

## Chapter 30

## (Senate Bill 307)

AN ACT concerning

**~~Repeal of the Maryland Open Transportation Investment Decision Act of 2016 –~~  
Application and Evaluation  
~~(Road Kill Bill Repeal)~~**

FOR the purpose of ~~repealing certain State transportation goals; repealing a requirement that the Department of Transportation score the extent to which certain projects satisfy certain goals; repealing a requirement that the Department develop a certain scoring system and promulgate certain regulations; repealing a requirement that the Department submit a certain list; repealing a requirement that the Department evaluate, score, and rank certain projects for inclusion in a certain program; repealing a requirement that certain projects be ranked in a certain manner; repealing a requirement that the Department incorporate certain State transportation goals into a certain program and a certain plan; repealing a requirement that certain analyses and benchmarks are included in a certain program and certain plan; making this Act an emergency measure altering the definition of “major transportation project”; repealing the requirement that the Department of Transportation adopt certain regulations on or before a certain date; requiring the Department to develop a certain model that uses a certain project-based scoring system to rank certain projects; requiring the Department to use the model to rank certain projects; requiring the Department to include a certain ranking and certain project scores in an appendix to the Consolidated Transportation Program and make the ranking and project scores available on the Department’s Web site; altering the manner by which the Department evaluates and scores certain major transportation projects; expanding and altering the list of the State’s transportation goals and establishing and altering certain measures for the goals; repealing a requirement that the Department multiply certain scores by a certain weighting factor; repealing the requirement that the Department prioritize certain projects for inclusion in the Consolidated Transportation Program; repealing the authorization of the Department to include certain projects with a certain score in the Consolidated Transportation Program under certain circumstances; specifying that certain provisions of this Act may not be construed to impede or alter the inclusion of local transportation priorities in the Consolidated Transportation Program; establishing the Workgroup on the Maryland Open Transportation Investment Decision Act; providing for the composition, chair, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Workgroup to evaluate and make recommendations regarding certain matters; requiring the Workgroup to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; ~~providing for the termination of this Act~~ *providing for the termination of certain provisions of this Act*; and generally relating to State transportation programs and plans.~~

~~BY repealing~~

~~Chapter 36 of the Acts of the General Assembly of 2016~~

BY repealing and reenacting, with amendments,

Article – Transportation

Section 2-103.7

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

#### **Preamble**

~~WHEREAS, Chapter 36 of the Acts of the General Assembly of 2016 created the “Road Kill Bill”, which had the effect of making 66 local transportation priorities ineligible for the State Consolidated Transportation Program; and~~

~~WHEREAS, The Maryland Department of Transportation’s Capital Transportation Program has been in place for 34 years; and~~

~~WHEREAS, Local transportation priority letters are used by the Maryland Department of Transportation to develop its draft and final Consolidated Transportation Program; and~~

~~WHEREAS, The Maryland Department of Transportation, after releasing its draft Consolidated Transportation Program, visits all 23 counties and Baltimore City in order to receive additional local input on projects; and~~

~~WHEREAS, The safety and security of Maryland’s transportation infrastructure is crucial to the State’s economic vitality; and~~

~~WHEREAS, The Maryland Department of Transportation currently has more projects underway than at any other time in its history; and~~

~~WHEREAS, The Transportation Trust Fund is funded by all residents and businesses statewide; and~~

~~WHEREAS, The project scoring system passed during the 2016 legislative session does not support a statewide transportation network for Maryland; and~~

~~WHEREAS, Maryland’s transportation network must support our nation’s homeland security and military needs with critical infrastructure projects; and~~

~~WHEREAS, The prescriptive regulations and their imminent implementation required by the law passed during the 2016 legislative session make it impossible for projects statewide to be scored and evaluated equally, resulting in the cancellation of 66 projects across the State; now, therefore,~~

~~WHEREAS, Thousands of Marylanders sit in traffic for hours every day as congestion and gridlock prevent them from getting home and getting to and returning from work in a reasonable amount of time; and~~

~~WHEREAS, The transportation infrastructure is too important to the quality of life of all Marylanders for the Maryland Department of Transportation to threaten projects across the State due to a purely advisory law intended to shine a public light on the process for making transportation decisions; and~~

~~WHEREAS, Legislators voted for an increase in the gas tax because the need for roads and bridges and enhancing our transit systems was nothing short of critical to improving the lives of Marylanders, stimulating the economy, and creating jobs; and~~

~~WHEREAS, It remains the intent of General Assembly that a public process for transportation planning that provides Marylanders with a clear and transparent explanation of how their transportation taxes and revenues are allocated to fund major capital transportation projects be developed; now, therefore,~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Chapter 36 of the Acts of the General Assembly of 2016 be repealed.~~ the Laws of Maryland read as follows:

**Article – Transportation**

2–103.7.

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

(2) “Major capital project” has the meaning stated in § 2–103.1 of this subtitle.

(3) (i) “Major transportation project” means a major capital project in the State Highway Administration or the Maryland Transit Administration whose total cost for all phases exceeds \$5,000,000 and that:

1. Increases highway or transit capacity;
2. **REDUCES AREAS OF HEAVY TRAFFIC CONGESTION;**
3. **IMPROVES COMMUTE TIMES IN AREAS OF HEAVY TRAFFIC CONGESTION;**
4. Improves transit stations or station areas; or

[3.] 5. Improves highway capacity through the use of intelligent transportation systems or congestion management systems.

(ii) “Major transportation project” does not include:

1. Projects in the Maryland Aviation Administration, the Maryland Port Administration, or the Maryland Transportation Authority;

2. Maintenance and storage facilities projects;

3. Water quality improvement projects;

4. Projects related to Maryland’s priorities for total maximum daily load development;

5. Safety-related projects that do not increase highway or transit capacity; ~~or~~

6. Roads within the Appalachian Development Highway System; OR

7. ~~SYSTEM PRESERVATION PROJECTS~~ **PROJECTS THAT ARE SOLELY FOR SYSTEM PRESERVATION.**

(b) The Department shall:

(1) In accordance with federal transportation requirements, develop a project-based scoring system **FOR MAJOR TRANSPORTATION PROJECTS** using the goals and measures established under subsection (c) of this section;

(2) Develop the weighting metrics for each goal and measure established under subsection (c) of this section;

(3) On or before January 1, [2017] 2018, [adopt regulations to carry out the provisions of this section] **DEVELOP AN EXPERIMENTAL A MODEL CONSISTENT WITH THE PROVISIONS OF THIS SECTION THAT USES THE PROJECT-BASED SCORING SYSTEM DEVELOPED UNDER THIS SUBSECTION TO RANK MAJOR TRANSPORTATION PROJECTS BEING CONSIDERED FOR INCLUSION IN THE DRAFT AND FINAL CONSOLIDATED TRANSPORTATION PROGRAM; [and]**

(4) [In accordance with the project-based scoring system] **USE THE MODEL** developed under this subsection[,] **TO** rank major transportation projects **BEING CONSIDERED** for inclusion in the draft and final Consolidated Transportation Program; **AND**

**(5) MAKE THE MODEL DEVELOPED UNDER ITEM (3) OF THIS SUBSECTION AND ANY RANKING UNDER ITEM (4) OF THIS PARAGRAPH SUBSECTION AVAILABLE TO THE PUBLIC:**

**(I) AS AN APPENDIX TO THE CONSOLIDATED TRANSPORTATION PROGRAM; AND**

**(II) ON THE DEPARTMENT’S WEB SITE.**

(c) (1) The State transportation goals are:

(i) Safety and security;

(ii) System preservation;

(iii) ~~Quality of service;~~ **REDUCING CONGESTION AND IMPROVING COMMUTE TIMES;**

(iv) Environmental stewardship;

(v) Community vitality;

(vi) Economic prosperity;

(vii) Equitable access to transportation;

(viii) Cost effectiveness and return on investment; ~~and~~

(ix) Local priorities ~~and planning;~~

~~(x) REDUCING TRAFFIC CONGESTION; AND~~

~~(xi) IMPROVING COMMUTE TIMES.~~

(2) In evaluating whether and to what extent a major transportation project satisfies the goals established under paragraph (1) of this subsection, the Department, using a 20-year forecast in the project area, shall assign a score from 1 to 100 for each goal using THE WEIGHTING METRICS DEVELOPED BY THE DEPARTMENT UNDER SUBSECTION (B)(2) OF THIS SECTION AND the following measures:

(i) For safety and security:

1. The expected reduction in total fatalities and severe injuries in all modes affected by the project; and

2. The extent to which the project implements the Maryland State Highway Administration's Complete Streets policies.

(ii) For system preservation:

1. The degree to which the project increases the lifespan of the affected facility;

2. The degree to which the project increases the functionality of the facility; and

3. The degree to which the project renders the facility more resilient.

(iii) ~~For quality of service~~ **FOR REDUCING CONGESTION AND IMPROVING COMMUTE TIMES:**

1. The expected change in cumulative job accessibility within an approximately 60-minute commute for highway projects or transit projects;

2. The degree to which the project has a positive impact on travel time reliability **AND CONGESTION**; and

3. The degree to which the project supports connections between different modes of transportation and promotes multiple transportation choices.

(iv) For environmental stewardship:

1. The potential of the project to limit or reduce harmful emissions;

2. The degree to which the project avoids impacts on State resources in the project area and adjacent areas; and

3. The degree to which the project advances the State environmental goals.

(v) For community vitality:

1. The degree to which the project is projected to increase the use of walking, biking, and transit;

2. The degree to which the project enhances existing community assets; and

3. The degree to which the project furthers the affected community's and State's plans for revitalization.

(vi) For economic prosperity:

1. The projected increase in the cumulative job accessibility within an approximately 60-minute commute for projects;

2. The extent to which the project is projected to enhance access to critical intermodal locations for the movement of goods and services; and

3. The projected increase in furthering nonspeculative local and State economic development strategies in existing communities.

(vii) For equitable access to transportation:

1. The expected increase in job accessibility for disadvantaged populations within an approximately 60-minute commute for projects; and

2. The projected economic development impact on low-income communities.

(viii) For cost effectiveness and return on investment:

1. The estimated travel time savings divided by the project cost;

2. The degree to which the project leverages additional federal, State, local, and private sector transportation investment; and

3. The degree to which the project will increase transportation alternatives and redundancy.

(ix) For local priorities and planning, the degree to which the project supports local government ~~land use plans and goals~~ **TRANSPORTATION PRIORITIES, AS SPECIFIED IN LOCAL GOVERNMENT PRIORITY LETTERS.**

~~(x) **FOR REDUCING TRAFFIC CONGESTION, THE DEGREE TO WHICH THE PROJECT WILL REDUCE TRAFFIC CONGESTION.**~~

~~(xi) **FOR IMPROVING COMMUTE TIMES, THE DEGREE TO WHICH THE PROJECT WILL IMPROVE COMMUTE TIMES.**~~

~~(3) The Department shall multiply the total combined score of each major transportation project by a weighting factor equal to one plus the results of dividing the~~

~~population in the area served by the project, as determined [in regulations adopted] by the Department, by the population of Maryland.~~

(d) (1) The score of a major transportation project shall be based solely on the goals and measures established under subsection (c) of this section.

(2) [Except as provided under paragraph (3) of this subsection, the Department shall prioritize major transportation projects with higher scores for inclusion in the Consolidated Transportation Program over major transportation projects with lower scores.

(3) The Department may include in the Consolidated Transportation Program a major transportation project with a lower score over a major transportation project with a higher score if it provides in writing a rational basis for the decision.] **THE DEPARTMENT SHALL MAKE THE SCORES OF ALL PROJECTS EVALUATED FOR INCLUSION IN THE CONSOLIDATED TRANSPORTATION PROGRAM AND ASSIGNED A SCORE UNDER THE MODEL AVAILABLE TO THE PUBLIC:**

**(I) AS AN APPENDIX TO THE CONSOLIDATED TRANSPORTATION PROGRAM; AND**

**(II) ON THE DEPARTMENT'S WEB SITE.**

(e) Nothing in this section may be construed to impede or alter:

(1) The priority letter process that outlines local transportation priorities for the Department's consideration for inclusion in the Consolidated Transportation Program under § 2-103.1 of this subtitle; [or]

(2) The Department's visit to each county under § 2-103.1(e) of this subtitle; OR

**(3) THE INCLUSION OF LOCAL TRANSPORTATION PRIORITIES IN THE CONSOLIDATED TRANSPORTATION PROGRAM.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted:~~

(a) There is a Workgroup on the Maryland Open Transportation Investment Decision Act.

~~(b) The Workgroup consists of the following members:~~

- ~~(1) the Majority Leader of the Senate of Maryland, or the Majority Leader's designee;~~
- ~~(2) the Minority Leader of the Senate of Maryland, or the Minority Leader's designee;~~
- ~~(3) the Majority Leader of the House of Delegates, or the Majority Leader's designee;~~
- ~~(4) the Minority Leader of the House of Delegates, or the Minority Leader's designee;~~
- ~~(5) one representative of the Senate Budget and Taxation Committee, appointed by the President of the Senate;~~
- ~~(6) one representative of the House Appropriations Committee, appointed by the Speaker of the House; and~~
- ~~(7) the Secretary of Transportation, or the Secretary's designee.~~

*(b) (1) Subject to paragraph (2) of this subsection, the Workgroup consists of the following members:*

- (i) three members of the Senate of Maryland, appointed by the President of the Senate;*
- (ii) three members of the House of Delegates, appointed by the Speaker of the House; and*
- (iii) the Secretary of Transportation, or the Secretary's designee.*

*(2) Appointments made under paragraph (1)(i) and (ii) of this subsection shall include at least one member of the minority party from each House of the General Assembly.*

*(c) The President of the Senate and the Speaker of the House shall each designate a cochair of the Workgroup.*

*(d) (1) The Department of Legislative Services shall provide staff for the Workgroup.*

*(2) The Department of Transportation, in consultation with metropolitan planning organizations in the State, shall provide technical assistance to the Workgroup.*

*(e) A member of the Workgroup:*

- (1) may not receive compensation as a member of the Workgroup; but
  - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) (1) The Workgroup shall:
- (i) evaluate the model required under § 2–103.7(b) of the Transportation Article, as enacted by this Act;
  - (ii) evaluate how prioritizing major transportation projects with higher scores for inclusion in the Consolidated Transportation Program over major transportation projects with lower scores applies to the Consolidated Transportation Program in fiscal years 2019 ~~and 2020~~, 2020, and 2021;
  - (iii) evaluate the prioritization process in ~~Virginia and North Carolina~~ other states, including Virginia and North Carolina, and the applicability of these processes in Maryland;
  - (iv) evaluate regional prioritization processes and the applicability of these processes in Maryland; and
  - (v) make recommendations regarding whether modifications or changes to § 2–103.7 of the Transportation Article should be made.
- (2) The Workgroup may:
- (i) evaluate and test alternative models for prioritizing major transportation projects; and
  - (ii) evaluate how alternative models would apply to the Consolidated Transportation Program in fiscal years 2019 ~~and 2020~~, 2020, and 2021.
- (3) In conducting its evaluation, the Workgroup shall solicit input from:
- (i) local governments;
  - (ii) transportation planning organizations;
  - (iii) the Maryland Transit Administration;
  - (iv) the Maryland Transportation Authority; and
  - (v) other interested parties, such as nonprofit organizations and institutions of higher education with transportation-related expertise.

(g) On or before January 1, ~~2019~~ 2020, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. ~~Section 2 of this Act shall remain effective for a period of  $\frac{2}{3}$  3 years and 6 months and, at the end of June 30, December 31, 2019~~ June 30, 2020, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, April 11, 2017.**