

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 295

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Delegates” insert “Lafferty,”; in line 2, after “Growth” insert “Goals,”; in the same line, after “Measures” insert a comma; in line 4, strike “requiring” and substitute “making”; in the same line, after “certain” insert “provisions concerning a certain annual report applicable to certain”; in the same line, strike “to file an annual report” and substitute “; requiring a certain annual report to be filed on or before a certain date”; in line 5, strike “local jurisdictions” and substitute “a certain annual report”; in the same line, after “include” insert “certain”; strike beginning with “smart” in line 5 down through “about” in line 6; in line 6, strike “the” and substitute “certain”; in line 7, strike “in a certain annual report;” and substitute “; making certain findings concerning land use goals; providing for a certain statewide land use goal; requiring certain local jurisdictions to develop a certain goal towards achieving a certain statewide land use goal; providing that a local jurisdiction that meets a certain statewide land use goal shall be given priority in the disbursement of certain State funds under certain circumstances; requiring the Department of the Environment to deny or place conditions on certain permits or approvals under certain circumstances; requiring a certain annual report to include certain measures and indicators; exempting certain municipal corporations from certain requirements to establish a certain local goal and to include certain information in a certain annual report; exempting certain local jurisdictions from certain requirements to include certain information in a certain annual report;”; in same line, strike “requiring” and substitute “authorizing”; in line 8, after “adopt” insert “certain”; in the same line, strike “before a certain date on the” and substitute “concerning the submission and transmission of”; in the same line, after “indicators” insert “in a certain annual report”; in line 9, strike “requiring a planning commission to hold a hearing on the annual report;”; in lines 10 and 11, strike “consider certain factors when developing the measures and indicators” and substitute “perform certain duties regarding the collection of certain measures and indicators by certain persons;”

(Over)

requiring the Department, in consultation with the National Center for Smart Growth, to prepare a certain annual report; making the issuance of certain permits or approvals subject to certain land use laws; requiring the Governor and each local jurisdiction to establish on or before a certain date procedures for the review of certain State and local public works, transportation, or major capital improvement projects; requiring review procedures for certain State and local public works, transportation, or major capital improvement projects to prioritize funding for the projects in a certain manner"; in line 13, strike the second "the" and substitute "a certain"; in line 14, after "assistance" insert "to local jurisdictions under certain circumstances; requiring the National Center, in consultation with the Department, to display certain information on a certain website; defining certain terms"; in line 14, after "reports" insert "and smart growth goals, measures, and indicators"; and after line 24, insert:

"BY repealing and reenacting, with amendments,

Article - Environment

Section 4-103(a), 4-204(a), and 9-324(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article - State Finance and Procurement

Section 5-7A-02(c)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)".

AMENDMENT NO. 2

On page 2, after line 14, insert:

"WHEREAS, The National Center for Smart Growth Research and Education at the University of Maryland College Park was established to provide leadership and State assistance through research, education, and service on issues pertinent to Smart Growth and is a repository for State, local, and comparative national data on land use

issues and regularly collects data from the State, local governments, other states, the federal government, and the private sector; and”.

AMENDMENT NO. 3

On page 3 in line 5 and on page 4 in line 1, in each instance, strike “MEASURES” and substitute “SMART GROWTH GOALS, MEASURES,”.

On page 4, in line 15, strike “MARCH” and substitute “JULY”.

On page 5, strike in their entirety lines 9 through 18, inclusive; in lines 19 and 22, strike “(E)” and “(F)”, respectively, and substitute “(D)” and “(E)”, respectively; and after line 25, insert:

“(3) THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON THE REPORT.”.

AMENDMENT NO. 4

On page 5, in line 27, after “(A)” insert “(1)”; in the same line, strike the comma and substitute “THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.”

(2) “INCREMENTAL PROGRESS” MEANS AN INCREASE IN THE PERCENTAGE OF RESIDENTIAL GROWTH LOCATED WITHIN A PRIORITY FUNDING AREA AND A DECREASE IN THE PERCENTAGE OF NEW DEVELOPED ACRES LOCATED IN PRIORITY PRESERVATION AREAS AND GREEN INFRASTRUCTURE AREAS.

(3) “NATIONAL CENTER” MEANS THE NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION AT THE UNIVERSITY OF MARYLAND COLLEGE PARK.

(4);

(Over)

in the same line, strike “PRIORITY” and substitute “PRIORITY”; and after line 28, insert:

“(B) (1) THE GENERAL ASSEMBLY FINDS THAT:

(I) IN ADDITION TO REPORTING ON PAST LAND USE INDICATORS AND MEASURES, LOCAL JURISDICTIONS SHOULD STRIVE TO ACHIEVE FUTURE LAND USE GOALS THAT IMPLEMENT AND ACHIEVE THE VISIONS IN § 1.01 OF THIS ARTICLE;

(II) A STATEWIDE LAND USE GOAL THAT EMBODIES THE VISIONS IN § 1.01 OF THIS ARTICLE AND SMART AND SUSTAINABLE GROWTH SHOULD BE ESTABLISHED;

(III) THE VISIONS IN § 1.01 OF THIS ARTICLE WILL NOT BE REALIZED UNLESS LOCAL JURISDICTIONS SET THEIR OWN GOAL TO MAKE INCREMENTAL PROGRESS TOWARDS ACHIEVING A STATEWIDE LAND USE GOAL; AND

(IV) RESOURCES ARE NECESSARY TO ACHIEVE A STATEWIDE GOAL, INCLUDING FUNDING NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS.”

AMENDMENT NO. 5

On page 5, before line 29, insert:

“(2) THE STATEWIDE LAND USE GOAL IS THAT:

(I) 80% OF RESIDENTIAL GROWTH BE LOCATED WITHIN PRIORITY FUNDING AREAS; AND

(II) NOT MORE THAN 5% OF NEW DEVELOPED ACRES ARE LOCATED IN PRIORITY PRESERVATION AREAS AND GREEN INFRASTRUCTURE AREAS.

(3) EXCEPT AS PROVIDED UNDER PARAGRAPH (7) OF THIS SUBSECTION, LOCAL JURISDICTIONS THAT DO NOT MEET THE STATEWIDE LAND USE GOAL IN PARAGRAPH (2) OF THIS SUBSECTION SHALL DEVELOP A PERCENTAGE GOAL FOR INCREMENTAL PROGRESS TOWARDS ACHIEVING THE STATEWIDE LAND USE GOAL BY 2012 AND EVERY 3 YEARS THEREAFTER.

(4) EXCEPT AS PROVIDED UNDER PARAGRAPHS (7) AND (8) OF THIS SUBSECTION, A LOCAL JURISDICTION THAT MEETS THE STATEWIDE LAND USE GOAL OR MAKES INCREMENTAL PROGRESS TOWARD THE STATEWIDE LAND USE GOAL AT THE RATE OF AT LEAST 5% EVERY 3 YEARS SHALL BE GIVEN PRIORITY IN THE DISBURSEMENT OF THE STATE FUNDS THAT ARE PROVIDED FOR GROWTH-RELATED PROJECTS, AS DEFINED IN § 5-7B-01(C) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) EXCEPT AS PROVIDED UNDER PARAGRAPHS (7) AND (8) OF THIS SUBSECTION AND SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, IF A LOCAL JURISDICTION FAILS TO DEMONSTRATE INCREMENTAL PROGRESS TOWARD THE STATEWIDE LAND USE GOAL, THE DEPARTMENT OF THE ENVIRONMENT SHALL DENY OR PLACE CONDITIONS ON THE FOLLOWING PERMITS OR APPROVALS FOR PROPOSED PROJECTS OUTSIDE PRIORITY FUNDING AREAS:

(Over)

(I) A GRADING PERMIT FOR DEVELOPMENT DISTURBING 40,000 SQUARE FEET OR MORE, AUTHORIZED UNDER § 4-103 OF THE ENVIRONMENT ARTICLE;

(II) APPROVAL OF A STORMWATER MANAGEMENT PLAN FOR DEVELOPMENT DISTURBING 40,000 SQUARE FEET OR MORE, AUTHORIZED UNDER § 4-204 OF THE ENVIRONMENT ARTICLE;

(III) A GENERAL DISCHARGE PERMIT FOR STORMWATER RELATED TO CONSTRUCTION ACTIVITIES DISTURBING ONE OR MORE ACRES OF LAND, AUTHORIZED UNDER § 9-324 OF THE ENVIRONMENT ARTICLE;

(IV) AN INDIVIDUAL DISCHARGE PERMIT FOR STORMWATER RELATED TO CONSTRUCTION ACTIVITIES DISTURBING ONE OR MORE ACRES OF LAND, AUTHORIZED UNDER § 9-324 OF THE ENVIRONMENT ARTICLE; AND

(V) APPROVAL OF AN AMENDMENT TO A COUNTY WATER AND SEWERAGE PLAN THAT WOULD FACILITATE THE EXPANSION OF PUBLIC OR COMMUNITY WATER OR SEWER SERVICE.

(6) A CONDITION PLACED ON A PERMIT OR APPROVAL LISTED IN PARAGRAPH (5) OF THIS SUBSECTION SHALL BE DESIGNED IN CONSULTATION WITH THE DEPARTMENT OF PLANNING TO ENSURE THAT THE ACTIVITY FOR WHICH THE PERMIT OR APPROVAL IS SOUGHT IS NOT INCOMPATIBLE WITH SATISFYING THE LOCAL GOAL DEVELOPED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(7) PARAGRAPHS (3), (4), AND (5) OF THIS SUBSECTION DO NOT APPLY;

(I) TO A LOCAL JURISDICTION THAT ISSUES FEWER THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS PER YEAR; OR

(II) TO A MUNICIPAL CORPORATION IF ALL LAND WITHIN THE BOUNDARIES OF THE MUNICIPAL CORPORATION IS WITHIN A PRIORITY FUNDING AREA.

(8) PARAGRAPHS (4) AND (5) OF THIS SUBSECTION DO NOT APPLY:

(I) BEFORE OCTOBER 1, 2012; OR

(II) IN THE EVENT OF AN URGENT THREAT TO PUBLIC HEALTH OR SAFETY.

(9) PARAGRAPHS (4) AND (5) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT A DEVELOPMENT PROJECT, INCLUDING THE PLANS FOR THE PROJECT AND ANY SUBSEQUENT PERMITS RELATED TO THOSE PLANS, IF THE PROJECT IS GRANTED FINAL PLAN APPROVAL ON OR AFTER THE DATE ON WHICH THE MOST RECENT ANNUAL REPORT IS FILED BY A LOCAL JURISDICTION DEMONSTRATING INCREMENTAL PROGRESS TOWARD THE STATEWIDE LAND USE GOAL UNDER PARAGRAPH (2) OF THIS SUBSECTION.”.

On page 7, after line 11, insert:

“Article – Environment

4–103.

(Over)

(a) (1) A county or municipality may issue grading and building permits as provided by law.

(2) A grading or building permit may not be issued until the developer:

(i) Submits a grading and sediment control plan approved by:

1. The appropriate soil conservation district; or

2. A municipal corporation in Montgomery County that is designated under paragraph (4) of this subsection; and

(ii) Certifies that all land clearing, construction, and development will be done under the plan.

(3) Criteria for sediment control and the procedure for referring an applicant to the appropriate soil conservation district shall be acceptable to the soil conservation district and the Department of the Environment.

(4) A soil conservation district may delegate approval authority of a grading and sediment control plan to a municipal corporation in Montgomery County that:

(i) Has its own sediment control review provisions that are at least as stringent as the provisions of the grading and sediment control plan of the soil conservation district;

(ii) Issues sediment control permits; and

(iii) Meets the necessary performance standards established by written agreement between the district and the municipal corporation.

(5) A GRADING OR BUILDING PERMIT FOR A DISTURBANCE OF 40,000 SQUARE FEET OR MORE MAY NOT BE ISSUED IF PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.

4-204.

(a) (1) [After July 1, 1984, unless] UNLESS exempted, a person may not develop any land for residential, commercial, industrial, or institutional use without submitting a stormwater management plan to the county or municipality that has jurisdiction, and obtaining approval of the plan from the county or municipality.

(2) A grading or building permit may not be issued for a property unless:

(I) [a] A stormwater management plan has been approved that is consistent with this subtitle; AND

(II) ISSUANCE IS NOT PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.

9-324.

(a) (1) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT to the provisions of this section, the Department may issue a discharge permit if the Department finds that the discharge meets:

[(1)] (I) All applicable State and federal water quality standards and effluent limitations; and

[(2)] (II) All other requirements of this subtitle.

(Over)

(2) THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS SECTION IF PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.

Article – State Finance and Procurement

5-7A-02.

(c) By December 1, [1992] 2009, the Governor shall establish procedures for review of State projects under subsection (a) of this section, and each local jurisdiction shall establish procedures for the review of local projects under subsection (b) of this section, to:

(1) ensure that the projects are consistent with their respective policy and plans; [and]

(2) **PRIORITIZE FUNDING FOR PROJECTS BASED ON THE DEGREE OF INCREMENTAL PROGRESS MADE TOWARD SATISFACTION OF THE STATEWIDE LAND USE GOAL SET FORTH IN ARTICLE 66B, § 3.10 OF THE CODE; AND**

(3) evaluate extraordinary circumstances under subsections (a)(2) and (b)(2) of this section, respectively.”.

AMENDMENT NO. 6

On page 5, in line 29, strike “(B)” and substitute “(C)”; in the same line, strike “PARAGRAPH (2)” and substitute “**PARAGRAPHS (2), (3), AND (4)**”; in line 31, strike “INFORMATION ON” and substitute “**THE FOLLOWING**”; in the same line, strike the comma and substitute a colon; and strike in their entirety lines 32 and 33, inclusive, and substitute:

“(I) THE AMOUNT AND SHARE OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(II) THE NET DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(III) THE CREATION OF NEW LOTS AND THE ISSUANCE OF RESIDENTIAL AND COMMERCIAL BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(IV) THE DEVELOPMENT CAPACITY ANALYSIS, UPDATED ONCE EVERY 3 YEARS OR WHEN THERE IS A SIGNIFICANT CHANGE IN ZONING OR LAND USE PATTERNS;

(V) THE NUMBER OF ACRES PRESERVED USING LOCAL AGRICULTURAL LAND PRESERVATION FUNDING, IF APPLICABLE;

(VI) THE DECREASE IN VEHICLE MILES TRAVELED PER CAPITA;

(VII) THE INCREASE IN THE PERCENTAGE OF NEW HOUSING UNITS AFFORDABLE TO HOUSEHOLDS EARNING 80% OR LESS OF AREA MEDIAN INCOME AND HOUSEHOLDS EARNING 50% OR LESS OF AREA MEDIAN INCOME;

(VIII) THE PRACTICES FOR ENSURING THAT WASTEWATER AND STORMWATER DISCHARGES FROM NEW DEVELOPMENT DO NOT EXCEED THE ASSIMILATIVE CAPACITY OF LOCAL WATER BODIES; AND

(IX) THE FOLLOWING INFORMATION ON ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION:

1. THE LOCAL GOAL;

(Over)

2. THE TIME FRAME FOR ACHIEVING THE LOCAL GOAL;

3. THE RESOURCES NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS; AND

4. ANY INCREMENTAL PROGRESS MADE TOWARDS ACHIEVING THE LOCAL GOAL.

(2) IF ALL LAND WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IS A PRIORITY FUNDING AREA, THE MUNICIPAL CORPORATION IS NOT REQUIRED TO:

(I) ESTABLISH A LOCAL GOAL FOR ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

(II) INCLUDE INFORMATION IN THE ANNUAL REPORT ON A LOCAL GOAL AS REQUIRED UNDER PARAGRAPH(1)(IX) OF THIS SUBSECTION.

(3) A MUNICIPAL CORPORATION IS NOT REQUIRED TO INCLUDE INFORMATION IN THE ANNUAL REPORT AS REQUIRED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION.”.

On page 6, in lines 1 and 4, strike “(2)” and “(3)”, respectively, and substitute “(4)(I)” and “(II)”, respectively; in lines 2 and 6, in each instance, after “PERMITS” insert “FOR NEW RESIDENTIAL UNITS”; and in line 3, after “INDICATORS” insert “LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION”.

AMENDMENT NO. 7

On page 6, in line 7, strike “(C)” and substitute “(D)”; in the same line, strike “THE” and substitute “**IN ACCORDANCE WITH TITLE 2, SUBTITLE 5 AND TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE**”; in the same line, strike “SHALL” and substitute “**MAY**”; strike beginning with “IDENTIFY” in line 8 down through “INCLUDE” in line 9 and substitute “**DETAIL THE MANNER IN WHICH THE MEASURES AND INDICATORS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ARE SUBMITTED AND TRANSMITTED**”; and strike in their entirety lines 11 through 22, inclusive and substitute:

“(2) THE DEPARTMENT OF PLANNING SHALL:

(I) DEVELOP MEASURES AND INDICATORS THAT WILL BE COLLECTED BY THE DEPARTMENT; AND

(II) CONSIDER WHICH MEASURES OR INDICATORS CAN BE COLLECTED BY THE NATIONAL CENTER.”.

On pages 6 and 7, strike in their entirety the lines beginning with line 23 on page 6 through line 11 on page 7, inclusive, and substitute:

“(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT OF PLANNING, IN CONSULTATION WITH THE NATIONAL CENTER, SHALL SUBMIT A REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE MEASURES AND INDICATORS COLLECTED UNDER THIS SECTION.”.

AMENDMENT NO. 8

On page 7, in line 13, after “governments” insert “, the National Center for Smart Growth Research and Education at the University of Maryland College Park,”;

(Over)

in line 17, strike “the identification of” and substitute “additional”; in the same line, after “that” insert “the State, the National Center, or”; in line 18, after “collect” insert “in the following categories of information”:

- (1) Housing choices, including affordability;
- (2) The impact of growth on the environment, including land, air, and water;
- (3) The fiscal cost of growth;
- (4) The job and housing balance;
- (5) The impact of transportation on growth;
- (6) The impact of growth on business, including job creation, fiscal impact, agribusiness, tourism, and forestry; and
- (7) The impact of growth on cultural and historic resources”;

strike beginning with the colon in line 19 down through “(2)” in line 22; in line 22, after “BayStat” insert “, the National Center,”; in line 27, after “The” insert “first”; in the same line, after “report” insert “that includes measures and indicators, as”; in the same line, after “Act” insert a comma; in line 28, strike “March” and substitute “July”; and after line 28, insert:

“(e) The National Center, in consultation with the Department of Planning, shall display the information collected in accordance with this Act on the National Center’s Maryland Smart Growth Measures and Indicators website.”.