



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

To: The Honorable Members of the Environment and Transportation Committee

From: Delegate Tony Bridges, Legislative District 41

Re: **Support** - House Bill 1088 - Emissions Standards, Ambient Air Quality Standards, and Solid Waste Management - Local Authority

Date: March 8th, 2023

Chair Barve, Vice-Chair Stein, and members of the Committee. Thank you for the opportunity to present House Bill 1088. This legislation is needed to clarify what federal and state laws already authorize, that local governments can have their own air and waste ordinances as long as they are no less strict than the federal and state minimums. Previously the General Assembly had the intent to grant this authority but did not do so clearly enough.

Local governments are charged with protecting the health, safety, and welfare of their residents, which can be impacted by localized air pollution or waste management facilities. Local governments know best what their needs are, which often vary throughout the state in different types of communities, which is why federal and state laws leave open the option for local governments to have their own laws that are more protective than the state and federal minimums.

The Clean Air Act (CAA), at 42 U.S.C. § 7416, allows states and their political subdivisions to have stricter air pollution laws than the federal floor:

§ 7416. Retention of State authority

Except as otherwise provided in sections 119(c), (e), and (f) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977), 209, 211(c)(4), and 233 (preempting certain State regulation of moving sources) **nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution;** except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

Similarly, our federal solid waste law, the Resource Conservation and Recovery Act (RCRA) does the same, at 42 U.S.C. § 6929, in a section titled "retention of State authority," which states:

"[N]o State or political subdivision may impose any requirements less stringent than those authorized under this subtitle respecting the same matter as governed by such regulations... **Nothing in this title**

shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations....”

Some courts have held that it is a state-by-state decision whether a local government has this power. Maryland’s General Assembly has provided for local governments to have their own laws that are no less strict than the state or federal minimums. Maryland Environment Code §§ 2-104, 9-502, 9-503, and 9-716 already empower local rules and regulations on air and waste matters.

Multiple court decisions have called into question the General Assembly’s intent regarding the grant of authority to local governments. This clarification is needed so that appropriate local rules and regulations can be enacted without unnecessary fears of costly litigation.

For these reasons and others as you will hear from other stakeholders, I respectfully request a favorable report on House Bill 1088.