

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Transportation**
(DLS Control No. 16-219)

Overview and Legal and Fiscal Impact

The regulations implement Chapter 36 of 2016 by establishing a scoring and ranking system for major transportation projects.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Transportation:

Office of the Secretary: Major Transportation Project Scoring and Ranking System:
COMAR 11.01.18.01 and .02

Legal Analysis

Background

Chapter 36 of 2016 established State transportation goals and measures that must be used to evaluate whether and to what extent certain transportation projects meet these transportation goals. The goals established under Chapter 36 are: (1) safety and security; (2) system preservation; (3) quality of service; (4) environmental stewardship; (5) community vitality; (6) economic prosperity; (7) equitable access to transportation; (8) cost effectiveness and return on investment; and (9) local priorities and planning.

Using the goals and measures established under Chapter 36, the Maryland Department of Transportation must develop a project-based scoring system for major transportation projects. Major transportation projects are specified projects in the State Highway Administration or the Maryland Transit Administration whose total cost for all phases exceeds \$5.0 million and that (1) increases highway or transit capacity; (2) improves transit stations or station areas; or (3) improves highway capacity through the use of intelligent transportation systems or congestion management systems. Projects with higher scores must be prioritized for inclusion in the Consolidated Transportation Program (CTP) over projects with lower scores; however, the department may include a project with a lower score in the CTP over a project with a higher score if it provides in writing a rational basis for the decision.

Summary of Regulations

The regulations implement Chapter 36 of 2016 by establishing a scoring system using the goals and measures established under Chapter 36 for ranking major transportation projects. The regulations also assign weighting metrics for each goal and measure, and specify the equation to be used when calculating a weighted project score. Lastly, the regulations require the department to use the weighted project score to rank a major transportation project for inclusion in the draft and final CTP.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-103.1 and 2-103.7 of the Transportation Article as statutory authority for the regulations. Specifically, § 2-103.7 requires the department to establish in regulations a project-based scoring system for major transportation projects and develop weighting metrics for each goal and measure established under the section.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

DLS notes that the regulations establish the second measure under the goal “Community Vitality” as “[t]he degree to which the project enhances community assets”; however, Chapter 36 of 2016 established the second measure under the goal “Community Vitality” as “[t]he degree to which the project enhances *existing* community assets” (emphasis added). The department advises that the omission of the word “existing” is a typographical error. The department further advises that it intends to revise the regulations to parallel the statute and fix other technical errors prior to publication in the Maryland Register.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations merely implement Chapter 36 of 2016 (House Bill 1013) and that any fiscal impact has already been accounted for in the fiscal and policy note for House Bill 1013. The Department of Legislative Services concurs. The fiscal and policy note for House Bill 1013 estimated that special fund expenditures increase by \$2.4 million in fiscal

2017 to develop and implement a transportation project-based scoring system; that estimate reflected costs to hire additional staff, develop new software systems, and procure contractual services to assist in the development of the system and the initial evaluation of major projects. The fiscal and policy note also indicated that while the bill does not impose any additional responsibilities on local governments and thus does not require additional local government expenditures, to the extent that local jurisdictions choose to conduct additional analyses, local expenditures may increase.

The Department of Legislative Services notes that some of the costs that were assumed to take place in fiscal 2017 may not be realized until fiscal 2018 or later. Specifically, the department advises that it has not yet needed to hire any additional full-time staff or acquire contractual services. As the development and implementation of the system continues, the department expects to hire additional staff and procure contractual services, as discussed in the fiscal and policy note.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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