

HOUSE BILL 51

L1, M3

(PRE-FILED)

1lr1411
CF SB 121

By: **Delegate Turner**

Requested: October 31, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Zoning – Environmental Justice Considerations**

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

17 BY repealing and reenacting, with amendments,
18 Article – Land Use
19 Section 1–401 and 10–103
20 Annotated Code of Maryland
21 (2012 Volume and 2020 Supplement)

22 BY adding to
23 Article – Land Use
24 Section 4–215
25 Annotated Code of Maryland
26 (2012 Volume and 2020 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Land Use**

3 1–401.

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

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

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

9 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
10 and “Sensitive area”);

11 (3) § 1–201 (Visions);

12 (4) § 1–206 (Required education);

13 (5) § 1–207 (Annual report – In general);

14 (6) § 1–208 (Annual report – Measures and indicators);

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

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

17 (9) § 4–104(b) (Limitations – Bicycle parking);

18 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

19 (11) § 4–210 (Permits and variances – Solar panels);

20 (12) § 4–211 (Change in zoning classification – Energy generating systems);

21 (13) § 4–212 (Agritourism);

22 (14) § 4–213 (Alcohol production);

23 (15) § 4–214 (Agricultural alcohol production);

24 (16) **§ 4–215 (SPECIAL EXCEPTIONS – LANDFILLS);**

25 (17) § 5–102(d) (Subdivision regulations – Burial sites);

1 [(17)] **(18)** § 5–104 (Major subdivision – Review);

2 [(18)] **(19)** Title 7, Subtitle 1 (Development Mechanisms);

3 [(19)] **(20)** Title 7, Subtitle 2 (Transfer of Development Rights);

4 [(20)] **(21)** except in Montgomery County or Prince George’s County, Title
5 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

6 [(21)] **(22)** Title 7, Subtitle 4 (Inclusionary Zoning);

7 [(22)] **(23)** § 8–401 (Conversion of overhead facilities);

8 [(23)] **(24)** for Baltimore County only, Title 9, Subtitle 3 (Single–County
9 Provisions – Baltimore County);

10 [(24)] **(25)** for Frederick County only, Title 9, Subtitle 10 (Single–County
11 Provisions – Frederick County);

12 [(25)] **(26)** for Howard County only, Title 9, Subtitle 13 (Single–County
13 Provisions – Howard County);

14 [(26)] **(27)** for Talbot County only, Title 9, Subtitle 18 (Single–County
15 Provisions – Talbot County); and

16 [(27)] **(28)** Title 11, Subtitle 2 (Civil Penalty).

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

18 **4–215. SPECIAL EXCEPTIONS – LANDFILLS.**

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

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

21 **(1) AN INITIAL APPLICATION FOR A SPECIAL EXCEPTION TO**
22 **CONSTRUCT OR OPERATE A LANDFILL IN AN AREA ZONED FOR RESIDENTIAL USE;**
23 **AND**

24 **(2) AN APPLICATION TO EXTEND OR RENEW A SPECIAL EXCEPTION TO**
25 **CONSTRUCT OR OPERATE A LANDFILL IN AN AREA ZONED FOR RESIDENTIAL USE.**

26 **(C) ON RECEIPT OF AN APPLICATION DESCRIBED IN SUBSECTION (B) OF**
27 **THIS SECTION, THE LOCAL GOVERNING BODY SHALL REQUIRE THE PREPARATION**
28 **OF AN ENVIRONMENTAL JUSTICE ANALYSIS AT THE EXPENSE OF THE PROPERTY**

1 OWNER.

2 (D) AN ENVIRONMENTAL JUSTICE ANALYSIS PREPARED UNDER THIS
3 SECTION SHALL INCLUDE:

4 (1) A DESCRIPTION AND DEMOGRAPHIC PROFILE OF THE
5 SURROUNDING NEIGHBORHOOD;

6 (2) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ADVERSE
7 ENVIRONMENTAL IMPACTS TO LAND, AIR, AND WATER RESOURCES WITHIN A 2-MILE
8 RADIUS OF THE LANDFILL OR PROPOSED LANDFILL;

9 (3) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ADVERSE HUMAN
10 HEALTH IMPACTS TO THE INDIVIDUALS WHO LIVE OR WORK WITHIN A 2-MILE
11 RADIUS OF THE LANDFILL OR PROPOSED LANDFILL;

12 (4) A DESCRIPTION OF THE ACTUAL OR POTENTIAL ECONOMIC
13 IMPACTS TO THE INDIVIDUALS WHO LIVE OR WORK WITHIN A 2-MILE RADIUS OF THE
14 LANDFILL OR PROPOSED LANDFILL; AND

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

20 10-103.

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

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

24 (1) this title;

25 (2) § 1-101(m) (Definitions – “Priority funding area”);

26 (3) § 1-101(o) (Definitions – “Sensitive area”);

27 (4) § 1-201 (Visions);

28 (5) § 1-206 (Required education);

29 (6) § 1-207 (Annual report – In general);

- 1 (7) § 1–208 (Annual report – Measures and indicators);
- 2 (8) Title 1, Subtitle 3 (Consistency);
- 3 (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties –
4 Comprehensive Plans; Implementation);
- 5 (10) § 4–104(b) (Limitations – Bicycle parking);
- 6 (11) § 4–205 (Administrative adjustments);
- 7 (12) § 4–207 (Exceptions – Maryland Accessibility Code);
- 8 (13) § 4–210 (Permits and variances – Solar panels);
- 9 (14) § 4–211 (Change in zoning classification – Energy generating systems);
- 10 (15) **§ 4–213 (SPECIAL EXCEPTIONS – LANDFILLS)**
- 11 **(16) § 5–102(d)** (Subdivision regulations – Burial sites);
- 12 **[(16)] (17)** Title 7, Subtitle 1 (Development Mechanisms);
- 13 **[(17)] (18)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 14 **[(18)] (19)** Title 7, Subtitle 3 (Development Rights and Responsibilities
15 Agreements);
- 16 **[(19)] (20)** Title 7, Subtitle 4 (Inclusionary Zoning); and
- 17 **[(20)] (21)** Title 11, Subtitle 2 (Civil Penalty).

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

19 (a) The Commission on Environmental Justice and Sustainable Communities
20 shall study and make recommendations regarding strategies for increasing State oversight
21 of, and involvement in, local zoning decisions that present environmental justice concerns.

22 (b) (1) On or before December 1, 2021, the Commission shall report its findings
23 and recommendations to the Governor and, in accordance with § 2–1257 of the State
24 Government Article, the General Assembly.

25 (2) The report shall include specific recommendations regarding
26 regulatory, policy, and legislative changes necessary to authorize the Department of the
27 Environment to address, through State permitting processes or other means,
28 environmental justice concerns created or exacerbated by local 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.