
By: Senator Trotter

Introduced and read first time: January 24, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Municipal Corporations - Application of County Legislation**

3 FOR the purpose of altering a certain condition by which county legislation is
4 inapplicable in a municipal corporation that has enacted or enacts legislation that
5 covers the same subject matter under certain circumstances; and generally relating
6 to the application of county legislation in municipal corporations.

7 BY repealing and reenacting, with amendments,
8 Article 23A - Corporations - Municipal
9 Section 2B
10 Annotated Code of Maryland
11 (1994 Replacement Volume and 1995 Supplement)

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

14 **Article 23A - Corporations - Municipal**

15 2B.

16 (a) Except as provided in subsection (b), legislation enacted by a county does not
17 apply in a municipality located in such county if the legislation:

18 (1) By its terms exempts the municipality;

19 (2) Conflicts with legislation of the municipality enacted under a grant of
20 legislative authority provided either by public general law or its charter; or

21 (3) Relates to a subject with respect to which the municipality has a grant of
22 legislative authority provided either by public general law or its charter and the
23 municipality, by ordinance or charter amendment having prospective or retrospective
24 applicability, or both:

25 (i) Specifically exempts itself from such county legislation; or

26 (ii) Generally exempts itself from all county legislation covered by such
27 grants of authority to the municipality.

28 (b) Notwithstanding the provisions of subsection (a)(2) and (3) of this section, the
29 following categories of county legislation, if otherwise within the scope of legislative

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1 powers granted the county by the General Assembly, shall nevertheless apply within all
2 municipalities in the county:

3 (1) County legislation where a law enacted by the General Assembly so
4 provides;

5 (2) County revenue or tax legislation, subject to the provisions of Article 24
6 of the Code, the Tax - General Article, and the Tax - Property Article, or legislation
7 adopting a county budget; and

8 (3) County legislation which is enacted in accordance with requirements
9 otherwise applicable in such county to legislation that is to become effective immediately
10 and which also meets the following requirements:

11 (i) The legislative body of the county makes a specific finding based
12 on evidence of record after a hearing held in accordance with the requirements of
13 subparagraph (ii) hereof that there will be a significant adverse impact on the public
14 health, safety, or welfare affecting residents of the county in unincorporated areas if such
15 county legislation does not apply in all municipalities located in such county;

16 (ii) The legislative body of the county conducts a public hearing at
17 which all municipalities in the county and interested persons shall be given an opportunity
18 to be heard, notice of which is given by the mailing of certified mail notice to each
19 municipality in the county not less than 30 days prior to the hearing and by publication in
20 a newspaper of general circulation in the county for 3 successive weeks, the first
21 publication to be not less than 30 days prior to the hearing; and

22 (iii) The county legislation is enacted by the affirmative vote of not less
23 than two-thirds of the authorized membership of the county legislative body.

24 (4) County legislation which is enacted in accordance with the procedures
25 set forth in paragraph (b)(3) shall be subject to judicial review of the finding made under
26 subparagraph (3)(i) and of the resultant applicability of such legislation to municipalities
27 in the county by the circuit court of the county in accordance with the provisions of the
28 Maryland Rules of Procedure governing appeals from administrative agencies. Any
29 appeal shall be filed within 30 days of the effective date of such county legislation. In any
30 judicial proceeding commenced under the provisions of this paragraph, the sole issues are
31 whether the county legislative body (1) complied with the procedures of paragraph (b)(3),
32 and (2) had before it sufficient evidence from which a reasonable person could conclude
33 that there will be a significant adverse impact on the public health, safety, or welfare
34 affecting residents of the county in unincorporated areas if such county legislation does
35 not apply in all municipalities located in the county. The issues shall be decided by the
36 court without a jury. In the event that the court reverses such finding, the legislation shall
37 continue to apply in unincorporated areas of the county and the applicability of such
38 county legislation in municipalities shall be governed by the provisions of subsection (a)
39 of this section. The decision of the circuit court in any such proceeding shall be subject to
40 further appeal to the court of special appeals by the county or any municipality in the
41 county.

42 (c) Notwithstanding the provisions of paragraph (b)(3) of this section, county
43 legislation enacted in accordance with the procedures and requirements thereof shall

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1 nevertheless be or become inapplicable in any municipality which has enacted or enacts
2 municipal legislation that:

3 (1) (I) [Covers] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
4 THIS PARAGRAPH, COVERS the same subject matter and furthers the same policies as
5 the county legislation; AND

6 (II) IF THE SUBJECT MATTER IS THE HOUSING CODE, COVERS
7 ENTIRELY THE SAME SUBJECT MATTER, RATHER THAN JUST A PORTION OF THE
8 SAME SUBJECT MATTER, AND FURTHERS THE SAME POLICIES AS THE COUNTY
9 LEGISLATION;

10 (2) Is at least as restrictive as the county legislation; and

11 (3) Includes provisions for enforcement.

12 (d) Any municipality may, by ordinance, request and authorize the county within
13 which it is located to administer or enforce any municipal legislation. Upon the enactment
14 of such an ordinance, such county may administer or enforce such municipal legislation
15 on such terms and conditions as may mutually be agreed.

16 (e) As used in this section:

17 (1) "County" means any county, regardless of the form of county
18 government, including charter home rule, code home rule, and county commissioners;
19 and

20 (2) "Legislation" means any form of county or municipal legislative
21 enactment, including a law, ordinance, resolution and any action by which a county
22 budget is adopted.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1996.