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HB 253

February 15, 2023

TO: Members of the Environment and Transportation Committee

FROM: Nina Themelis, Interim Director of Mayor's Office of Government Relations

RE: House Bill 253 – Environment – On-Farm Composting Facilities – Permit Exemption

POSITION: LETTER OF CONCERN

Chair Barve, Vice Chair Stein, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) has concerns regarding Senate Bill 262.

Senate Bill 262 would require the Maryland Department of the Environment (MDE) to adopt regulations to exempt an on-farm composting facility from a certain requirement to obtain a permit if the on-farm composting facility meets certain conditions; and generally relating to on-farm composting.

Chapter 686 of 2013 requires MDE to adopt regulations governing the permitting and operation of composting facilities. MDE did promulgate the required regulations in 2014 that specify how to construct and operate composting facilities in Maryland (Chapter 11 under COMAR 26.04). Composting facilities are classified into one of three tiers based on the feedstock that is accepted at the facilities. Regulation .06 of Chapter 11 generally prohibits a person from operating an on-farm composting facility without an MDE-issued permit. SB 262 would exempt an on-farm composting facility from having to get a permit under COMAR 26.04.11.06 if the facility: (1) composts only organic materials generated on site or at another farm controlled by the same operator and complies with other specified restrictions; (2) uses only up to 40,000 square feet of area in support of composting operations and complies with other specified agricultural, soil conservation, and other requirements; or (3) uses only up to 5,000 square feet of area in support of composting operations and qualifies as a Tier 1 or 2 facility that complies with feedstock, pile size, and other specified regulatory requirements.

Baltimore City's Less Waste Better Baltimore plan and Food Waste & Recovery Strategy recommend that development of local composting processing capacity to assist with reaching the City's goal of 90% food and organic waste diversion by 2040. Making it easier for the private farm sector to develop on-farm composting would encourage local farms to consider diverting food waste and other organic materials in this manner.

Baltimore City is an ultra-urban environment that is experiencing continued interest in and growth of urban agriculture. Many of these farming activities include some form of composting, and some of these farmers educate residents on the importance of composting and how to responsibly compost in backyards. In many cases these farms are filling a need for fresh produce in communities that do not have ready access to fresh food. While the City is very supportive of these opportunities for urban farming and for onsite composting, it is important to point out that a composting facility of 40,000 square feet equates to almost an acre, and would be much more impactful in densely developed neighborhoods. Current exemptions are for composting activities that are less than 5,000 square feet. Being exempt from a permit means that these facilities would not have to follow the siting and design requirements and operating requirements under COMAR 26-01-11-08.09. If these large composting facilities are not held to these standards, then there is a lot that could potentially go wrong in an urban setting, given the close proximity to other properties and to the City's storm drain systems.

The City of Baltimore is supportive of encouraging composting as embodied in HB 253, but respectfully asks the Committee, in your deliberations, to consider whether a one-size-fits-all approach will provide enough environmental protections in urbanized areas.