

# HOUSE BILL 981

R1  
HB 1341/06 – ENV

71r0929

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By: **Delegates Walkup, Smigiel, and Sossi**  
Introduced and read first time: February 9, 2007  
Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Northern Bay Crossing**

3 FOR the purpose of repealing certain authority of the State Roads Commission  
4 concerning the construction and financing of a northern crossing of the  
5 Chesapeake Bay between Millers Island in Baltimore County and Kent County;  
6 prohibiting the Maryland Department of Transportation, the Maryland  
7 Transportation Authority, or any unit in the Department, from including in  
8 certain plans and other documents any reference or statement with respect to a  
9 northern crossing of the Chesapeake Bay that has a terminus that lies in whole  
10 or in part in Kent County; providing that a certain provision of this Act may not  
11 be construed in a certain manner; providing that bonds or other financing  
12 mechanisms authorized by law may not be used to finance the planning, design,  
13 or construction of a northern crossing of the Chesapeake Bay that has a  
14 terminus that lies in whole or in part in Kent County; requiring the  
15 Department, the Authority, and any unit of the Department, if it is in  
16 possession of any plan or other document prepared on or after a certain date,  
17 that has a reference or statement with respect to a northern crossing of the  
18 Chesapeake Bay that has a terminus that lies in whole or in part in Kent  
19 County, to remove or cause the removal of that reference or statement from the  
20 plan or document; amending a provision of law to prohibit the Authority from  
21 condemning property in connection with the construction of a northern crossing  
22 of the Chesapeake Bay that has a terminus that lies in whole or in part in Kent  
23 County; stating certain findings and declarations of the General Assembly;  
24 requiring the Department and the Authority to consider certain options to a  
25 northern bridge across the Chesapeake Bay; stating the intent of the General

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Assembly; and generally relating to prohibitions concerning a northern  
2 Chesapeake Bay crossing that has a terminus in Kent County.

3 BY repealing and reenacting, with amendments,  
4 Chapter 608 of the Acts of the General Assembly of 1976  
5 Section 3. 1.

6 BY adding to  
7 Article – Transportation  
8 Section 2–112  
9 Annotated Code of Maryland  
10 (2001 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Transportation  
13 Section 4–206  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2006 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article 25 – County Commissioners  
18 Section 236  
19 Annotated Code of Maryland  
20 (2005 Replacement Volume and 2006 Supplement)

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

23 **Chapter 608 of the Acts of 1976**

24 SECTION 3. AND BE IT FURTHER ENACTED, That Sections 120 through  
25 140, inclusive, of Article 89B – State Roads, of the Annotated Code of Maryland (1969  
26 Replacement Volume and 1975 Supplement) be and they are hereby repealed and  
27 reenacted, with amendments, and transferred from the Annotated Code of Maryland  
28 to the Session Laws, to read as follows:

29 Bridge, Tunnel, and Motorway Revenue Bonds.

30 1.

31 (a) In order to remove the present handicaps and hazards on the congested  
32 highways in the State, to facilitate vehicular traffic between different sections of the  
33 State, to promote the agricultural and industrial development of the State, and to

1 provide for the construction of modern transportation facilities embodying practical  
2 safety devices, the State Roads Commission is hereby authorized and empowered to  
3 construct, maintain, repair and operate bridges, tunnels and motorways (as  
4 hereinafter defined), including a crossing (as hereinafter defined) across the  
5 Chesapeake Bay generally parallel to the existing Chesapeake Bay Bridge between  
6 Sandy Point and Kent Island, [a northern crossing of the bay between Millers Island  
7 in Baltimore County and a point in Kent County,] a southern crossing of the bay  
8 between Calvert County and Dorchester County, and an additional crossing across the  
9 Baltimore Harbor, and to issue revenue bonds of the State, payable solely from  
10 revenues, to pay the cost of such projects. [Such commission] **EXCEPT FOR A**  
11 **NORTHERN CROSSING OF THE CHESAPEAKE BAY THAT HAS A TERMINUS THAT**  
12 **LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT COUNTY, THE**  
13 **COMMISSION** is authorized to establish construction priorities and determine the  
14 order of the construction of such projects.

15 (b) In order to establish the location of such crossings and their approaches  
16 thereby permitting orderly land development and to permit the acquisition of  
17 necessary rights-of-way for such projects at the minimum cost to the State, the State  
18 Roads Commission is hereby authorized to perform or have performed preliminary  
19 engineering for a crossing of the bay generally parallel to the existing Chesapeake Bay  
20 Bridge, [a crossing of the bay between Millers Island in Baltimore County and a point  
21 in Kent County,] a crossing of the bay between Calvert County and Dorchester  
22 County, and a second crossing across the Baltimore Harbor and the approaches  
23 thereto of each of such crossings. [The] **EXCEPT FOR A NORTHERN CROSSING OF**  
24 **THE CHESAPEAKE BAY THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART**  
25 **WITHIN THE BOUNDARIES OF KENT COUNTY, THE** Commission is further  
26 authorized to perform or have performed such engineering and other services as are  
27 necessary to enable it to acquire the right-of-way for such projects and is authorized  
28 to acquire such right-of-way. [In] **EXCEPT FOR A NORTHERN CROSSING OF THE**  
29 **CHESAPEAKE BAY THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART**  
30 **WITHIN THE BOUNDARIES OF KENT COUNTY, IN** order to pay the cost of such  
31 engineering and other services and to pay the cost of such right-of-way the  
32 Commission is authorized to issue revenue bonds as authorized in § 1(a) hereof, or the  
33 Commission may pay such costs, or parts thereof, from its Construction Fund or other  
34 appropriate funds and be reimbursed therefor upon the sale of such revenue bonds. As  
35 to contracts which are not let by competitive bidding procedures, the State Roads  
36 Commission shall not make any contract for engineering, architectural, or  
37 construction studies or work under the provisions of this section without the prior  
38 approval of the Board of Public Works.

39

### Article - Transportation

1 **2-112.**

2 (A) (1) THIS SUBSECTION SHALL APPLY NOTWITHSTANDING ANY  
3 PROVISION OF TITLE 3 OR TITLE 4 OF THIS ARTICLE OR ANY OTHER LAW TO  
4 THE CONTRARY.

5 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
6 THE DEPARTMENT, INCLUDING ANY UNIT OF THE DEPARTMENT AND THE  
7 MARYLAND TRANSPORTATION AUTHORITY, MAY NOT INCLUDE IN THE  
8 MARYLAND TRANSPORTATION PLAN, THE CONSOLIDATED TRANSPORTATION  
9 PROGRAM, OR ANY OTHER PLAN, STUDY, ANALYSIS, REPORT, PROPOSAL,  
10 CONCEPTUALIZATION, OR OTHER DOCUMENT, A REFERENCE OR STATEMENT  
11 WITH RESPECT TO A POSSIBLE NORTHERN CHESAPEAKE BAY CROSSING THAT  
12 HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF  
13 KENT COUNTY.

14 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE  
15 CONSTRUED:

16 1. TO PRECLUDE THE DEPARTMENT, INCLUDING  
17 ANY UNIT OF THE DEPARTMENT, OR THE MARYLAND TRANSPORTATION  
18 AUTHORITY FROM INCLUDING IN THE MARYLAND TRANSPORTATION PLAN,  
19 THE CONSOLIDATED TRANSPORTATION PROGRAM, OR ANY OTHER PLAN,  
20 STUDY, ANALYSIS, REPORT, CONCEPTUALIZATION, OR OTHER DOCUMENT A  
21 STATEMENT THAT PROHIBITS THE PLANNING, DESIGN, OR CONSTRUCTION OF A  
22 NORTHERN CHESAPEAKE BAY CROSSING THAT HAS A TERMINUS THAT LIES IN  
23 WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT COUNTY; OR

24 2. TO PRECLUDE KENT COUNTY FROM INCLUDING  
25 IN ITS COMPREHENSIVE PLAN FOR THE COUNTY A STATEMENT THAT PROHIBITS  
26 THE PLANNING, DESIGN, OR CONSTRUCTION OF A NORTHERN CHESAPEAKE BAY  
27 CROSSING THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE  
28 BOUNDARIES OF KENT COUNTY.

29 (3) BONDS OR FUNDING MECHANISMS OF ANY NATURE  
30 AUTHORIZED UNDER THIS ARTICLE OR ANY OTHER LAW WITH RESPECT TO THE  
31 FINANCING OF THE PLANNING, DESIGN, OR CONSTRUCTION OF ANY  
32 TRANSPORTATION FACILITY OR TRANSPORTATION FACILITIES PROJECT MAY

1 NOT BE USED TO FINANCE THE PLANNING, DESIGN, OR CONSTRUCTION OF A  
2 NORTHERN CHESAPEAKE BAY CROSSING THAT HAS A TERMINUS THAT LIES IN  
3 WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT COUNTY.

4 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF, ON OR  
5 AFTER JUNE 1, 2007, ANY PLAN, STUDY, ANALYSIS, REPORT, PROPOSAL,  
6 CONCEPTUALIZATION, OR OTHER DOCUMENT CONTAINS A REFERENCE OR  
7 STATEMENT IN VIOLATION OF SUBSECTION (A)(2)(I) OF THIS SECTION, THE  
8 DEPARTMENT, INCLUDING ANY UNIT OF THE DEPARTMENT, OR THE MARYLAND  
9 TRANSPORTATION AUTHORITY, AS APPROPRIATE, SHALL REMOVE OR CAUSE  
10 THE REMOVAL OF THE REFERENCE OR STATEMENT.

11 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES TO ANY  
12 DOCUMENT IN THE POSSESSION OF THE DEPARTMENT, INCLUDING ANY UNIT OF  
13 THE DEPARTMENT, OR THE MARYLAND TRANSPORTATION AUTHORITY,  
14 WHETHER OR NOT:

15 (I) THE DOCUMENT ORIGINATED IN THE DEPARTMENT; OR

16 (II) THE DOCUMENT IS IN PRINTED, ELECTRONIC, OR  
17 OTHER FORMAT.

18 4-206.

19 Subject to Title 12 of the Real Property Article and Ch. 608, Acts of 1976, AS  
20 AMENDED BY CHAPTER \_\_\_\_\_ (S.B.\_\_\_\_\_/H.B.\_\_\_\_\_) (7LR0929) OF THE ACTS OF  
21 THE GENERAL ASSEMBLY OF 2007, AND EXCEPT FOR A NORTHERN CROSSING  
22 OF THE CHESAPEAKE BAY THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN  
23 PART WITHIN THE BOUNDARIES OF KENT COUNTY, the Authority may condemn  
24 property for any transportation facilities project authorized to be financed with  
25 revenue bonds of prior issues.

26 **Article 25 – County Commissioners**

27 236.

28 (a) A State agency, including the Maryland Transportation Authority, may  
29 not construct any toll road, toll highway, or toll bridge in the counties enumerated in  
30 this section without the express consent of a majority of the governments of the  
31 affected counties.

1 (b) This section applies to:

2 (1) Caroline County;

3 (2) Cecil County;

4 (3) Dorchester County;

5 (4) Kent County;

6 (5) Queen Anne's County;

7 (6) Somerset County;

8 (7) Talbot County;

9 (8) Wicomico County; and

10 (9) Worcester County.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly  
12 finds and declares that:

13 (1) The General Assembly has long recognized the value of preserving  
14 the State's agricultural, rural, and historical traditions so that future generations will  
15 always have areas of the State that reflect those traditions.

16 (2) Kent County, as a small, rural and agricultural county, has always  
17 enjoyed the peace and tranquility of a slower pace of life, and the residents of Kent  
18 County cherish the hope that the county will always retain its character and integrity  
19 as a quiet corner of the State.

20 (3) While a northern bridge across the Chesapeake Bay with a  
21 terminus in Kent County would have a detrimental impact on the county and would  
22 disturb in a significant way the character and way of life that mean so much to the  
23 residents of the county, there are many State laws that remain in effect, however  
24 obscure they may be, that refer to the possibility of such a northern Bay crossing.

25 (4) The many long-standing laws relating to a northern Chesapeake  
26 Bay crossing, despite their dormancy for over 30 years, are still viable and could be  
27 construed to give the State, in addressing concerns about moving traffic across the Bay

1 to the Atlantic beaches, a future option of constructing another Bay bridge that would  
2 have a terminus in Kent County.

3 (5) While it is understood that the federal National Environmental  
4 Policy Act (NEPA) requires agencies that participate in the NEPA process to explore  
5 and evaluate all reasonable alternatives with respect to transportation projects:

6 (i) NEPA is clear that such an evaluation must focus on helping  
7 to preserve and protect the value of environmental and community resources; and

8 (ii) A crossing of the Chesapeake Bay with a terminus in Kent  
9 County would not preserve and protect the value of environmental and community  
10 resources in Kent County.

11 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland  
12 Department of Transportation and the Maryland Transportation Authority shall  
13 refocus attention away from bridges across the Chesapeake Bay and consider other  
14 alternatives, such as:

15 (1) providing incentives to encourage motorists to use the  
16 Susquehanna River Bridge crossing on Interstate 95; and

17 (2) reestablishing ferry service across the Bay between communities  
18 on the eastern and western shores to reduce traffic across the Chesapeake Bay Bridge.

19 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the  
20 General Assembly in enacting this Act to remove from the laws of the State any  
21 provision that could be used by the State to proceed in the future with the planning,  
22 funding, or construction of a northern Chesapeake Bay crossing with a terminus in  
23 Kent County; and, further, it is the intent of the General Assembly that the Maryland  
24 Department of Transportation carefully re-examine the provisions of NEPA before  
25 making an assumption that any enactment of the General Assembly that removes  
26 from the law the concept of a Chesapeake Bay crossing with a terminus in Kent  
27 County would conflict with NEPA.

28 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 June 1, 2007.