



House Bill 1588

Zoning Amendments – Energy Generating Systems

MACo Position: **SUPPORT**

To: Finance Committee

Date: April 3, 2018

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1588 as amended. The bill would remove a concern over the application of the “change or mistake” rule to the siting of an energy generating system.

Under the “change or mistake” rule, a property-owner can challenge the zoning classification of their property if: (1) the local jurisdiction made a mistake in assigning that classification to their property; or (2) there has been a substantial change in the character of the surrounding area. HB 1588 would prohibit a legislative body from granting a zoning amendment under the “change or mistake” rule if the *primary* reason for the property-owner’s challenge was due to the siting of an energy generating system.

The bill is designed to protect a local jurisdiction’s land use designations and remove a concern that the siting of an energy generating facility could be used to challenge the zoning of adjacent properties. For example, most counties categorize a utility-scale solar farm as an industrial usage. If the county allows the siting of a solar facility in an agricultural area, the county does not want adjacent property-owners to argue that the area should now be zoned industrial under the “change or mistake” rule, opening up the area to other permitted industrial uses.

Furthermore, the bill’s exemption is narrowly tailored in that it only applies when the siting of the energy facility is the primary reason for invoking the “change or mistake” rule. The bill allows a local government to consider the siting of an energy generating facility when it is simply one of many factors raised by a property-owner.

HB 1588 provides a needed and narrowly tailored protection to the “change or mistake” rule so that local governments do not face unintended zoning consequences from the siting of an energy generating facility. Accordingly, MACo requests the Committee give HB 1588 a **FAVORABLE** report.