- 10 **[(19)] (20)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 11 **[(20)] (21)** except in Montgomery County or Prince George’s County, Title
- 12 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 13 **[(21)] (22)** Title 7, Subtitle 4 (Inclusionary Zoning);
- 14 **[(22)] (23)** § 8–401 (Conversion of overhead facilities);
- 15 **[(23)] (24)** for Baltimore County only, Title 9, Subtitle 3 (Single–County
- 16 Provisions – Baltimore County);
- 17 **[(24)] (25)** for Frederick County only, Title 9, Subtitle 10 (Single–County
- 18 Provisions – Frederick County);
- 19 **[(25)] (26)** for Howard County only, Title 9, Subtitle 13 (Single–County
- 20 Provisions – Howard County);
- 21 **[(26)] (27)** for Talbot County only, Title 9, Subtitle 18 (Single–County
- 22 Provisions – Talbot County); and
- 23 **[(27)] (28)** Title 11, Subtitle 2 (Civil Penalty).

24 (c) This section supersedes any inconsistent provision of Division II of this article.

25 **4–215. SPECIAL EXCEPTIONS – ~~LANDFILLS~~ PERMITTED FACILITIES.**

26 **~~(A) IN THIS SECTION, “LANDFILL” INCLUDES A RUBBLE LANDFILL.~~**

1 **(A) IN THIS SECTION, "PERMITTED FACILITY" MEANS A FACILITY FOR**
 2 **WHICH ANY OF THE FOLLOWING ENVIRONMENTAL PERMITS IS REQUIRED:**

3 **(1) AN AIR QUALITY PERMIT TO CONSTRUCT OR PERMIT TO OPERATE**
 4 **ISSUED UNDER TITLE 2, SUBTITLE 4 OF THE ENVIRONMENT ARTICLE;**

5 **(2) A REFUSE DISPOSAL PERMIT ISSUED UNDER § 9-204 OF THE**
 6 **ENVIRONMENT ARTICLE; OR**

7 **(3) A CONTROLLED HAZARDOUS SUBSTANCE FACILITY PERMIT**
 8 **ISSUED UNDER § 7-232 OF THE ENVIRONMENT ARTICLE.**

9 **(B) THIS SECTION APPLIES TO:**

10 **(1) AN INITIAL APPLICATION FOR A SPECIAL EXCEPTION TO**
 11 **CONSTRUCT OR OPERATE A ~~LANDFILL~~ PERMITTED FACILITY IN AN AREA ZONED FOR**
 12 **RESIDENTIAL USE; AND**

13 **(2) AN APPLICATION TO EXTEND OR RENEW A SPECIAL EXCEPTION TO**
 14 **CONSTRUCT OR OPERATE A ~~LANDFILL~~ PERMITTED FACILITY IN AN AREA ZONED FOR**
 15 **RESIDENTIAL USE.**

16 ~~**(C) ON RECEIPT OF AN APPLICATION DESCRIBED IN SUBSECTION (B) OF**~~
 17 ~~**THIS SECTION, THE LOCAL GOVERNING BODY SHALL REQUIRE THE PREPARATION**~~
 18 ~~**OF AN ENVIRONMENTAL JUSTICE ANALYSIS AT THE EXPENSE OF THE PROPERTY**~~
 19 ~~**OWNER.**~~

20 ~~**(D) AN ENVIRONMENTAL JUSTICE ANALYSIS PREPARED UNDER THIS**~~
 21 ~~**SECTION SHALL INCLUDE:**~~

22 ~~**(1) A DESCRIPTION AND DEMOGRAPHIC PROFILE OF THE**~~
 23 ~~**SURROUNDING NEIGHBORHOOD;**~~

24 ~~**(2) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ADVERSE**~~
 25 ~~**ENVIRONMENTAL IMPACTS TO LAND, AIR, AND WATER RESOURCES WITHIN A 2 MILE**~~
 26 ~~**RADIUS OF THE LANDFILL OR PROPOSED LANDFILL;**~~

27 ~~**(3) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ADVERSE HUMAN**~~
 28 ~~**HEALTH IMPACTS TO THE INDIVIDUALS WHO LIVE OR WORK WITHIN A 2 MILE**~~
 29 ~~**RADIUS OF THE LANDFILL OR PROPOSED LANDFILL;**~~

30 ~~**(4) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ECONOMIC**~~
 31 ~~**IMPACTS TO THE INDIVIDUALS WHO LIVE OR WORK WITHIN A 2 MILE RADIUS OF THE**~~
 32 ~~**LANDFILL OR PROPOSED LANDFILL; AND**~~

~~(5) AN ASSESSMENT OF THE CUMULATIVE IMPACT TO THE ENVIRONMENT AND HEALTH OF THE SURROUNDING COMMUNITY THAT WILL RESULT FROM THE CONSTRUCTION OR OPERATION OF THE LANDFILL WHEN ADDED TO THE EFFECTS OF OTHER PAST, PRESENT, AND REASONABLY FORESEEABLE LAND USES WITHIN A 2 MILE RADIUS OF THE LANDFILL OR PROPOSED LANDFILL.~~

(C) ON RECEIPT OF AN APPLICATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION, A LOCAL GOVERNING BODY MAY REQUIRE THE PREPARATION, AT THE EXPENSE OF THE APPLICANT, OF A DETAILED STATEMENT AND ANALYSIS OF THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF THE PERMITTED FACILITY ON THE SURROUNDING COMMUNITY.

(D) A LOCAL GOVERNING BODY MAY DENY OR CONDITION THE APPROVAL OF AN APPLICATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION BASED ON THE ACTUAL OR ANTICIPATED ENVIRONMENTAL OR HEALTH IMPACTS OF THE PERMITTED FACILITY ON THE SURROUNDING COMMUNITY.

10–103.

(a) Except as provided in this section, this division does not apply to Baltimore City.

(b) The following provisions of this division apply to Baltimore City:

(1) this title;

(2) § 1–101(m) (Definitions – “Priority funding area”);

(3) § 1–101(o) (Definitions – “Sensitive area”);

(4) § 1–201 (Visions);

(5) § 1–206 (Required education);

(6) § 1–207 (Annual report – In general);

(7) § 1–208 (Annual report – Measures and indicators);

(8) Title 1, Subtitle 3 (Consistency);

(9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties – Comprehensive Plans; Implementation);

(10) § 4–104(b) (Limitations – Bicycle parking);

- 1 (11) § 4–205 (Administrative adjustments);
- 2 (12) § 4–207 (Exceptions – Maryland Accessibility Code);
- 3 (13) § 4–210 (Permits and variances – Solar panels);
- 4 (14) § 4–211 (Change in zoning classification – Energy generating systems);
- 5 (15) **§ 4–213 (SPECIAL EXCEPTIONS – ~~LANDFILLS~~ PERMITTED**
 6 **FACILITIES)**
- 7 **(16)** § 5–102(d) (Subdivision regulations – Burial sites);
- 8 **[(16)] (17)** Title 7, Subtitle 1 (Development Mechanisms);
- 9 **[(17)] (18)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 10 **[(18)] (19)** Title 7, Subtitle 3 (Development Rights and Responsibilities
 11 Agreements);
- 12 **[(19)] (20)** Title 7, Subtitle 4 (Inclusionary Zoning); and
- 13 **[(20)] (21)** Title 11, Subtitle 2 (Civil Penalty).

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) The Commission on Environmental Justice and Sustainable Communities
 16 shall study and make recommendations regarding strategies for increasing State oversight
 17 ~~of, and involvement in, local zoning decisions that present~~ support of local governments and
 18 communities in addressing environmental justice concerns.

19 (b) (1) On or before ~~December 1, 2021~~ June 1, 2022, the Commission shall
 20 report its findings and recommendations to the Governor and, in accordance with § 2–1257
 21 of the State Government Article, the General Assembly.

22 (2) The report shall include specific recommendations regarding:

23 (i) regulatory, policy, and legislative changes necessary to authorize
 24 the Department of the Environment to address, ~~through State permitting processes or~~
 25 ~~other means,~~ environmental justice concerns ~~created or exacerbated by local zoning~~
 26 ~~decisions~~ in collaboration with local governments and communities; and

27 (ii) options and strategies, including the identification of model
 28 ordinances, for incorporating environmental justice considerations into local land use and
 29 zoning decisions.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the catchline contained in
2 Section 1 of this Act is not law and may not be considered to have been enacted as part of
3 this Act.

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
5 effect June 1, 2021.

6 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
7 4 of this Act, this Act shall take effect October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.