

HOUSE BILL 659

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1999 Regular Session
9r0270
CF 9r0673

By: **Delegate Vallario**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Chartered Counties - Express Powers - County Board of Appeals**

3 FOR the purpose of altering the review proceedings available to an aggrieved party
4 from an appellate decision of a circuit court that reviews a county board of
5 appeals' decision in a chartered county; making stylistic changes; providing for
6 the application of this Act; and generally relating to appeal proceedings
7 available from an appellate decision of a circuit court that reviews a decision of
8 the board of appeals of a chartered county.

9 BY repealing and reenacting, with amendments,
10 Article 25A - Chartered Counties of Maryland
11 Section 5(U)
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 1998 Supplement)

14 **Preamble**

15 WHEREAS, Article IV, Section 22 of the Constitution of Maryland provides for
16 an in banc review of cases before a panel of three circuit court judges subject to
17 provisions made by law; and

18 WHEREAS, A county board of appeals in a chartered county is an
19 administrative agency; and

20 WHEREAS, Section 12-302 of the Courts Article does not allow appeals from a
21 final judgment of a circuit court entered or made in the exercise of appellate
22 jurisdiction in reviewing the decision of an administrative agency unless expressly
23 granted by law; and

24 WHEREAS, The alteration of the appeal process from an appellate decision of a
25 circuit court that reviews a decision of a chartered county's board of appeals to include
26 in banc review will provide to an aggrieved party an affordable appeal process; now,
27 therefore,

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

3 **Article 25A - Chartered Counties of Maryland**

4 5.

5 The following enumerated express powers are granted to and conferred upon
6 any county or counties which hereafter form a charter under the provisions of Article
7 XI-A of the Constitution, that is to say:

8 (U)

9 To enact local laws providing (1) for the establishment of a county board of
10 appeals whose members shall be appointed by the county council; (2) for the number,
11 qualifications, terms, and compensation of the members; (3) for the adoption by the
12 board of rules of practice governing its proceedings; and (4) for the decision by the
13 board on petition by any interested person and after notice and opportunity for
14 hearing and on the basis of the record before the board, of such of the following
15 matters arising (either originally or on review of the action of an administrative
16 officer or agency) under any law, ordinance, or regulation of, or subject to amendment
17 or repeal by, the county council, as shall be specified from time to time by such local
18 laws enacted under this subsection: An application for a zoning variation or exception
19 or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation,
20 suspension, annulment, or modification of any license, permit, approval, exemption,
21 waiver, certificate, registration, or other form of permission or of any adjudicatory
22 order; and the assessment of any special benefit tax: Provided, that upon any decision
23 by a county board of appeals it shall file an opinion which shall include a statement of
24 the facts found and the grounds for its decision. Any person aggrieved by the decision
25 of the board and a party to the proceeding before it may appeal to the circuit court for
26 the county which shall have power to affirm the decision of the board, or if such
27 decision is not in accordance with law, to modify or reverse such decision, with or
28 without remanding the case for rehearing as justice may require. Any party to the
29 proceeding in the circuit court aggrieved by the decision of the [said] court may
30 appeal from [such] THE decision to the Court of Special Appeals IN THE SAME
31 MANNER AS PROVIDED FOR IN CIVIL CASES. [The review proceedings provided by
32 this subsection shall be exclusive.]

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
34 construed only prospectively and may not be applied or interpreted to have any effect
35 on or application to any decision of a circuit court before the effective date of this Act.

36 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1999.