



Senate Bill 528

Climate Solutions Now Act of 2022

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation and
Economic Matters Committees

Date: March 24, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS SB 528 WITH AMENDMENTS**. This wide-ranging legislation creates and enhances multiple goals to advance Maryland's climate response. County governments appreciate a number of Senate refinements to the bill, but continue to raise concerns with certain components that appear to be unreasonably burdensome for public sector landfill operators.

Methane regulation and public sector landfills

SB 528, as introduced, would have imposed a California-style methane standard, that would place a significant burden on county governments to control methane emissions from current and former landfills. This new significant cost could have serious and potentially harmful implications on existing and planned landfill solar installations on landfill acreage. MACo supported amendments to these sections of the bill that seek a balance among multiple goals: controlling methane emissions, retaining the benefits of solar energy, and governing the cost burden on taxpayers and other public services (**MACo worked with leaders in the Senate and believes the amended bill requiring MDE to develop a unique Maryland standard is the preferable path for creating a methane standard, rather than to adopt by reference a standard set to the needs of another jurisdiction**).

A rigid mandate may place burdens on landfill operators that fail a sensible cost-benefit analysis. A reasonable enforcement regime could recognize the current benefits of waste-to-energy adaptations already in place, and in particular, respect any clean energy infrastructure already attached to the landfill space. The burden of disassembling solar power arrays, completing expensive retrofits or replacements to existing gas combustion equipment, hiring of additional staff due to increased monitoring requirements, hiring of outside consultants to meet new technical requirements, etc., could make many current and planned installations financially untenable.

MACo has proposed five principles for amendments to best align these sections of the bill (*with comments added below where county concerns have abated in response to Senate amendments*):

1. Provide State resources for any mandated aerial study flights or other new testing methods envisioned under the new law (**MACo worked with the Senate and supports 50/50 cost sharing added by the Senate**);
2. Authorize the Maryland Department of the Environment (MDE) to provide regulatory variances based on actual site emission data or models; activities such as voluntary implementation of landfill gas management systems for sites below Title V mandatory active gas management thresholds; implementation of organics composting systems; or enclosed organics Anaerobic Digestion with gas capture that otherwise reduce greenhouse gases as well as other science-based evidentiary variance requests (**MACo worked with the Senate and supports the variances currently in the amended bill**);
3. Include State funding for MDE to conduct research validating the accuracy of existing data-gathering under the current CFR monitoring requirements and practices;
4. Specify that new compliance costs will not exceed 10% of a county's existing gas management cost per ton of methane captured, and that if costs exceed 10% without an equivalent increase in actual gas capture, then all new compliance activities be allowed to revert to prior compliance standards; and
5. Grandfather in, either by definition or by a reasonable waiver process, currently closed landfills with other greenhouse reduction components in place – such as solar power arrays on closed landfills – recognizing their nonexistent capacity to generate new revenues, and exempting them from any new requirements.

Personal Property Taxation of Solar Property

SB 528, as introduced, would have provided a mandatory, not discretionary, property tax exemption for certain classes of solar energy-generating property. As such, MACo urged a "local option amendment" to allow each jurisdiction that chooses to enact these incentives the flexibility to meet specific local needs and priorities (**MACo worked with the Senate and has withdrawn concerns with the current taxation provisions in the amended bill that have more narrowly tailored its effects and fiscal consequences**).

The bill as introduced, and as amended by the Senate, seeks to accomplish a long list of lofty policy aspirations. Specific parts of the far-reaching bill represent a significant operational and cost mandate—and revenue loss—for county governments. Accordingly, MACo urges the Committee to issue a report of **FAVORABLE WITH AMENDMENTS** for SB 528 and stands ready to work with the Committee to address these issues.

(amendments included on the next page)

Amendments offered by the Maryland Association of Counties
(regarding methane monitoring and regulations for landfills)

AMENDMENTS TO SENATE BILL 528
(First Reader File Bill)

Exempt closed landfill properties with alternative energy installations from the requirements of the bill – deconstructing the clean energy infrastructure would result in a net negative:

On page 22, in line 31 after (A) insert “**(1)**” and in line 33 strike the period and substitute

“(2) MUNICIPAL SOLID WASTE LANDFILLS WHICH ARE CLOSED AND CURRENTLY HAVE A FULLY OPERATIONAL SOLAR ARRAY INSTALLED ARE EXEMPT FROM THE REQUIREMENTS IN THIS SUBTITLE FOR THE LIFE OF THAT SOLAR ARRAY”.

Develop regulations in consultation with stakeholders, and an eye toward the additional operating costs for compliance:

On page 24, after line 16 insert:

“(C) THE REGULATIONS SHALL BE DEVELOPED IN CONSULTATION WITH OPERATORS OF MUNICIPAL SOLID WASTE LANDFILL FACILITIES WITHIN MARYLAND AND OTHER APPROPRIATE STAKEHOLDERS.

“(D) THE REGULATIONS DEVELOPED AND APPROVED UNDER THIS SECTION SHALL STRIVE TO CREATE COMPLIANCE MEASURES THAT ADD NO MORE THAN 10% OF CURRENT METHANE MITIGATION COSTS FOR A MUNICIPAL SOLID WASTE FACILITY.”.