

SENATE BILL 64

M1

2lr0372

(PRE-FILED)

By: **Senator Carozza**

Requested: August 9, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2022

CHAPTER _____

1 AN ACT concerning

2 **Beach Erosion Control District – State– and City–Owned Structures**

3 FOR the purpose of exempting the repair, renovation, reconstruction, or expansion of
4 certain existing structures in the Beach Erosion Control District from a certain
5 prohibition under certain circumstances and subject to certain requirements; and
6 generally relating to the Beach Erosion Control District.

7 BY repealing and reenacting, with amendments,

8 Article – Natural Resources

9 Section 8–1102

10 Annotated Code of Maryland

11 (2012 Replacement Volume and 2021 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Natural Resources**

15 8–1102.

16 (a) (1) Except as otherwise provided in paragraphs (2) [and (3)] **THROUGH (4)**
17 of this subsection, for the purposes of maintaining the Atlantic Coast beaches of the State
18 and the Beach Erosion Control District, the integrity and continuity of the dunal system
19 and assuring adequate maintenance of the beaches, Beach Erosion Control District, and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 dunal system, to provide for shore erosion and sediment control and storm protection, and
2 to minimize structural interference with the littoral drift of sand and any anchoring
3 vegetation, any land clearing, construction activity, or the construction or placement of
4 permanent structures within the Beach Erosion Control District is prohibited.

5 (2) This prohibition does not apply to any project or activity approved by
6 the Department and the appropriate soil conservation district specifically for storm control;
7 beach erosion and sediment control; maintenance projects designed to benefit the Beach
8 Erosion Control District; the widening of the boardwalk in Ocean City up to an additional
9 40 feet to the east between South Second Street and the south side of Worcester Street and
10 from the south side of Somerset Street to the southerly terminus of the steel and concrete
11 bulkhead at 4th Street, and an additional 80 feet to the east between the south side of
12 Worcester Street and the south side of Somerset Street to include associated appurtenances
13 and construction of one restroom facility in an easterly direction between South Second
14 Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the
15 purpose of public health, safety, and welfare; and a planned public utility pipeline carrying
16 treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition
17 to the approvals required by all other applicable federal and local laws and regulations, it
18 is approved by the Board of Public Works as essential to the public health, safety, and
19 welfare of the citizens of Worcester County, after having received the permission of the
20 Secretaries of the Environment and Natural Resources, and the Secretary of Planning,
21 including a guarantee that in any contract under this provision a person will not make any
22 significant permanent environmental disruption to the area, and the construction area for
23 the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a
24 single 100 foot wide area perpendicular eastward from the west crest of the natural dune
25 line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and
26 Natural Resources and the Secretary of Planning find that there is no economically and
27 environmentally feasible alternative, and that there is insufficient capacity at the existing
28 Ocean City wastewater treatment facility and discharge pipe.

29 (3) (i) Subject to subparagraph (iii) of this paragraph, this prohibition
30 does not apply to the construction and installation of a qualified submerged renewable
31 energy line, as defined in § 7–208 of the Public Utilities Article, if the project does not result
32 in any significant permanent environmental damage to the Beach Erosion Control District,
33 as determined by the Department.

34 (ii) An application for a certificate of public convenience and
35 necessity to construct a qualified submerged renewable energy line, as defined in § 7–208
36 of the Public Utilities Article, is subject to review by the Department and the Department
37 of the Environment, as provided in § 3–306 of this article.

38 (iii) The Public Service Commission may not approve an application
39 for a qualified submerged renewable energy line to be constructed or installed within the
40 Assateague National Seashore Park or the Assateague State Park.

41 (4) (I) ~~SUBJECT TO SUBPARAGRAPH (II)~~ SUBPARAGRAPHS (II),
42 (III), AND (IV) OF THIS PARAGRAPH, THIS PROHIBITION DOES NOT APPLY TO THE

1 REPAIR, RENOVATION, RECONSTRUCTION, OR EXPANSION OF AN EXISTING
2 STRUCTURE OWNED BY THE STATE OR THE MAYOR AND CITY COUNCIL OF OCEAN
3 CITY IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT
4 ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS
5 DETERMINED BY THE DEPARTMENT.

6 (II) A RECONSTRUCTION OR EXPANSION PROJECT CARRIED
7 OUT UNDER THIS PARAGRAPH SHALL COMPLY WITH SITING AND DESIGN CRITERIA
8 ESTABLISHED UNDER § 3-1009 OF THIS ARTICLE.

9 (III) PRIOR TO THE COMMENCEMENT OF A RECONSTRUCTION OR
10 EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH, THE MAYOR AND
11 CITY COUNCIL OF OCEAN CITY SHALL APPROVE THE PROJECT.

12 (IV) 1. AN EXPANSION PROJECT CARRIED OUT UNDER THIS
13 PARAGRAPH MAY NOT:

14 A. RESULT IN ANY INCREASE IN HEIGHT ABOVE THE
15 EXISTING STRUCTURE; OR

16 B. EXTEND BEYOND ANY EXISTING DULY RECORDED
17 PROPERTY OR FRANCHISE BOUNDARY.

18 2. IF NO BOUNDARY UNDER SUBSUBPARAGRAPH 1B OF
19 THIS SUBPARAGRAPH EXISTS AT THE PROJECT SITE, AN EXPANSION PROJECT
20 CARRIED OUT UNDER THIS PARAGRAPH:

21 A. SHALL BE SOLELY FOR PURPOSES OF BRINGING THE
22 EXISTING STRUCTURE INTO COMPLIANCE WITH THE FEDERAL AMERICANS WITH
23 DISABILITIES ACT OR THE TOWN OF OCEAN CITY FIRE PREVENTION STANDARDS;
24 AND

25 B. MAY NOT INCREASE THE ABOVE GRADE FOOTPRINT
26 OF THE EXISTING STRUCTURE IN A NORTH OR SOUTH DIRECTION.

27 (b) The Secretary of the Environment, the Secretary of Natural Resources, and
28 the Secretary of Planning, with the approval of the Board of Public Works, shall jointly
29 adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article
30 for the purpose of implementing the provisions of this section.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
32 1, 2022.