

HOUSE BILL 74

L6, P1
HB 252/13 – ENV

(PRE-FILED)

4lr0368

By: **Delegate Smigiel**

Requested: August 1, 2013

Introduced and read first time: January 8, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

State Development Plan – Repeal

FOR the purpose of repealing a requirement that the Department of Planning prepare and revise certain plans for the development of the State for certain purposes and based on certain studies; repealing a requirement that the Department seek comments from and consult with certain local governments and seek the cooperation and advice of certain persons when preparing and revising the State Development Plan; repealing a provision stating that the Plan shall embody certain policy recommendations of the Department; repealing a requirement that the Secretary of Planning send to the Governor the Plan, substantial parts of the Plan, or revisions to the Plan; repealing a requirement that the Governor file with the Secretary of State the Plan, part of the Plan, or revisions to the Plan, together with certain comments; repealing a requirement that the Department make copies of certain materials available for general distribution or sale under certain circumstances; repealing a requirement that the Governor send copies of certain materials to certain persons under certain circumstances; repealing certain provisions relating to the required contents of the Plan; repealing a requirement that each county make a certain recommendation to the Department; repealing a requirement that the Secretary of Planning consult with and consider recommendations submitted by certain political subdivisions before making a certain designation; repealing the authority of the Secretary of Planning to adopt certain regulations; repealing a requirement that the Department furnish to certain political subdivisions the full text of certain proposed designations; repealing a requirement that the Department give certain political subdivisions a certain period of time to review and comment on a certain proposed designation; repealing a requirement that the Department publish certain designations and certain written comments; repealing a provision that prohibits the Plan from being used in a certain manner; repealing a provision that clarifies that the Plan does not supersede certain State or local laws or regulations, affect a certain delegation of planning or zoning powers, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



overturn or prevent certain decisions of a local jurisdiction; repealing a provision that prohibits the Plan from requiring a local government to change or alter a local ordinance, regulation, or comprehensive plan; repealing a certain definition; making certain conforming changes; correcting certain cross-references; and generally relating to the repeal of certain provisions relating to the State Development Plan.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 14–508(a)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 5–307(b), 5–402, 5–507, and 5–706(4)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2013 Supplement)

BY repealing
 Article – State Finance and Procurement
 Section 5–601 through 5–606 and the part “Part I. Definition; General Provisions”; 5–608 through 5–615 and the part “Part II. Contents of Plan”, and the subtitle “Subtitle 6. State Development Plan”
 Annotated Code of Maryland
 (2009 Replacement Volume and 2013 Supplement)

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

Article – Environment

14–508.

(a) Within 90 days following the completion of the public hearing under § 14–507 of this subtitle, and after receiving the advisory comments and recommendations of the Secretaries of Natural Resources, Business and Economic Development, and Transportation and the Director of Planning, the Secretary shall decide whether to grant, grant conditionally, or deny the permit. The Secretary’s decision shall be in writing and based upon the economic and environmental statement, the public hearing record, and a determination that the applicant has shown satisfactorily that the facility:

(1) Conforms with and meets all applicable air, water, noise, and solid waste laws of the State as determined and certified in writing by the appropriate State unit with jurisdiction over these laws;

(2) Conforms with adopted or approved county or local land use planning and the official county or local comprehensive zoning map;

(3) [Conforms with the State development plan, if such plan has been lawfully approved and adopted;

(4)] Would have no material adverse effect upon the natural environment of the area, its scenic or natural beauty, rare or irreplaceable natural resources, or unique historic sites;

[(5)] (4) Would not be so located or constructed as to have a material adverse effect upon the public health, safety, or welfare;

[(6)] (5) Would not be a potential or immediate undue burden on the water supply of the site or region;

[(7)] (6) Would not materially contribute to an extant level of undue environmental degradation or resource exhaustion;

[(8)] (7) Conforms with any coastal zone management program developed by the State of Maryland pursuant to the federal Coastal Zone Management Act of 1972;

[(9)] (8) Would have no material adverse effect upon critical areas identified and designated pursuant to [§ 5–611 of the State Finance and Procurement Article and] Title 1, Subtitle 4 or Title 3 of the Land Use Article;

[(10)] (9) Would not impose, directly or indirectly, a substantial burden on existing State, regional, or county public facilities beyond their respective capacities, or that new public facilities, if necessary, either:

(i) Would not be completed in time to serve the facility; or

(ii) Would be inadequate to serve the facility without causing overloading of the public facilities; and

[(11)] (10) Evidences fewer undesirable environmental, economic, fiscal, and cultural consequences in its specific or general proposed location than other specific or general locations.

Article – State Finance and Procurement

5–307.

(b) The annual report shall include:

(1) [a summary and description of the nature of every section of the State Development Plan that has been:

(i) added, deleted, or revised since the last annual report; and

(ii) filed by the Governor under § 5–605 of this title;

(2)] a summary of each important study wholly or partly completed by the Department since the last annual report; and

[[3)] (2) summaries of the work of the Department and of the State Economic Growth, Resource Protection, and Planning Commission.

5–402.

(a) The Department shall:

(1) harmonize its planning activities with the planning activities of other units of the State government;

(2) coordinate the plans and programs of all units of the State government; **AND**

[[3) cooperate with and assist other units of the State government in the execution of their planning functions, to harmonize their planning activities with the State Development Plan; and]

[[4)] (3) promote the State’s Economic Growth, Resource Protection, and Planning Policy set forth in Subtitle 7A of this title.

(b) The Department shall[:

(1)] harmonize its planning activities with the planning activities of local governments[; and

(2) cooperate with and assist local governments in the execution of their planning functions, to harmonize their planning activities with the State Development Plan].

(c) The Department shall:

(1) coordinate State programs with the federal government; **AND**

[[2) cooperate with and assist units of the federal government in the execution of their planning functions, to harmonize their planning activities with the State Development Plan; and]

[(3)] (2) cooperate with, confer with, and, on request, provide information to:

(i) units of the federal government; and

(ii) local or regional agencies that are created under federal programs or that receive federal support.

(d) As far as possible, the Department shall cooperate with and confer with planning agencies of other states or of regional groupings of states.

[(e)] The Department shall cooperate with and assist regional and private planning agencies in the execution of their planning functions, to harmonize their planning activities with the State Development Plan.]

[(f)] (E) The Department shall exercise authority as the lead agency in coordinating the State's land preservation efforts and focus its planning efforts on targeted land preservation.

[(g)] (F) The Department shall plan for the efficient use of inactive railroad corridors by:

(1) examining all opportunities, both present and future, for acquisition or use of inactive railroad corridors;

(2) coordinating and working with the Departments of Natural Resources, Transportation, Business and Economic Development, and the State Railroad Administration and other agencies to determine the suitability and feasibility of acquiring or using inactive railroad corridors for recreational trails, public utilities, or future transportation purposes; and

(3) taking part in United States Interstate Commerce Commission proceedings regarding the abandonment or the discontinuance of use of railroad corridors on behalf of the State.

[(h)] (G) The Department shall:

(1) review transportation plans and programs prepared by the Department of Transportation and regional planning agencies and make recommendations regarding the relationship between transportation and planned land use; and

(2) evaluate proposed transportation improvements and policies to assure consistency between transportation investments and the State Economic Growth, Resource Protection, and Planning Policy.

[(i)] (H) The Department may provide advice to local governments regarding the impact on growth and development of:

- (1) transportation components of local plans;
- (2) aspects of local land use regulation affecting transportation; and
- (3) local transportation improvements.

5-507.

The Department shall provide information to State and local officials and to the public to stimulate public interest and participation in the orderly, integrated development of the State and to foster public awareness and understanding of[:

- (1) the objectives of the State Development Plan; and
- (2)] the function of State, regional, and local planning.

[Subtitle 6. State Development Plan.]

[Part I. Definition; General Provisions.]

[5-601.

In this subtitle, "Plan" means the State Development Plan.]

[5-602.

(a) The Department shall prepare and from time to time revise a plan or plans for development of the State. The plan or plans collectively shall be known as the State Development Plan.

(b) The Department shall prepare the Plan to promote the general welfare and prosperity of the people of the State through the coordinated development of the State.

(c) The Department shall base the Plan on studies of governmental, economic, physical, and social conditions and trends.]

[5-603.

In the preparation and revision of the Plan or any part of it, the Department shall:

- (1) seek comments from and consult with the local governments of the areas that are affected by the Plan; and
- (2) seek the cooperation and advice of appropriate:
 - (i) governmental units;
 - (ii) regional planning commissions;
 - (iii) public or private educational institutions;
 - (iv) public or private research organizations;
 - (v) civic groups; and
 - (vi) interested persons.]

[5-604.

The Plan shall embody the policy recommendations of the Department regarding the economic and physical development of the State.]

[5-605.

(a) On completion, the Secretary shall send to the Governor the Plan, any substantial part of the Plan, or any revision to the Plan.

(b) The Governor shall file with the Secretary of State the Plan, part of the Plan, or revision to the Plan, together with any comments made by the Governor, and, in that event:

(1) the Department shall make copies of the material filed available for general distribution or sale; and

(2) the Governor shall send copies of the material filed:

(i) to the head of each unit of the State government; and

(ii) subject to § 2-1246 of the State Government Article, to the General Assembly.]

[5-606.

(a) The Plan may not be used to deny:

(1) a State-issued permit; or

- (2) State funding:
 - (i) mandated by statute or regulation; or
 - (ii) provided for in the State operating budget or capital budget.
- (b) The Plan does not:
 - (1) supersede any State statute or regulation;
 - (2) supersede any local ordinance or regulation;
 - (3) affect the delegation of planning and zoning powers granted by the State to local jurisdictions under Division II, Title 9, Subtitles 2 or 3, Title 10, or Title 11 of the Local Government Article and Division I of the Land Use Article; or
 - (4) overturn or prevent a decision of a local jurisdiction to fund a project.
- (c) The Plan may not require a local government to change or alter a local ordinance, regulation, or comprehensive plan.】

【Part II. Contents of Plan.】

【5-608.

The Plan shall contain a statement of the objectives, standards, and principles sought to be expressed in the Plan.】

【5-609.

The Plan shall contain a comprehensive analysis and evaluation of the capital plans and programs of each unit of the State government.】

【5-610.

The Plan shall contain a review and analysis of:

- (1) all federal grants, loans, or services available to the State;
- (2) all State grants to local governments; and
- (3) the impact of any existing or proposed federal program on the State.】

[5-611.

(a) The Plan shall identify all areas designated by the Department as areas of critical State concern.

(b) Each county shall recommend to the Department those areas in the county that should be designated as areas of critical State concern.

(c) Before designating an area as an area of critical State concern, the Secretary shall consult with and consider any recommendations submitted by affected political subdivisions.

(d) The Secretary may adopt regulations for the political subdivisions to use in recommending areas to be designated as areas of critical State concern.

(e) The Department shall:

(1) furnish to the governing body of each affected political subdivision the full text of each proposed designation of an area as an area of critical State concern;

(2) give each political subdivision affected by a proposed designation at least 45 days to review and comment on the proposed designation; and

(3) publish its designation of areas of critical State concern, together with all written comments received from political subdivisions regarding the areas designated.]

[5-612.

The Plan shall contain recommendations for the most desirable general pattern of land use in the State. The recommendations shall be based on the best available information concerning:

(1) environmental and natural factors, including climate, soil and underground conditions, topography, and water sources and bodies of water;

(2) present and prospective economic bases of the State;

(3) water and sewerage facilities;

(4) trends of industrial, population, or other developments;

(5) habits and standards of life of the people of the State; and

(6) the relation of land use in the State to land use in adjoining areas.]

[5-613.

The Plan shall contain recommendations concerning the need for and the proposed general location of major public works and private facilities, including utilities, flood control works, water reservoirs, pollution control facilities, and military or defense installations, that are of State, as opposed to purely local or regional, concern because of:

- (1) their function, size, extent, or legal status;
- (2) the fact that their authorization, location, or construction is legally under the jurisdiction of a unit of the State government; or
- (3) any other reason that makes inclusion in the Plan appropriate.]

[5-614.

The Plan shall recommend a major circulation pattern for the State, including major transportation routes and major terminals that should be used for movement within the State or for movement from and to adjoining areas.]

[5-615.

The Plan shall contain the recommendations of the Secretary concerning any current or impending problem that may affect the State as a whole.]

5-706.

The Commission shall:

- (4) advise on the content and preparation of the [State development plan,] State transportation plan[,], and State housing plan and the implementation of these plans, including the relationship of these plans with local land use plans;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.