

HOUSE BILL 1155

R2, R1

(0lr2068)

ENROLLED BILL

— *Ways and Means and Environmental Matters/Budget and Taxation* —

Introduced by **Delegates Lafferty, Ali, Anderson, Beidle, Bobo, Bronrott, Cardin, Carr, Frush, Gilchrist, Hecht, Hucker, Lee, Manno, Montgomery, Morhaim, Niemann, Reznik, Rosenberg, Schuh, Schuler, Stein, and Waldstreicher**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Transportation – Consolidated Transportation Program – Evaluation and**
3 **Selection of Proposed Capital Projects**

4 FOR the purpose of altering the process and the criteria used for selecting capital
5 projects to be included in the Consolidated Transportation Program; requiring
6 that the annual Consolidated Transportation Program report include certain
7 goals, ~~a summary of how certain determinations were made, and certain~~
8 ~~information for each major capital project; requiring that each major capital~~
9 ~~project proposed by a certain entity include certain elements;~~ certain criteria,
10 and a certain statement that describes the purpose and need for each major
11 capital project; requiring an entity that proposes a major capital project to
12 submit a request and a certain statement justifying the project to the Secretary

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.

Italics indicate opposite chamber/conference committee amendments.



1 ~~of Transportation;~~ requiring the Department of Transportation to evaluate
 2 requests for major capital projects based on ~~a certain record and certain other~~
 3 ~~information; requiring the Department to evaluate and select the capital~~
 4 ~~projects to be included in the Consolidated Transportation Program based on~~
 5 ~~certain criteria~~ certain goals and criteria; requiring that certain indicators or
 6 benchmarks acknowledge the difference between urban and rural
 7 transportation needs; requiring the Smart Growth Subcabinet to conduct an
 8 annual review of certain goals, benchmarks, and indicators that are used to
 9 select certain capital projects; requiring the Department and a certain advisory
 10 committee to consider certain factors when establishing certain transportation
 11 goals, benchmarks, and indicators; requiring the Department to include certain
 12 information concerning the cost effectiveness of transportation investments in a
 13 certain report; defining certain terms; and generally relating to the evaluation
 14 and selection process for capital projects to be included in the Consolidated
 15 Transportation Program.

16 BY repealing and reenacting, with amendments,
 17 Article – Transportation
 18 Section 2–103.1
 19 Annotated Code of Maryland
 20 (2008 Replacement Volume and 2009 Supplement)

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

23 **Article – Transportation**

24 2–103.1.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) “Capital project” means:

27 (i) Any project for which funds are expended for construction,
 28 reconstruction, or rehabilitation of a transportation facility by the Department or of a
 29 transportation facilities project by the Maryland Transportation Authority; or

30 (ii) Capital equipment, as defined by the Secretary.

31 (3) “Construction phase” means the phase of a capital project in which
 32 the project is committed and advanced from the project development phase to
 33 completion.

34 (4) “Major capital project” means any new, expanded, or significantly
 35 improved facility or service that involves planning, environmental studies, design,
 36 right-of-way, construction, or purchase of essential equipment related to the facility
 37 or service.

1 (5) “Minor capital project” means any project for the preservation or
2 rehabilitation of an existing facility or service, including the planning, design,
3 right-of-way, construction, or purchase of equipment essential to the facility or
4 service, and generally not requiring the preparation of an environmental impact
5 assessment.

6 (6) “Project development phase” means the phase of a capital project
7 in which planning, engineering, and environmental studies and analyses are
8 conducted with full participation by the public, prior to commitment to construction.

9 **(7) (I) “PROPOSING ENTITY” MEANS A GOVERNMENT AGENCY**
10 **OR POLITICAL SUBDIVISION THAT REQUESTS THAT A TRANSPORTATION**
11 **PROJECT BE INCLUDED IN THE CONSOLIDATED TRANSPORTATION PROGRAM.**

12 **(II) “PROPOSING ENTITY” INCLUDES A COUNTY, A**
13 **MUNICIPALITY, A METROPOLITAN PLANNING ORGANIZATION, OR A MODAL**
14 **ADMINISTRATION OR ANY OTHER AGENCY OF THE DEPARTMENT.**

15 **(8) “PURPOSE AND NEED SUMMARY STATEMENT” MEANS A BRIEF**
16 **STATEMENT THAT SPECIFIES THE UNDERLYING PURPOSE AND NEED FOR A**
17 **PROJECT.**

18 **[(7)] (9)** “Significant change” means any change that affects the size
19 or character of a project to the extent that the change:

20 (i) Substantially modifies the capacity, level of service, or cost
21 of the project;

22 (ii) Alters the function or purpose of the project; or

23 (iii) Impacts the ability of a modal administration to accomplish
24 the program priorities established by the Secretary in the State Report on
25 Transportation.

26 **(10) “STATE TRANSPORTATION GOALS” MEANS THE GOALS**
27 **DESCRIBED IN THE MARYLAND TRANSPORTATION PLAN.**

28 **[(8)] (11)** “Transportation facility” has the meaning stated in §
29 3–101(l) of this article.

30 **[(9)] (12)** “Transportation facilities project” has the meaning stated in
31 § 4–101(i) of this article.

32 (b) The State Report on Transportation consists of the Consolidated
33 Transportation Program and the Maryland Transportation Plan.

- 1 (c) (1) The Consolidated Transportation Program shall:
- 2 (i) Be revised annually; and
- 3 (ii) Include:
- 4 1. A list of [Program priorities]:
- 5 **A. THE CURRENT STATE TRANSPORTATION GOALS;**
- 6 **B. PROGRAM PRIORITIES; AND**
- 7 **C. ~~THE~~ FOR PROJECTS IN THE CONSTRUCTION**
- 8 **PHASE, THE CRITERIA USED TO SELECT MAJOR CAPITAL PROJECTS FOR**
- 9 **INCLUSION IN THE CAPITAL PROGRAM, AS DETERMINED BY THE DEPARTMENT;**
- 10 2. A statement of the Department's projected annual
- 11 operating costs, set forth separately for the Office of the Secretary and for each modal
- 12 administration;
- 13 3. Expanded descriptions of major capital projects;
- 14 4. A list of major capital projects for the current year,
- 15 the budget request year, and the 4 successive planning years;
- 16 5. A list of anticipated minor capital projects, including a
- 17 specific list of anticipated special projects for the current year and the budget request
- 18 year and an estimate of the Program level for each of the 4 successive planning years;
- 19 6. A list of major bridge work projects;
- 20 7. A summary of the capital and operating programs, as
- 21 defined by the Secretary, for the Maryland Transportation Authority;
- 22 8. For each listed major capital project, an indication
- 23 whether the revenue source anticipated to support that project consists of federal,
- 24 special, general, or other funds;
- 25 9. The Department's estimates of the levels and sources
- 26 of revenues to be used to fund the projects in the Program;
- 27 10. A glossary of terms; and
- 28 11. A cross-reference table for the information contained
- 29 in the various parts of the State Report on Transportation.

1 (2) In addition to the items listed in paragraph (1) of this subsection,
2 the Consolidated Transportation Program shall include:

3 (i) A summary of current efforts and future plans, prepared
4 after consultation with the Director of Bicycle and Pedestrian Access and the Bicycle
5 and Pedestrian Advisory Committee established under § 2–606 of this title:

6 1. To develop and promote bicycle and pedestrian
7 transportation; and

8 2. Working together with local jurisdictions, to
9 accommodate in a safe and effective manner pedestrians and bicycles within a
10 reasonable distance for walking and bicycling to rail stops, light rail stops, and subway
11 stations;

12 (ii) A listing of all bicycle and pedestrian transportation projects
13 expected to use State or federal highway funds; and

14 (iii) Reflected under the Office of the Secretary, any
15 technology–related project to be funded from the account established under § 2–111 of
16 this subtitle, along with a description and projected cost of each.

17 (3) Annually, the Consolidated Transportation Program shall include
18 a report that:

19 (i) Identifies each major capital project for which the budget
20 bill or a supplemental budget amendment first requests funds for the project
21 development phase or for the construction phase;

22 (ii) With respect to each major capital project for which funds
23 are requested in the budget request year, states:

24 1. The amount of the funds requested; and

25 2. The total estimated cost of the project;

26 (iii) Identifies significant changes in the cost, scope, design, or
27 scheduling of major capital projects for each completed fiscal year;

28 (iv) When there is a significant change in cost, states the
29 amount by which the expenditures that have been authorized exceed the original
30 project estimate;

31 (v) When there is a significant change, states:

1 1. The amount by which costs exceed projected costs
2 during each completed fiscal year; and

3 2. The total amount that has been expended for a major
4 capital project; [and]

5 **(VI) PROVIDES A PURPOSE AND NEED SUMMARY**
6 **STATEMENT THAT INCLUDES:**

7 1. **A GENERAL DESCRIPTION AND SUMMARY THAT**
8 **DESCRIBES WHY THE PROJECT IS NECESSARY AND SATISFIES STATE GOALS,**
9 **INCLUDING CURRENT STATE TRANSPORTATION GOALS, ~~STATE DEVELOPMENT~~**
10 **~~PLAN GOALS,~~ AND CLIMATE ACTION PLAN GOALS REQUIRED BY THE**
11 **GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER § 2-1205(B)**
12 **OF THE ENVIRONMENT ARTICLE;**

13 2. **THE LOCATION OF THE PROJECT, INCLUDING A**
14 **MAP OF THE PROJECT LIMITS, PROJECT AREA, OR TRANSPORTATION**
15 **CORRIDOR; AND**

16 3. ~~**THE PROJECT EVALUATION, BASED ON A**~~
17 **SUMMARY OF HOW THE PROJECT MEETS THE SELECTION CRITERIA FOR**
18 **INCLUSION IN THE CAPITAL PROGRAM; AND**

19 [(vi)] **(VII) Includes any other information that the Secretary**
20 **believes would be useful to the members of the General Assembly, THE GENERAL**
21 **PUBLIC, or other recipients of the Consolidated Transportation Program.**

22 (4) The total operating and capital expenditures for the Department or
23 for the Office of the Secretary or any modal administration projected in the
24 Consolidated Transportation Program for the budget request year may not exceed the
25 budget request for the Department, Office, or modal administration for that year.

26 **(5) FOR A MAJOR CAPITAL PROJECT TO BE CONSIDERED FOR**
27 **INCLUSION IN THE CONSTRUCTION PROGRAM OF THE CONSOLIDATED**
28 **TRANSPORTATION PROGRAM, A REQUEST MUST BE SUBMITTED TO THE**
29 **SECRETARY BY THE PROPOSING ENTITY ALONG WITH A PURPOSE AND NEED**
30 **SUMMARY STATEMENT JUSTIFYING THE PROJECT THAT INCLUDES:**

31 **(I) THE LOCATION OF THE PROJECT, INCLUDING A MAP OF**
32 **THE PROJECT LIMITS, PROJECT AREA, OR TRANSPORTATION CORRIDOR; AND**

33 ~~**(II) A LIST OF THE PRIORITIES AND FACTORS CONSIDERED**~~
34 ~~**IN PRESENTING THE PURPOSE AND NEED SUMMARY STATEMENT, INCLUDING:**~~

1 ~~1. THE PROJECT NECESSITY;~~

2 ~~2. A DESCRIPTION OF HOW THE PROJECT MEETS~~
3 ~~STATE TRANSPORTATION GOALS;~~

4 ~~3. A DESCRIPTION OF HOW THE PROJECT~~
5 ~~ADDRESSES OTHER STATE GOALS, INCLUDING THOSE IN THE STATE~~
6 ~~DEVELOPMENT PLAN AND IN THE CLIMATE ACTION PLAN AS REQUIRED UNDER~~
7 ~~THE GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER §~~
8 ~~2-1205(B) OF THE ENVIRONMENT ARTICLE;~~

9 ~~4. HOW THE PROJECT IS CONSISTENT WITH LOCAL~~
10 ~~GOVERNMENT LAND USE PLANS;~~

11 ~~5. POTENTIAL LAND USE CHANGES THAT SUPPORT~~
12 ~~THE PURPOSE AND NEED FOR THE PROJECT; AND~~

13 ~~6. ANY OTHER INFORMATION THAT THE SECRETARY~~
14 ~~DEEMS NECESSARY TO EVALUATE THE PROJECT.~~

15 (II) THE NEED FOR THE PROJECT; AND

16 (III) A DISCUSSION OF HOW THE PROJECT:

17 1. ADDRESSES STATE TRANSPORTATION GOALS;

18 AND

19 2. SUPPORTS LOCAL GOVERNMENT LAND USE PLANS

20 AND GOALS.

21 (6) (I) THE DEPARTMENT SHALL EVALUATE REQUESTS FOR
22 MAJOR CAPITAL PROJECTS BASED ON THE STATE'S GOALS AND, AS
23 APPROPRIATE, CRITERIA AS DETERMINED BY THE INFORMATION SUBMITTED BY
24 THE PROPOSING ENTITY AND THE AVAILABILITY OF FUNDING.

25 (II) AS PART OF THE EVALUATION UNDER THIS
26 PARAGRAPH, THE DEPARTMENT SHALL ACKNOWLEDGE THE DIFFERENCE
27 BETWEEN URBAN AND RURAL TRANSPORTATION NEEDS.

28 (d) The Maryland Transportation Plan shall:

29 (1) Be revised every 5 years through an inclusive public participation
30 process;

1 (2) Include a 20–year forecast of State transportation needs, based on
2 the financial resources anticipated to be available to the Department during that
3 20–year period;

4 (3) Be expressed in terms of goals and objectives; and

5 (4) Include a summary of the types of projects and programs that are
6 proposed to accomplish the goals and objectives, using a multi–modal approach when
7 feasible.

8 (e) On or before November 15 of each year, the Department shall visit each
9 county to give local governments and local legislative delegations information about
10 and an opportunity to comment on the proposed Consolidated Transportation Program
11 and the proposed Maryland Transportation Plan.

12 (f) At the earliest practical date but no later than November 1 of each year,
13 the Department shall provide the proposed Consolidated Transportation Program and
14 the proposed Maryland Transportation Plan to the Department of Planning for review
15 and comment on planning issues including consistency between transportation
16 investments and the State Economic Growth, Resource Protection, and Planning
17 Policy and State priority funding areas established under Title 5, Subtitle 7B, of the
18 State Finance and Procurement Article.

19 (g) Beginning with the year 2002 State Report on Transportation and
20 continuing thereafter, before the General Assembly considers the proposed Maryland
21 Transportation Plan and the proposed Consolidated Transportation Program, the
22 Department shall submit an annual report on the attainment of transportation goals
23 and benchmarks for the approved and proposed Maryland Transportation Plan and
24 the approved and proposed Consolidated Transportation Program to the Governor
25 and, subject to § 2–1246 of the State Government Article, to the General Assembly.

26 (h) (1) The report required under subsection (g) of this section shall
27 include:

28 (i) The establishment of certain measurable performance
29 indicators or benchmarks, in priority funding areas at a minimum, designed to
30 quantify the goals and objectives specified in the Maryland Transportation Plan; and

31 (ii) The degree to which the projects and programs contained in
32 the approved Maryland Transportation Plan and Consolidated Transportation
33 Program attain those goals and benchmarks as measured by the performance
34 indicators or benchmarks.

35 (2) The Department shall include in its report measurable long–term
36 goals, and intermediate benchmarks of progress toward the attainment of the
37 long–term goals, for the following measurable transportation indicators:

1 (i) An increase in the share of total person trips for each of
2 transit, high occupancy auto, pedestrian, and bicycle modes of travel;

3 (ii) A decrease in indicators of traffic congestion as determined
4 by the Department; and

5 (iii) Any other performance goals established by the Department
6 for reducing automobile traffic and increasing the use of nonautomobile traffic.

7 **(3) THE PERFORMANCE INDICATORS OR BENCHMARKS**
8 **DESCRIBED IN THIS SUBSECTION SHALL ACKNOWLEDGE THE DIFFERENCE**
9 **BETWEEN URBAN AND RURAL TRANSPORTATION NEEDS.**

10 **(I) THE SMART GROWTH SUBCABINET, ESTABLISHED UNDER TITLE 9,**
11 **SUBTITLE 14 OF THE STATE GOVERNMENT ARTICLE, SHALL CONDUCT AN**
12 **ANNUAL REVIEW OF THE TRANSPORTATION GOALS, BENCHMARKS, AND**
13 **INDICATORS ~~THAT ARE USED TO SELECT MAJOR CAPITAL PROJECTS THAT ARE~~**
14 **~~TO BE INCLUDED IN THE CAPITAL PROGRAM.~~**

15 **[(i)] (J)** (1) An advisory committee shall be assembled to advise the
16 Department on the establishment of the transportation goals, benchmarks, and
17 indicators under subsection (h) of this section.

18 (2) Membership of the advisory committee shall include but is not
19 limited to the following members appointed by the Governor:

20 (i) A representative of the Maryland business community;

21 (ii) A representative of the disabled citizens community;

22 (iii) A representative of rural interests;

23 (iv) A representative of an auto users group;

24 (v) A representative of a transit users group;

25 (vi) A representative of the goods movement industry;

26 (vii) A nationally recognized expert on transportation demand
27 management;

28 (viii) A nationally recognized expert on pedestrian and bicycle
29 transportation;

1 (ix) A nationally recognized expert on transportation
2 performance measurement;

3 (x) A representative of an environmental advocacy organization;

4 (xi) A representative from the Maryland Department of
5 Planning;

6 (xii) A representative of the Maryland Association of Counties;
7 and

8 (xiii) A representative of the Maryland Municipal League.

9 (3) The Governor shall appoint the chairman of the advisory
10 committee.

11 (4) The advisory committee shall meet at least four times during the
12 process of developing the Maryland Transportation Plan to provide advice to the
13 Department on meeting the requirements of this subsection.

14 (5) The Department and the advisory committee shall consider the
15 following:

16 (i) Transportation and population trends and their impact on
17 the State's transportation system and priority funding areas;

18 (ii) Past and present State funding devoted to the various
19 transportation modes and demand management;

20 (iii) The full range of unmet transportation needs in priority
21 funding areas;

22 (iv) The full range of transportation measures and facilities
23 available, and their role, effectiveness, and cost effectiveness in providing travel
24 choices and reducing congestion;

25 (v) A review of transportation performance indicators and their
26 use in other states;

27 (vi) A review of the coordination of State transportation
28 investments with local growth plans for priority funding areas; **[and]**

29 (vii) The types of investments needed and their levels of funding
30 for supporting the goals and objectives of the Maryland Transportation Plan; ~~AND~~

1 ~~(VIII) THE FULL RANGE OF THE ENVIRONMENTAL IMPACTS OF~~
2 ~~THE TRANSPORTATION INVESTMENT~~ THE IMPACT OF TRANSPORTATION
3 INVESTMENT ON:

- 4 1. THE ENVIRONMENT;
- 5 2. ENVIRONMENTAL JUSTICE AS DEFINED IN § 1-701
6 OF THE ENVIRONMENT ARTICLE; AND
- 7 3. COMMUNITIES; AND
- 8 4. ECONOMIC DEVELOPMENT; AND

9 (IX) THE CLIMATE ACTION PLAN GOALS REQUIRED BY THE
10 GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER § 2-1205(B)
11 OF THE ENVIRONMENT ARTICLE.

12 [(j)] (K) The Department may:

13 (1) Conduct its analysis of planned transportation investments in
14 priority funding areas on a statewide basis or in groupings of priority funding areas
15 centered on regions, metropolitan areas, cities, or other groupings suitable for
16 transportation modeling; and

17 (2) Choose to exclude from its analysis priority funding areas which
18 have an insignificant role in transportation trends because of small size, population, or
19 physical isolation.

20 [(k)] (L) In the report required under subsection (g) of this section, the
21 Department shall:

22 (1) Use narrative, graphs, charts, tables, and maps as appropriate to
23 make the results easily understood by the public;

24 (2) Include projected long-term trends for each of the indicators and
25 the effect of planned transportation investments on the trends;

26 (3) To the extent practicable, account for the effect of planned
27 transportation investments on inducing automobile travel;

28 (4) To the extent practicable, account for automobile trips not taken
29 due to demand management measures, including teleworking, teleshopping, and land
30 use patterns supporting alternatives to driving; and

1 (5) Indicate the cost effectiveness of investments for achieving
 2 relevant performance goals and benchmarks, including a specific analysis of planned
 3 transportation investments detailing:

4 (i) Any projected decreases or increases in indicators of traffic
 5 congestion ~~AND ACCESSIBILITY TO HOUSING, EMPLOYMENT, AND PUBLIC~~
 6 ~~BENEFITS~~ as defined by the Department; and

7 (ii) The cost per passenger mile and other indicators of cost
 8 effectiveness as defined by the Department, ~~INCLUDING THE COST OF~~
 9 ~~MAINTENANCE AND OPERATIONS OVER THE LIFE OF THE PROJECT ESTIMATED~~
 10 ANNUAL COST OF MAINTENANCE AND OPERATIONS.

11 ~~[(1)] (M)~~ (1) (i) Subject to § 2–1246 of the State Government Article:

12 1. On or before September 1 of each year, the
 13 Department shall submit copies of the proposed Consolidated Transportation Program
 14 and the supporting financial forecast to the General Assembly; and

15 2. On submission of the budget bill to the presiding
 16 officers of the General Assembly, the Department shall submit copies of the approved
 17 Consolidated Transportation Program and the supporting financial forecast to the
 18 General Assembly.

19 (ii) Notwithstanding § 2–1246(b)(2) of the State Government
 20 Article, the Department shall provide to each member of the General Assembly a copy
 21 of the proposed Consolidated Transportation Program and the approved Consolidated
 22 Transportation Program.

23 (2) (i) The financial forecast supporting the Consolidated
 24 Transportation Program to be submitted to the General Assembly under paragraph (1)
 25 of this subsection shall include the following components:

26 1. A schedule of operating expenses for each specific
 27 modal administration;

28 2. A schedule of revenues, including tax and fee
 29 revenues, deductions from revenues for other agencies, Department program and fees,
 30 Motor Vehicle Administration cost recovery, deductions for highway user revenues,
 31 operating revenues by modal administration, and miscellaneous revenues; and

32 3. A summary schedule for the Transportation Trust
 33 Fund that includes the opening and closing Fund balance, revenues, transfers, bond
 34 sales, bond premiums, any other revenues, expenditures for debt service, operating
 35 expenses, amounts available for capital expenses, bond interest rates, bond coverage

1 ratios, total bonds outstanding, federal capital aid, and the total amount for the
2 Transportation Capital Program.

3 (ii) The financial forecast shall include, for each of the
4 components specified in subparagraph (i) of this paragraph:

5 1. Actual information for the last full fiscal year; and

6 2. Forecasts of the information for each of the six
7 subsequent fiscal years, including the current fiscal year, the fiscal year for the
8 proposed budget, and the next four subsequent fiscal years.

9 (iii) The Department shall incorporate in the financial forecast
10 the most recent estimates by the Board of Revenue Estimates of the revenues from:

11 1. The corporate income tax and the sales and use tax
12 for each of the six subsequent years, including the current fiscal year and the fiscal
13 year for the proposed budget; and

14 2. Motor fuel taxes and motor vehicle titling taxes for
15 the current fiscal year and the fiscal year for the proposed budget.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.