

HOUSE BILL 47

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2lr0765

(PRE-FILED)

By: **Delegates Smigiel, Cluster, Haddaway-Riccio, Hough, McComas, McDermott, Parrott, Schulz, and Vitale**

Requested: October 20, 2011

Introduced and read first time: January 11, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – County Plans – Authority**

3 FOR the purpose of repealing the authority of the Department of the Environment to
4 order a person to prepare and submit certain subdivision plans and
5 specifications under certain circumstances; repealing the Department's
6 authority to order the installation of certain water supply or sewerage systems
7 for subdivisions under certain circumstances; repealing a requirement that a
8 certain county plan be approved by the Department; requiring a county to
9 review a certain county plan in accordance with a schedule set by the county
10 instead of the Department; repealing a requirement that a county governing
11 body submit a revision or amendment to a certain county plan to the
12 Department; repealing a requirement that a county adopt a revision or
13 amendment to a certain county plan if the Department requires the revision or
14 amendment; repealing the Department's authority to approve, disapprove, or
15 modify certain plans, revisions, or amendments; repealing a requirement that
16 the Department submit certain plans, revisions, or amendments to the
17 Department of Natural Resources, the Department of Planning, and the
18 Department of Agriculture under certain circumstances; repealing a
19 requirement that the Secretary of the Environment give certain notices under
20 certain circumstances; repealing the authority of the Department of the
21 Environment to specify certain locations for certain facilities under certain
22 circumstances; requiring a certain financial management plan to be approved
23 by a county instead of the Department; authorizing a county, instead of the
24 Department, to file a certain civil action under certain circumstances; repealing
25 a certain term; and generally relating to the authority of the Department of the
26 Environment and county water and sewer planning.

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Environment

Section 9–206, 9–501, 9–503, 9–510, 9–521(c), and 9–1703(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing

Article – Environment

Section 9–507 and 9–508

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–206.

[(a)] With respect to land that is platted for subdivision, a person may not offer any of the land for sale or development or erect a permanent building on the land, unless there have been submitted to the Department:

(1) A plat of the subdivision;

(2) A statement of the methods, consistent with Subtitle 5 of this title, by which the subdivision is to be supplied with water and sewerage service; and

(3) Any other information that the Department requires.

[(b)] On the basis of information provided under subsection (a) of this section, the Department may order:

(1) Preparation and submission, within any time the Department sets, of any plans and specifications that the Department considers necessary to provide for adequate water supply and sewerage service to the subdivision; and

(2) Installation, within any time the Department sets, of the whole or any part of a water supply system or sewerage system for the subdivision that:

(i) Conforms to the plans submitted to the Department and to any revision of the plans that the Department approves; and

(ii) In the judgment of the Department, is needed for the public health.]

9–501.

1 (a) In this subtitle the following words have the meanings indicated.

2 (b) “Community sewerage system” means a publicly or privately owned
3 sewerage system that serves at least 2 lots.

4 (c) “Community water supply system” means a water supply system that
5 serves at least 2 lots.

6 (d) (1) “County plan” means a comprehensive plan for adequately
7 providing throughout the county, including all towns, municipal corporations, and
8 sanitary districts in the county, the following facilities and services by public or
9 private ownership:

10 (i) Water supply systems;

11 (ii) Sewerage systems;

12 (iii) Solid waste disposal systems;

13 (iv) Solid waste acceptance facilities; and

14 (v) Systematic collection and disposal of solid waste, including
15 litter.

16 (2) “County plan” includes a revised or amended county plan.

17 (e) “Individual sewerage system” means a sewerage system that serves only
18 1 lot.

19 (f) “Individual water supply system” means a water supply system that
20 supplies water to only 1 lot.

21 (g) “Litter” means any:

22 (1) Waste material;

23 (2) Refuse;

24 (3) Garbage;

25 (4) Trash;

26 (5) Debris;

27 (6) Dead animal; or

28 (7) Other discarded material.

(h) “Lot” means a parcel of land, including a part of a subdivision, that:

(1) Is used or is intended to be used as a building site; and

(2) Is not intended to be further subdivided.

(i) “Multiuse sewerage system” means a sewerage system that:

(1) Serves only 1 lot;

(2) Serves a number of individuals;

(3) Has a treatment capacity of more than 5,000 gallons a day; and

(4) Is not publicly owned or operated.

(j) “Multiuse water supply system” means an individual water supply system that:

(1) Has the capacity to supply more than 5,000 gallons of water a day;

and

(2) Serves a number of individuals.

(k) [(1) “Proposed county plan” means a county plan that:

(i) Has been adopted by the county governing body; and

(ii) Has not been approved by the Department.

(2) “Proposed county plan” includes any proposed amendment or revision of the county plan.

(l)] “Sewage” means any human or animal excretion, street wash, domestic waste, or industrial waste.

[(m)] (L) (1) “Sewerage system” means:

(i) The channels used or intended to be used to collect and dispose of sewage; and

(ii) Any structure and appurtenance used or intended to be used to collect or prepare sewage for discharge into the waters of this State.

(2) “Sewerage system” includes any sewer of any size.

(3) “Sewerage system” does not include the plumbing system inside any building served by the sewerage system.

~~[(n)]~~ (M) “Solid waste acceptance facility” means any sanitary landfill, incinerator, transfer station, or plant whose primary purpose is to dispose of, treat, or process solid waste.

~~[(o)]~~ (N) (1) “Solid waste disposal system” means any publicly or privately owned system that:

(i) Provides a scheduled or systematic collection of solid waste;

(ii) Transports the solid waste to a solid waste acceptance facility; and

(iii) Treats or otherwise disposes of the solid waste at the solid waste acceptance facility.

(2) “Solid waste disposal system” includes each solid waste acceptance facility that is used in connection with the solid waste disposal system.

~~[(p)]~~ (O) (1) “Subdivision” means any division of a tract or parcel of land into at least 2 lots, for the purpose of sale or building development.

(2) “Subdivision” includes any change in street lines or lot lines.

(3) Except as provided in paragraph (4) of this subsection, “subdivision” does not include any division of land into parcels of more than 3 acres, if the division:

(i) Is for agricultural purposes; and

(ii) Does not involve any new street or easement of access.

(4) In Carroll County, “subdivision” does not include:

(i) Any division of land into parcels of more than 3 acres, if the division:

1. Is for agricultural purposes; and

2. Does not involve any new street or easement of access;

or

(ii) A remainder parcel of land of 25 acres or more that exists as a result of the division of a large parcel into at least 2 smaller parcels, provided that

any occupied dwelling on the remainder parcel is serviced by a properly functioning sewerage disposal system and potable water supply.

[(q)] (P) (1) “Water supply system” means a publicly or privately owned or operated:

(i) Source and the surrounding area from which water is supplied for drinking or domestic purposes; and

(ii) Structure, channel, or appurtenance used or intended to be used to prepare water for use or to deliver water to a consumer.

(2) “Water supply system” does not include the plumbing system inside any building that is served by the water supply system.

9–503.

(a) Each county shall have a county plan or a plan with adjoining counties that:

(1) [Is approved by the Department;

(2)] Covers at least the 10–year period next following adoption by the county governing body; and

[(3)] (2) Deals with:

(i) Water supply systems;

(ii) Sewerage systems;

(iii) Solid waste disposal systems;

(iv) Solid waste acceptance facilities; and

(v) The systematic collection and disposal of solid waste, including litter.

(b) Except as provided in § 9–515 of this subtitle, each county governing body shall review its county plan at least once every 3 years in accordance with a schedule set by the [Department] COUNTY.

(c) Each county governing body shall adopt [and submit to the Department] a revision or amendment to its county plan if[

1 (1) The] **THE** governing body considers a revision or amendment
2 necessary[; or

3 (2) The Department requires a revision or amendment].

4 (d) (1) Before a county governing body adopts any revision or amendment
5 to its county plan or adopts a new county plan, the governing body shall:

6 (i) Conduct a public hearing on the county plan, revision, or
7 amendment that may be conducted jointly with other public hearings or meetings; and

8 (ii) Give the principal elected official of each municipal
9 corporation that is affected notice of the county plan, revision, or amendment at least
10 14 days before the hearing.

11 (2) (i) Notice of the time and place of the public hearing, together
12 with a summary of the plan, revision, or amendment, shall be published in at least 1
13 newspaper of general circulation in the county once each week for 2 successive weeks,
14 with the first publication of notice appearing at least 14 days before the hearing.

15 (ii) Notice of the public hearing may be a part of the general
16 notice listing all other items to be considered during the public hearing or meeting.

17 [9–507.

18 (a) When a county governing body submits its proposed county plan or a
19 proposed revision or amendment of its county plan to the Department, the Department
20 may:

21 (1) Approve the proposal;

22 (2) Disapprove the proposal;

23 (3) If the part approved includes all of the required elements of a
24 county plan, approve the proposal in part and disapprove it in part; or

25 (4) Modify or take other appropriate action on the proposal.

26 (b) Before the Department approves or disapproves, in whole or in part, a
27 proposed county plan or a proposed revision or amendment of a county plan, the
28 Department shall submit the proposal:

29 (1) To the Department of Natural Resources for advice on natural
30 resources matters;

31 (2) To the Department of Planning for advice on the consistency of the
32 proposal with the local master plan and other appropriate matters; and

(3) To the Department of Agriculture for advice on the impact of water and sewerage service and solid waste facilities on productive or potentially productive agricultural land.

(c) (1) Except as otherwise provided in this subsection, the Department shall approve, disapprove, or partially approve and partially disapprove each proposed county plan or proposed revision or amendment to a county plan within 90 days after the proposal is submitted to the Department.

(2) For good cause and after notice to the county involved, the Department may extend the 90-day review period of paragraph (1) of this subsection for an additional 90 days.

(d) If the Department does not disapprove, in whole or in part, a proposed county plan or a proposed revision or amendment of a county plan within the review period provided in subsection (c) of this section, the proposal is approved.

(e) (1) Before the Department takes any action under subsection (a) of this section, a county may use its proposed county plan or proposed revision or amendment of its county plan at the county's own risk, if the county governing body has adopted the proposed county plan, revision, or amendment.

(2) After the county governing body adopts the proposed county plan, a person shall follow the provisions of that plan except to the extent that the Department modifies or disapproves that plan.]

[9-508.

(a) If the Department disapproves, in whole or in part, a proposed county plan or a proposed revision or amendment of a county plan, the Department shall give the county a written notice of disapproval that states the reasons for disapproval.

(b) At any time up to 6 months after a county receives the notice of disapproval, the county governing body may ask the Secretary to reconsider the disapproval in accordance with the rules and regulations of the Department.]

9-510.

(a) In addition to the powers set forth elsewhere in this subtitle, the Department may:

(1) Conduct surveys and research to carry out the provisions of this subtitle; and

(2) [Specify the] **RECOMMEND A** location for any sewage treatment facility discharge point that is included in any county plan.

1 (b) In addition to the duties set forth elsewhere in this subtitle, the
2 Department shall adopt rules and regulations:

3 (1) To carry out the provisions of this subtitle;

4 (2) To control, limit, or prohibit the installation and use of:

5 (i) Water supply systems; and

6 (ii) Sewerage systems;

7 (3) To require that, before installation of individual water supply
8 systems or individual sewerage systems, consideration be given to:

9 (i) Present and future population density;

10 (ii) Size of parcels;

11 (iii) Contour of the land;

12 (iv) Porosity and absorbency of the soil;

13 (v) Ground water conditions;

14 (vi) Availability of water from unpolluted aquifers;

15 (vii) Type of construction of community water supply systems;

16 (viii) Type of construction of community sewerage systems;

17 (ix) Size of the proposed development; and

18 (x) Any other pertinent factors;

19 (4) To require that, giving consideration to the factors in item (3) of
20 this subsection, areas be served by community facilities if the Department finds them
21 to be reasonably necessary:

22 (i) By installation of the community water supply system,
23 community sewerage system, or solid waste disposal system; and

24 (ii) By connection of all premises to or service to all premises by
25 the community water supply system, community sewerage system, or solid waste
26 disposal system;

1 (5) To require that community water supply systems, community
2 sewerage systems, and solid waste disposal systems be constructed to allow the
3 connection of those systems to a larger system, if that larger system becomes
4 available;

5 (6) To allow a person to install an individual water supply system or
6 an individual sewerage system in any area where a community water supply system
7 or a community sewerage system is not available or required to be installed in the
8 area if:

9 (i) The Department finds that the individual system is
10 adequate and safe for use before a community system is scheduled to be available in
11 the area; and

12 (ii) The individual system is constructed in the most economical
13 and convenient way to permit connection to a community system in the area, and the
14 person guarantees the connection to a community system:

15 1. When the county governing body where the area is
16 located sets a time; and

17 2. In accordance with this subtitle, any rules and
18 regulations adopted under this subtitle, and any other State law or county
19 requirement by:

20 A. Posting a bond to secure actual construction and
21 installation of the systems with satisfactory surety for the benefit of the county
22 governing body; or

23 B. Making any other arrangement that the Department
24 considers necessary and adequate to carry out the provisions of this subtitle;

25 (7) If a solid waste disposal system is not available or required to be
26 installed in any area as provided in item (4) of this subsection, to allow a person to
27 provide a solid waste acceptance facility in the area without a systematic collection
28 and transportation system;

29 (8) To require that, before issuance of a permit for construction of a
30 community or multiuse sewerage system, a financial management plan sufficient to
31 ensure the dependable and safe operation of the system has been adopted within the
32 county plan [and approved by the Department]; and

33 (9) To require that:

34 (i) Before issuance of a permit for construction of a privately
35 owned community water supply system that will serve 4 or more residential lots or 2
36 or more other lots, the applicant has proposed a financial management plan sufficient

1 to ensure the dependable and safe operation of the system, and the plan has been
2 approved by the [Department] COUNTY; and

3 (ii) The applicant shall comply with the plan as approved by the
4 [Department] COUNTY.

5 9–521.

6 (c) (1) An applicant who violates § 9–510(b)(9) of this subtitle, or who
7 violates any regulation adopted under § 9–510(b)(9) of this subtitle, is liable for a civil
8 penalty not to exceed \$500 per violation to be collected in a civil action filed by [the
9 Department] A COUNTY in the circuit court for any county.

10 (2) Each day a violation continues under this subsection constitutes a
11 separate violation of this subsection.

12 9–1703.

13 (a) Each county shall submit a recycling plan to the Secretary for approval
14 [when the county submits its county plan to the Secretary] in accordance with the
15 provisions of § 9–505 of this title.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 June 1, 2012.