

# **SB81\_IndivisibleHoCoMD\_FAV\_BarbMatheson.pdf**

Uploaded by: Barbara Matheson

Position: FAV



**SB81 – Charter Counties - Enforcement of Local Building  
Performance Laws (Building Energy Performance Standards  
Act of 2022)**

**Testimony before**

**Education, Health and Environmental Affairs Committee**

**February 2, 2022**

**Position: Favorable**

Dear Chairman Pinsky, Vice Chair Kagan, and members of the committee, my name is Barbara Matheson, and I represent the 750+ members of Indivisible Howard County. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are providing written testimony today in support of HB61, to strengthen enforcement of building energy performance codes across the state.

It is imperative that we reduce greenhouse gas emissions as rapidly as possible. Building emissions reduction is an important and expedient component to meeting Maryland's goals. Maryland counties and Howard County are taking significant action such as Building Energy Performance Standards.

This bill gives power to counties to enforce Building Energy Performance Standards by imposing a fine of not more than \$10 per square foot of gross floor area of a building - an essential factor in regulation and incentivizing efforts.

Thank you for your consideration of this important legislation.

**We respectfully urge a favorable report.**

Barbara Matheson  
Columbia, MD 21044

# **SB0081\_BEPS\_MLC\_FAV.pdf**

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0081**  
**CHARTER COUNTIES - ENFORCEMENT OF LOCAL BUILDING PERFORMANCE LAWS**  
**(BUILDING ENERGY PERFORMANCE STANDARDS ACT OF 2022)**

**Bill Sponsor:** Senator Feldman

**Committee:** Education, Health, and Environmental Affairs

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0081 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Building emissions are one of the top three contributors to overall greenhouse gas emissions in Maryland. Maryland has made it a priority to reduce greenhouse gases and work to become carbon neutral, and many Maryland counties have done their part to put in place measures that would help the state meet those goals. In some cases, counties pushed harder and created regulations, such as Building Energy Performance Standards, that exceed those of the state

We need to support those counties that are working hard to help Maryland, and by extension the world, have a greener future. We are in a crisis where we are paving the path to our own extinction by failing to act.

This bill would allow counties to enforce Building Energy Performance Standards by imposing a fine of not more than \$10 per square foot of gross floor area of a building. In allowing counties to do this, Maryland would benefit from the reduction in greenhouse gas emissions.

We support this bill and recommend a **FAVORABLE** report in committee.

# **SB0081-EHE\_MACo\_SUP.pdf**

Uploaded by: Dominic Butchko

Position: FAV



## Senate Bill 81

### *Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)*

MACo Position: **SUPPORT**

To: Education, Health, & Environmental  
Affairs Committee

Date: February 2, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 81. The bill gives Maryland's charter counties more flexibility and leverage in enforcing local building codes.

Building codes start with a statewide model, the Maryland Building Performance Standards (MBPS), with locally adopted modifications. Some counties have opted to adopt codes that go further than MBPS, these local codes include Building Energy Performance Standards (BEPS).

Under current law, when a building is found in violation of BEPS, charter counties may only levy a civil fine up to \$1,000 (or much lesser-used criminal fines and penalties). This creates a potential perverse incentive – where a property owner may judge it cheaper to merely pay a nominal civil fine than comply with the energy standards. HB 61 seeks to more properly realign these incentives, by granting charter counties flexibility to impose fines up to \$10 per square foot of the gross floor area of a building, and to assess fines with recognition of the property's assessment. In other words, a large, profitable facility with the strongest incentive to flout the current rules would face more appropriately scaled consequences for doing so.

MACo supports SB 81 because it gives counties another “tool in the toolbox” to enforce local building codes, and to further the goals of energy efficiency. The General Assembly has granted local jurisdictions the ability to enact regulations most suitable for their locality and this legislation would grant charter counties the ability to enforce them with a proper incentive for compliance. Accordingly, MACo urges the Committee to issue a **FAVORABLE** report for SB 81.

# **Takoma Park 2022 - SB 81 FAV - BEPS.pdf**

Uploaded by: Jamal Fox

Position: FAV



## **CITY OF TAKOMA PARK, MARYLAND**

**SB81**

**Support**

**Senate Education, Health and Environmental Affairs Committee**

**January 27, 2022**

**SB 81 Building Energy Performance Standards Act of 2022**

**City Contact: Cindy Dyballa, Ward 2 City Council Member**

**[CindyD@takomaparkmd.gov](mailto:CindyD@takomaparkmd.gov)**

The City of Takoma Park supports the goals and intent of Senate Bill 81, and urges favorable consideration.

This bill would grant authority to county governments to enforce provisions of locally enacted building energy performance standards. The ability to ensure that these standards are implemented will strengthen and speed adoption of more efficient building energy use, one of the greatest areas of energy use and greenhouse gas (GHG) production. This will in turn contribute greatly to meeting vital GHG emissions reduction goals at the state and local level.

Throughout Maryland, and in Montgomery County, we can see for ourselves that our climate is dramatically and rapidly changing with devastating consequences, and that greenhouse gas emissions must be dramatically reduced in the very short term to address this. We must accelerate and expand efforts on the part of all levels of government, using all the policy tools at our disposal, to reduce GHG emissions. There's no time to waste.

Takoma Park has been a leader among Maryland communities in responding to the challenges of climate change and in reducing greenhouse gas emissions through our many local policies and actions. In 2019 the City declared a climate emergency and set a goal of net zero GHG emissions by 2035. In 2020 the City adopted a Climate Emergency Response Framework to move aggressively to implement that goal. It focuses on buildings and transportation, the two areas of greatest GHG emissions in our community, and embraces building energy performance standards at the county and municipal level as one critical tool. The City is also committed to action through the Global Covenant of Mayors for Climate and Energy, the Paris Climate Agreement and the Sierra Club 100% renewable energy pledge.

**In sum, the City of Takoma Park supports the goals and intent of this bill, and encourages a favorable vote.**



# **SB81\_MDSierraClub\_fav 2Feb2022.pdf**

Uploaded by: Josh Tulkin

Position: FAV



P.O. Box 278  
Riverdale, MD 20738

**Committee:** Environment and Transportation

**Testimony on:** SB 81 - "Charter Counties – Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)"

**Position:** Support

**Hearing Date:** February 2, 2022

The Maryland Sierra Club urges support for this legislation which will enable Charter counties to levy civil fines of up to \$10 per square foot on buildings that fail to comply with building energy performance laws. Building Energy Performance Standards (BEPS) create timelines for large commercial and multifamily buildings to reduce their greenhouse gas pollution. A number of jurisdictions have recently passed building energy performance standards, including Washington, DC; Boulder, CO; Boston, MA; St. Louis, MO; and Colorado and Washington state.

Montgomery County, MD proposes to be the first county in the US to implement BEPS. To make performance standards effective, counties enacting these standards must have the ability to levy fines or alternative performance payments, as they do for other standards. In the absence of this legislation, civil fines or alternative compliance payments would be limited to \$1,000. This small civil fine would be insufficient to encourage building owners to comply.

Reducing greenhouse gas pollution is critical to limiting the damage from the climate crisis. In Maryland, buildings account for approximately 51% of greenhouse gas pollution (including electricity used by buildings, 2020), and in Montgomery County residential and commercial buildings account for almost 50% of greenhouse gas pollution (including electricity, 2018). To meet the State's greenhouse gas targets, the Maryland Commission on Climate Change recommended implementation of Building Emissions standards. Montgomery County is taking a lead in these efforts with its proposed legislation.

The proposed BEPS for Montgomery County offer building owners a strong pathway to reduce emissions. Building owners will be required to improve upon building-specific baseline emissions levels over a period of 12 years. Those who fall short will have the option of offering a plan to catch up. Various incentive programs and savings from lower energy costs may cover a significant portion or all of the costs of meeting the standards.

Adequate alternative compliance payments and civil penalties will be important to assuring compliance with county-enacted Building Energy Performance Standards. The Maryland Sierra Club, therefore, urges support for SB 81.

Chris Stix  
Chapter Clean Energy Issue Team  
[Stixchris@gmail.com](mailto:Stixchris@gmail.com)

Josh Tulkin  
Chapter Director  
[Josh.Tulkin@MDSierra.org](mailto:Josh.Tulkin@MDSierra.org)

Founded in 1892, the Sierra Club is America's oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

# **SB081-Enforcement of Local Building Performance La**

Uploaded by: Laurie McGilvray

Position: FAV



**Committee: Education, Health, and Environmental Affairs**  
**Testimony on: SB0081 - Charter Counties-Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**  
**Organization: Climate Justice Wing of the Maryland Legislative Coalition**  
**Submitting: Laurie McGilvray, Co-Chair**  
**Position: Favorable**  
**Hearing Date: February 2, 2022**

Dear Mr. Chairman and Committee Members:

Thank you for allowing our testimony today in support of SB0081. The Maryland Legislative Coalition (MLC) Climate Justice Wing, a statewide coalition of over 50 grassroots and professional organizations, urges you to vote favorably on SB0081.

Within Maryland, charter counties are moving towards enacting building energy performance standards for their communities. In fact, the Biden Administration recently announced a coalition of states, local governments, labor organizations, and industries that are teaming up to support building performance standards for cleaner, healthier, and more affordable buildings. Three Maryland jurisdictions – Prince Georges County, Montgomery County, and the City of Annapolis - have joined the coalition. Unfortunately, counties currently are hampered in their ability to effectively enforce such regulations, because the penalty cap in existing Maryland law is too low to compel building owners who refuse to comply. SB0081 will fix this problem by allowing counties the flexibility to set higher penalties.

Buildings emit 40% of Maryland's greenhouse gases (13% of which are direct emissions) and account for 90% of Maryland's electricity use. Ultimately, reducing this source of climate pollution and transitioning buildings to be carbon neutral is critical to Maryland reaching its statutory climate goals. Building Energy Performance Standards are a foundational tool that provides a flexible pathway for building owners to reduce energy use and carbon emissions from existing buildings. By setting energy use targets (or alternatively, greenhouse gas reduction targets) building owners have a pathway to more cost-effective, energy efficient buildings, including to healthier all-electric cooling and heating and hot water systems. However, these targets and standards must be enforceable.

Currently in Maryland, charter county penalties are limited to a civil penalty of no more than \$1,000 or a criminal penalty of \$1,000 and six months imprisonment. SB0081 will allow a penalty of up to a \$10 per square foot for owners who fail to comply with local building energy

performance standard regulations. The bill also provides that counties must consider the assessed value of the property in penalties set for any offense, so there is flexibility in the penalty amounts set by counties.

As a resident of Montgomery County, I and other climate-conscious county residents are very supportive of this bill because it will give the county government stronger enforcement tools in conjunction with legislation currently under consideration by the Montgomery County Council.

We need to support counties that are working hard to reduce climate pollution from buildings by giving them effective enforcement tools, without which local regulations will be unsuccessful. The legislation also provides protections for building owners by requiring counties to consider the assessed value of the property.

We are in a climate crisis and must align our policies to help local governments be part of the solution. Therefore, we support this bill and recommend a **FAVORABLE** report in committee.

**MLC Climate Justice Wing:**

Assateague Coastal Trust  
Maryland Legislative Coalition  
MD Campaign for Environmental Human Rights  
Chesapeake Climate Action Network  
WISE  
Frack Free Frostburg  
Mountain Maryland Movement  
Clean Water Action  
Howard County Indivisible  
Howard County Sierra Club  
Columbia Association Climate Change and Sustainability Advisory Committee  
HoCo Climate Action  
CHEER  
Climate XChange - Maryland  
Mid-Atlantic Field Representative/  
National Parks Conservation Association  
350 Montgomery County  
Glen Echo Heights Mobilization  
The Climate Mobilization Montgomery County  
Montgomery County Faith Alliance for Climate Solutions  
Montgomery Countryside Alliance

Takoma Park Mobilization Environment Committee  
Audubon Naturalist Society  
Cedar Lane Unitarian Universalist Church  
Environmental Justice Ministry  
Coalition For Smarter Growth  
DoTheMostGood Montgomery County  
MCPS Clean Energy Campaign  
MoCo DCC  
Potomac Conservancy  
Casa de Maryland  
Nuclear Information & Resource Service  
Clean Air Prince Georges  
Laurel Resist  
Greenbelt Climate Action Network  
Maryland League of Conservation Voters  
Unitarian Universalist Legislative Ministry of Maryland  
Concerned Citizens Against Industrial CAFOs  
Wicomico NAACP  
Chesapeake Physicians for Social Responsibility  
Chispa MD  
Climate Law & Policy Project  
Maryland Poor People's Campaign

Labor Network for Sustainability  
The Nature Conservancy  
Clean Air Prince Georges  
350 Baltimore  
Maryland Environmental Health Network  
Climate Stewards of Greater Annapolis  
Talbot Rising  
Adat Shalom Climate Action  
Mid-Atlantic Earth Holders  
Climate Parents of Prince Georges  
Echotopia  
Maryland NAACP State Conference,  
Environmental Justice Committee

# **SB081-Enforcement of Local Building Performance La**

Uploaded by: Laurie McGilvray

Position: FAV



## Environment Committee

**Committee: Education, Health, and Environmental Affairs**

**Testimony on: SB0081 - Charter Counties-Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**

**Organization: Takoma Park Mobilization Environment Committee**

**Submitting: Laurie McGilvray, Co-Chair**

**Position: Favorable**

**Hearing Date: February 2, 2022**

Dear Mr. Chairman and Committee Members:

Takoma Park Mobilization Environment Committee is a grassroots organization in Montgomery County that advocates for both local and state level climate justice legislation. We urge you to vote favorably on SB0081.

Montgomery County has created an ambitious Climate Action Plan that is striving to achieve an 80% reduction in greenhouse gas emissions by 2027 and 100% reduction by 2035. Buildings, through direct and indirect emissions, are 50% of Montgomery County's greenhouse gas emissions. Ultimately, reducing those emissions and having them be carbon neutral is critical to Montgomery County reaching its climate goals.

Building Energy Performance Standards are a foundational tool that provide a flexible pathway for building owners for reducing emissions from existing buildings. They achieve that goal by setting energy use targets (or alternatively, greenhouse gas reduction targets) that transition buildings to be energy efficient and to all electric space and water heating systems. However, these targets and standards must be enforceable.

In Maryland, charter counties are moving towards enacting building energy performance standards for their communities. In fact, Montgomery County, as well as Prince Georges County and the City of Annapolis, recently joined a national coalition of states, local governments, labor organizations, and industries that are teaming up to support building performance standards. Unfortunately, counties currently are hampered in their ability to effectively enforce such regulations, because the penalty cap in existing Maryland law is too low to compel building owners who refuse to comply. SB0081 will fix this problem by allowing counties the flexibility to set higher penalties.

Charter county penalties currently are limited to a civil penalty of no more than \$1,000 or a criminal penalty of \$1,000 and six months imprisonment. SB0081 will allow a penalty of up to a \$10 per



square foot for owners who fail to comply with local building energy performance standard regulations. The bill also provides that counties must consider the assessed value of the property in penalties set for any offense, so there is flexibility in the penalty amounts set by counties.

We need to support counties that are working hard to reduce climate pollution from buildings by giving them effective enforcement tools, without which local regulations will be unsuccessful. The legislation also provides protections for building owners by requiring counties to consider the assessed value of the property.

We must align our policies to help local governments be part of the solution to the climate crisis. Please support this bill with a **FAVORABLE** report in committee.

# **SB 81 - MoCo\_Elrich\_FAV (GA 22).pdf**

Uploaded by: Marc Elrich

Position: FAV



## OFFICE OF THE COUNTY EXECUTIVE

**Marc Elrich**  
*County Executive*

February 2, 2022

TO: The Honorable Paul G. Pinsky  
Chair, Education, Health, and Environmental Affairs Committee

FROM: Marc Elrich  
County Executive

RE: Senate Bill 81 – *Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)* – Support

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I am writing to express my strong support for Senate Bill 81 – *Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)*, which grants authority to charter counties to enhance enforcement efforts for building energy performance laws.

We are in a climate emergency. The concentration of greenhouse gases (GHGs) in the Earth's atmosphere is directly linked to rising global temperatures and increased catastrophic storm events. Responding to this emergency, Montgomery County established a goal of reducing GHG emissions throughout the County by 80% by 2027 and eliminating GHG emissions by 2035. A major contributor to GHG emissions in the County is the commercial building sector, which accounts for 26% of the County's community-wide emissions.

A bill to establish Building Energy Performance Standards (BEPS) for certain public and private commercial and multifamily buildings in Montgomery County is currently under review by the County Council. I believe that a BEPS program for existing buildings is a foundational policy action that will directly reduce emissions from the existing built environment.

Other jurisdictions across the Country have successfully enacted BEPS in response to their climate commitments, including Washington, D.C., New York City, St. Louis, Denver, and Boston. We anticipate the number of jurisdictions with BEPS policies to grow significantly in the coming years, with assistance from the White House Council on Environmental Quality's National Building Performance Standards (BPS) Coalition launched on January 21, 2022. Montgomery County, Prince George's County, and the City of Annapolis have signed on as BPS Coalition participants along with many other jurisdictions nationwide.

Montgomery County's proposed BEPS requirements, supported by financial and technical assistance, including financing options from the Montgomery County Green Bank, Commercial PACE financing, the County's new energy-efficient building tax credits, EmPOWER utility incentives, and State grants and incentives, will help property owners succeed in reducing the climate impacts of their buildings through deep energy retrofits, operational improvements, and tenant engagement. As proposed, the program would eventually cover 85% of the commercial and multifamily floor area in the County.

The County's BEPS program is expected to produce many benefits beyond direct GHG reductions, including: (1) reduced utility and operating costs for building owners and tenants; (2) more resilient and higher-value building stock in the County; (3) improved health from better indoor air quality; and (4) increased local economic activity and green jobs related to the building upgrade market.

One aspect of State law that will hamper any Maryland jurisdiction that seeks to enact building energy performance laws is the inability to encourage compliance through penalties or alternative compliance payments commensurate with the cost of complying with a performance policy. State law currently allows the imposition of a civil penalty of up to \$1,000 per occurrence for the violation of a performance standard. Although a county could technically impose a separate fine for each day that a building is not in compliance with BEPS requirements, this would be burdensome to implement and enforce.

Senate Bill 81 would enable charter counties that are developing their own energy performance laws to establish penalties consistent with their policy objectives and those recommended in the Maryland Commission on Climate Change Building Energy Transition Plan.

*Please note that this bill does not require or mandate that any jurisdiction establish a BEPS policy or corresponding penalties to enforce such a policy. It merely enables counties to set a realistic penalty for noncompliance, if they choose to establish and enforce BEPS policies.*

Our goal, as it is with any enforcement action, would be to establish a penalty for noncompliance such that compliance is preferred. I hope that building owners would opt to comply, invest in their properties, benefit from reduced utility and building operating costs, and help us face the climate emergency together.

I respectfully request that the Education, Health, and Environmental Affairs Committee give this bill a favorable report.

cc: Members of the Education, Health, and Environmental Affairs Committee

# **MD Testimony on BEPS (SB0081).pdf**

Uploaded by: nanci Wilkinson

Position: FAV

**Committee: Education, Health and Environmental Affairs**

**Testimony on: HB0081 - Charter Counties-Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**

**Organization: Environmental Justice Ministry Cedar Lane Unitarian Universalist Church**

**Submitting: Nanci Wilkinson, Cedar Lane Unitarian Universalist Church Environmental Justice Ministry**

**Position: Favorable**

**Hearing Date: February 2, 2022**

**Dear Mr. Chairman and Committee Members:**

The Environment Justice Ministry of the Cedar Lane Unitarian Universalist Church supports HB0061. This bill will reinforce the County's effort to reduce greenhouse gas building emissions by allowing significant penalties for non-compliance on building performance standards. The state's support is critical for Montgomery County to achieve its goal of the reduction of greenhouse gas emissions by 80% in 2027 and 100% by 2035.

Building Energy Performance Standards are a tool that provide a flexible pathway for building owners for reducing emissions from existing buildings. They achieve that goal by setting energy usage targets (or alternatively, greenhouse gas reduction targets) that transition buildings to be energy efficient and to all electric HVAC and water heating systems.

Montgomery County is moving towards enacting Building Energy Performance Standards legislation. However, it is currently hamstrung in enforcing any energy performance regulations by the ceiling allowed by the State of Maryland for penalties for building owners who refuse to comply with the regulations. The county penalties are severely limited at the present time. HB0061 addresses this problem by allowing up to a \$10 per square foot penalty for owners noncompliance with local regulations governing building energy performance standards. The assessed value of the property will also be considered for any offense.

Our Climate is in a state of Emergency. Please help the counties throughout Maryland achieve lower building emissions by passing SB0081.

We support this bill and recommend a FAVORABLE report in committee.

**Nanci Wilkinson**

**EJM Team**

**Cedar Lane Unitarian Universalist Church**

**9601 Cedar Lane**

**Bethesda MD 20814**



# **SB0081 AIAMD Ltr of Support.pdf**

Uploaded by: Sandi Worthman

Position: FAV





21 January, 2022

The Honorable Paul G. Pinsky  
Chair of the Education, Health and Environmental Affairs Committee  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

Re: Letter of Support for SB 0081  
Enforcement of Local Building Performance Laws  
(Building Energy Performance Standards Act of 2022).

Dear Chairman Pinsky and members of the EHEA Committee:

I am writing to voice AIA Maryland's support of Senate Bill 0081. AIA Maryland represents nearly 2,000 architects in the state of Maryland and advocates for the profession and the quality of the built environment. Senate Bill 0081 is important in that the bill enables Charter Counties to have an enforcement mechanism that demonstrates their commitment to achieving their adopted Energy Performance Standards and our need as a state to build and renovate buildings to be more energy efficient structures. Mechanisms like this help to drive decisions in the design and development process that will diminish the adverse impact of buildings on the natural environment.

Regulations without consequences for non-compliance are simply easy to forego only those who recognize the value of the regulations may comply. This legislation enables jurisdictions to make it clear that Energy Performance Standards are important, and it may be our only path toward collectively meeting or improving upon our energy reduction and carbon reduction goals for the state. Without the potential to enforce the standards, development decisions may be made to forego first costs to enable less efficient structures to be built and have higher operational costs and consumption for the foreseeable 50+ year anticipated life of a building. Additionally, charter counties are likely the highest concentration of development in the state thereby increasing the potential impact of such measures.

Maryland is not acting alone in adopting guidelines like these. Washington DC and many other jurisdictions have implemented performance standards. More than 100 major cities across the US have such standards in place. Enforcement is typically set at a level that would be higher than estimated improvement costs to create a strong disincentive for non-compliance. We encourage you to vote with our future in mind and cast your vote in favor of SB 0081 to enable Energy Performance Standards to be enforceable and have consequences for noncompliance in Charter Counties.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Parts', with a long horizontal line extending to the right.

Chris Parts, AIA  
Director, Past President

# **AmendmentSB0081-223420-01.pdf**

Uploaded by: Frederica Struse

Position: FWA



**SB0081/223420/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

31 JAN 22  
09:05:33

BY: Senator Feldman

(To be offered in the Education, Health, and Environmental  
Affairs Committee)

AMENDMENTS TO SENATE BILL 81

(First Reading File Bill)

On page 2, in line 17, strike “A” and substitute “SUBJECT TO SUBPARAGRAPH  
(III) OF THIS PARAGRAPH, A”; and after line 22, insert:

“(III) A CIVIL FINE MAY BE IMPOSED UNDER THIS SUBSECTION  
ONLY IF CONSTRUCTION ON THE BUILDING WAS COMPLETED AT LEAST 3 YEARS  
AND 1 DAY BEFORE THE DATE THE CIVIL FINE WOULD BE IMPOSED.”.

## **Support with Amendment**

Uploaded by: Lori Graf

Position: FWA

February 2, 2022

The Honorable Paul G. Pinsky  
Senate Education, Health & Environmental Affairs Committee  
Miller Senate Office Building,  
2 West Wing 11 Bladen St.,  
Annapolis, MD, 21401

**RE: Support with Amendments SB 81 Charter Counties - Enforcement of Local Building Performance Laws  
(Building Energy Performance Standards Act of 2022)**

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 81 Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**. **MBIA Supports this bill with Amendments.**

This is a very broad, statewide bill. For new construction there is already the inability to obtain a Use and Occupancy Permit should you not be following building codes. That is the incentive to ensure that all codes are met. The addition of more fines will have great effect on housing affordability. We support exempting new construction out of this legislation.

This bill would empower county governments to impose fines and penalties on buildings that conform imperfectly to Building. There are already existing enforcement mechanisms for energy performance standards and there is already a high rate of compliance with those standards. In addition, these standards are often changing, and engineers and builders have to modulate their design criteria accordingly. It is unfair to levy additional penalties, when penalties both already exist and the changing design standards make perfect compliance difficult even for builders acting in good faith.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable report with Amendments. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or [lgraf@marylandbuilders.org](mailto:lgraf@marylandbuilders.org).

cc: Members of the Senate Education, Health & Environmental Affairs Committee

## **Oppose: SB 81 - Charter Counties**

Uploaded by: Tom Ballentine

Position: UNF



February 2, 2022

The Honorable Paul Pinsky, Chair  
Senate Education, Health and Environmental Affairs Committee  
Miller Senate Office Building, 2 West  
Annapolis, MD 21401

**Oppose: SB 81 Charter Counties – Enforcement of Local Building Performance Laws**

Dear, Chair Pinsky and Committee Members:

The NAIOP Maryland Chapters represents more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. While we see the need for the public to comply with and for governments to enforce regulations, we oppose Senate Bill 61, as introduced.

Senate Bill 81 is a powerful, unconstrained, potentially punitive, enforcement tool that arrives as a stand-alone bill without any accompanying structure to ensure equitable implementation or mechanisms to ensure the local building energy performance standards it will enforce are based on common organizing principles that align with the methodologies and support the strategic direction of state climate mitigation policies.

It would authorize charter counties to impose fines orders of magnitude larger than other benchmarks like the social cost of carbon. Because there is a weak relationship between square footage and the carbon emissions of a building, the bill could result in uneven and disproportionately high penalties between buildings. In jurisdictions that decide to measure a building's performance based *on site energy use*, buildings that have no direct carbon emissions, will be exposed to extraordinarily high non-compliance fees for failing to meet locally determined requirements.

In enacting and reauthorizing the Green House Gas Reduction Act, the General Assembly included specific requirements that the plans developed to address climate change meet certain performance criteria. In doing so the Assembly expressed an intent that climate adaptation and mitigation be implemented through a state level, unified approach. Allowing local governments to develop their own methodologies and mitigation practices will create bureaucratic confusion and could result in well-meaning efforts that are not the most cost-effective or expedient way to reduce greenhouse gas emissions.

For example, inconsistencies between local building performance policies that seek to reduce ***on-site energy use*** and the state's climate mitigation policies which seek to reduce ***on-site carbon emissions*** have important implications. Failing to reconcile the different approaches will result in local regulatory approaches that accelerate an inequitable shift in mitigation responsibilities from utilities to the building sector, compel investments in buildings that may reduce energy use but have questionable emissions reduction value, and expose building owners and occupants to non-compliance fees far higher than the social cost of carbon - even if their building has no on-site carbon emissions.

The state greenhouse gas inventory calculates building sector emissions based on the carbon emissions that result from the on-site combustion of fossil fuels to supply heat, hot water, and other needs. Emissions associated with the generation of electricity used in buildings are considered the direct emissions of power generating stations and

are assigned to the utility sector. Strategies to reduce utility emissions are managed through the state's Renewable Portfolio Standard, the Regional Greenhouse Gas Initiative and other state / federal policies designed to reduce power plant emissions.

According to Montgomery County's greenhouse gas emissions inventory, 67% of emissions attributed to commercial buildings result from generation of grid electricity by utility power stations. Building owners and occupants do not control the carbon intensity of the energy used to generate electricity provided by their local utility. This methodology backed by Senate Bill 81 will compel building owners and occupants to incur capital and operating expenses that serve to reduce the direct emissions of electric power generating stations - including out of state generating facilities which supply 30% of Maryland's electricity.

A smooth energy transition will require coordinated efforts at all levels of government to prevent energy price shocks, maintain energy reliability, limit consumer capital and operating costs and avoid reliance on unproven technologies. Coordination of penalties and incentives is a key component of success.

Sincerely.

A handwritten signature in blue ink, appearing to read "T.M. Ballentine", with a stylized flourish at the end.

Tom Ballentine, Vice President for Policy  
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: Senate EHEA Committee Members  
Nick Manis – Manis, Canning Assoc.



# **MD Catholic Conference\_INFO\_SB0081.pdf**

Uploaded by: MJ Kraska

Position: INFO



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 2, 2022

SB81

**Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**

**Education, Health, and Environment Affairs Committee**

**Position: Information**

The Maryland Catholic Conference (“Conference”) represents the public policy interests of the three Roman Catholic (arch) dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

Senate Bill 81 would authorize charter counties to provide for the enforcement of certain local building energy performance laws by imposing civil fines not exceeding \$10 per square foot of gross floor area that would generally relate to building energy performance.

The breadth of the Catholic Church’s institutions includes hundreds of schools, parishes, hospitals and other organizations that serve people and communities in need in Maryland. Out of concern for unforeseen local legislation that might seriously affect the monetary resources to carry out the mission of these, as well as thousands of other Maryland nonprofits (many of which are housed in older buildings), we respectfully suggest that an **exception amendment be provided for nonprofit organization properties**, commensurate with the attached.

In his encyclical, *On Care for Our Common Home (Laudato Si')*, Pope Francis tells us “*Attempts to resolve all problems through uniform regulations or technical interventions can lead to overlooking the complexities of local problems which demand the active participation of all members of the community. New processes taking shape cannot always fit into frameworks imported from outside; they need to be based in the local culture itself. As life and the world are dynamic realities, so our care for the world must also be flexible and dynamic. Merely technical solutions run the risk of addressing symptoms and not the more serious underlying problems. There is a need to respect the rights of peoples and cultures, and to appreciate that the development of a social group presupposes an historical process which takes place within a cultural context and demands the constant and active involvement of local people from within their proper culture. Nor can the notion of the quality of life be imposed from without, for quality of life must be understood within the world of symbols and customs proper to each human group*”.

Senate Bill 81 aims to address the much needed reforms to energy consumption policies and standards. However, any intervention must be accomplished in an equitable and fair way that does not harm the ability of such entities to serve the community, particularly the underprivileged.



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

## **Proposed Amendments to SB 81**

### **Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**

#### **AMENDMENT No. 1**

On page 2, line 19, after “AREA”, insert “(II) A COUNTY SHALL NOT ENFORCE CIVIL FINES FOR BUILDING ENERGY PERFORMANCE LAWS IN EXCESS OF THE STATUTORY LIMITATIONS IN ACCORDANCE WITH SUBSECTION (b)(1) OF THIS SECTION ON REAL PROPERTY EXEMPT FROM PROPERTY TAX”.

*Explanation: Private schools, hospitals, day care centers, homeless shelters, and other nonprofits provide services that government might otherwise be required to offer. Through tax-exemptions, governments support the work of nonprofits and receive a direct benefit and therefore this type of law should not apply to them.*

#### **AMENDMENT No. 2**

On page 2, line 20, strike “(II) and insert “(III)”.