
By: **Delegates Sher, Benson, Bronrott, Cadden, Goldwater, Heller, Hubbard,
Kopp, and Riley**

Introduced and read first time: February 9, 2001

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Growth Management - Transportation and Community Facilities -**
3 **Adequacy**

4 FOR the purpose of requiring that certain demands projected in the land use element
5 of certain comprehensive plans be within certain capacities for certain
6 transportation and community facilities; requiring that certain facilities in the
7 transportation element of certain comprehensive plans be consistent with a
8 certain plan; allowing certain applications for certain developments to be
9 approved only if certain transportation facilities exist or are consistent with
10 certain programs; allowing the approval of certain standards and developments
11 under certain circumstances; requiring local jurisdictions to report certain
12 approvals to the Secretary of Transportation; requiring the Secretary to report
13 on certain matters regarding the Consolidated Transportation Program to the
14 General Assembly; applying this Act to all local jurisdictions, including charter
15 counties; providing for the application of this Act; and generally relating to
16 growth management and adequacy of transportation and community facilities.

17 BY repealing and reenacting, with amendments,
18 Article 66B - Land Use
19 Section 1.02, 1.03(a) and (d), 2.13, and 3.05(a)(4) and (5)
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2000 Supplement)

22 BY adding to
23 Article 66B - Land Use
24 Section 10.02
25 Annotated Code of Maryland
26 (1998 Replacement Volume and 2000 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Transportation
29 Section 2-103.1(c)(3)(v) and (vi)
30 Annotated Code of Maryland

1 (1993 Replacement Volume and 2000 Supplement)

2 BY adding to

3 Article - Transportation

4 Section 2-103.1(c)(3)(vi) and (vii)

5 Annotated Code of Maryland

6 (1993 Replacement Volume and 2000 Supplement)

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

9 **Article 66B - Land Use**

10 1.02.

11 (a) Except as provided in this section, this article does not apply to charter
12 counties.

13 (b) The following sections of this article apply to a charter county:

14 (1) § 1.00(j) (Definition of "sensitive areas");

15 (2) § 1.01 (Visions);

16 (3) § 1.03 (Charter county - Comprehensive plans);

17 (4) § 4.01(b)(2) (Regulation of bicycle parking);

18 (5) § 5.03(d) (Easements for burial sites);

19 (6) § 7.02 (Civil penalty for zoning violation);

20 (7) § 10.01 (Adequate Public Facilities Ordinances);

21 (8) § 10.02 (TRANSPORTATION AND COMMUNITY FACILITIES);

22 (9) § 11.01 (Transfer of Development Rights);

23 [(9)] (10) § 12.01 (Inclusionary Zoning);

24 [(10)] (11) Except in Montgomery County or Prince George's County, §
25 13.01 (Development Rights and Responsibilities Agreements); and

26 [(11)] (12) For Baltimore County only, § 14.02.

27 (c) This section supersedes any inconsistent provision of Article 28 of the
28 Code.

1 1.03.

2 (a) (1) When developing a comprehensive plan for a charter county, a
3 planning commission shall include:

4 (I) A LAND USE PLAN ELEMENT, WHICH:

5 1. SHALL PROPOSE THE MOST APPROPRIATE AND
6 DESIRABLE PATTERNS FOR THE GENERAL LOCATION, CHARACTER, EXTENT, AND
7 INTERRELATIONSHIP OF THE USES OF PUBLIC AND PRIVATE LAND, ON A SCHEDULE
8 THAT EXTENDS AS FAR INTO THE FUTURE AS IS REASONABLE; AND

9 2. MAY INCLUDE PUBLIC AND PRIVATE, RESIDENTIAL,
10 COMMERCIAL, INDUSTRIAL, AGRICULTURAL, AND RECREATIONAL LAND USES;

11 [(i)] (II) A transportation plan element which shall:

12 1. Propose the most appropriate and desirable patterns for
13 the general location, character, and extent of the channels, routes, and terminals for
14 transportation facilities, CONSISTENT WITH THE MARYLAND TRANSPORTATION PLAN
15 DEVELOPED UNDER § 2-103.1 OF THE TRANSPORTATION ARTICLE WITH RESPECT TO
16 STATE-FUNDED FACILITIES, and for the circulation of persons and goods on a
17 schedule that extends as far into the future as is reasonable;

18 2. Provide for bicycle and pedestrian access and travelways;
19 and

20 3. Include an estimate of the probable utilization of any
21 proposed improvement;

22 (III) A COMMUNITY FACILITIES PLAN ELEMENT, WHICH:

23 1. SHALL PROPOSE THE MOST APPROPRIATE AND
24 DESIRABLE PATTERNS FOR THE GENERAL LOCATION, CHARACTER, AND EXTENT OF
25 PUBLIC AND SEMIPUBLIC BUILDINGS, LAND, AND FACILITIES ON A SCHEDULE THAT
26 EXTENDS AS FAR INTO THE FUTURE AS IS REASONABLE; AND

27 2. MAY INCLUDE PARKS AND RECREATION AREAS, SCHOOLS
28 AND OTHER EDUCATIONAL AND CULTURAL FACILITIES, LIBRARIES, CHURCHES,
29 HOSPITALS, SOCIAL WELFARE AND MEDICAL FACILITIES, INSTITUTIONS, FIRE
30 STATIONS, POLICE STATIONS, JAILS, OR OTHER PUBLIC OFFICE OR ADMINISTRATIVE
31 FACILITIES;

32 [(ii)] (IV) If current geological information is available, a mineral
33 resources plan element that:

34 1. Identifies undeveloped land that should be kept in its
35 undeveloped state until the land can be used to provide or assist in providing a
36 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

1 [~~(3)~~] (4) The mineral resources plan element required under paragraph
2 [~~(1)(ii)~~] (1)(IV) of this subsection shall be incorporated in:

3 (i) Any new comprehensive plan adopted after July 1, 1986 for all
4 or any part of a jurisdiction; and

5 (ii) Any amendment or addition that is adopted after July 1, 1986
6 to a comprehensive plan that was in effect on July 1, 1985.

7 (d) On or before July 1, 1997, and subsequently at intervals of not more than
8 6 years which correspond to the comprehensive plan revision under subsection (b) of
9 this section, a charter county shall ensure that the implementation of the provisions
10 of the comprehensive plan that comply with § 1.01 of this article and subsection
11 [~~(a)(1)(iii) and (iv)~~] (A)(1)(V) AND (VI) of this section are achieved through the adoption
12 of:

13 (1) Applicable zoning ordinances and regulations;

14 (2) Planned development ordinances and regulations;

15 (3) Subdivision ordinances and regulations; and

16 (4) Other land use ordinances and regulations that are consistent with
17 the comprehensive plan.

18 2.13.

19 (a) Except as provided in subsection (b) of this section, Sections 3.01 through
20 8.15 of this article do not apply in Baltimore City.

21 (b) The following sections of this article apply to Baltimore City:

22 (1) § 1.00(j) (Definition of "sensitive areas");

23 (2) § 1.01 (Visions);

24 (3) § 1.03 (Charter county - Comprehensive plans);

25 (4) § 4.01(b)(2) (Regulation of bicycle parking);

26 (5) § 5.03(d) (Easements for burial sites);

27 (6) § 7.02 (Civil penalty for zoning violation);

28 (7) § 10.01 (Adequate Public Facilities Ordinances);

29 (8) § 10.02 (TRANSPORTATION AND COMMUNITY FACILITIES);

30 (9) § 11.01 (Transfer of Development Rights);

31 [~~(9)~~] (10) § 12.01 (Inclusionary Zoning); and

1 [(10)] (11) § 13.01 (Development Rights and Responsibilities Agreements).
2 3.05.

3 (a) (4) The plan shall contain at a minimum the following elements:

4 (i) A statement of goals and objectives, principles, policies, and
5 standards, which shall serve as a guide for the development and economic and social
6 well-being of the local jurisdiction;

7 (ii) A land use plan element, which:

8 1. Shall propose the most appropriate and desirable patterns
9 for the general location, character, extent, and interrelationship of the uses of public
10 and private land, on a schedule that extends as far into the future as is reasonable;
11 and

12 2. May include public and private, residential, commercial,
13 industrial, agricultural, and recreational land uses;

14 (iii) A transportation plan element which shall:

15 1. Propose the most appropriate and desirable patterns for
16 the general location, character, and extent of the channels, routes, and terminals for
17 transportation facilities, CONSISTENT WITH THE MARYLAND TRANSPORTATION PLAN
18 DEVELOPED UNDER § 2-103.1 OF THE TRANSPORTATION ARTICLE WITH RESPECT TO
19 STATE-FUNDED FACILITIES, and for the circulation of persons and goods on a
20 schedule that extends as far into the future as is reasonable;

21 2. Provide for bicycle and pedestrian access and travelways;
22 and

23 3. Include an estimate of the probable utilization of any
24 proposed improvement;

25 (iv) A community facilities plan element, which:

26 1. Shall propose the most appropriate and desirable patterns
27 for the general location, character, and extent of public and semipublic buildings,
28 land, and facilities on a schedule that extends as far into the future as is reasonable;
29 and

30 2. May include parks and recreation areas, schools and other
31 educational and cultural facilities, libraries, churches, hospitals, social welfare and
32 medical facilities, institutions, fire stations, police stations, jails, or other public office
33 or administrative facilities;

34 (v) If current geological information is available, a mineral
35 resources plan element that:

1 (II) The transportation element may include all types of highways
2 and streets, bicycle ways, sidewalks, railways, waterways, airways, routings for mass
3 transit, and terminals for people, goods, and vehicles related to highways, airways,
4 waterways, and railways.

5 [(ii)] (III) The mineral resources plan element shall be incorporated
6 in:

7 1. Any new plan adopted after July 1, 1986 for all or any part
8 of a local jurisdiction; and

9 2. Any amendment or addition that is adopted after July 1,
10 1986 to a plan that was in effect on July 1, 1985.

11 10.02.

12 (A) IN THIS SECTION, LEVELS OF SERVICE ARE THOSE PROVIDED IN THE
13 "HIGHWAY CAPACITY MANUAL", SPECIAL REPORT 209 OF THE TRANSPORTATION
14 RESEARCH BOARD OF THE NATIONAL ACADEMY OF SCIENCES, AS AMENDED.

15 (B) A LOCAL JURISDICTION MAY ONLY APPROVE AN APPLICATION FOR
16 DEVELOPMENT IF TRANSPORTATION FACILITIES SUFFICIENT TO SUPPORT THE
17 TRANSPORTATION DEMANDS FOR STATE-FUNDED TRANSPORTATION
18 INFRASTRUCTURE THAT ARE PROJECTED TO OCCUR IN ANY COUNTY BECAUSE OF
19 THE PROPOSED DEVELOPMENT:

20 (1) EXIST; OR

21 (2) ARE CONSISTENT WITH THE TRANSPORTATION ELEMENT
22 DEVELOPED AND APPROVED UNDER § 1.03(A)(1)(II) OR § 3.05(A)(1)(II) OF THIS ARTICLE,
23 AS APPROPRIATE, AND ARE:

24 (I) LISTED IN:

25 1. THE HIGHWAY CONSTRUCTION PROGRAM PREPARED
26 UNDER § 8-613 OF THE TRANSPORTATION ARTICLE FOR EACH AFFECTED COUNTY; OR

27 2. THE CONSOLIDATED TRANSPORTATION PROGRAM UNDER
28 § 2-103.1 OF THE TRANSPORTATION ARTICLE; OR

29 (II) FOR DEVELOPMENT PROPOSED TO OCCUR AT LEAST 6 YEARS IN
30 THE FUTURE, DETERMINED BY THE SECRETARY OF TRANSPORTATION TO BE
31 REASONABLY FORESEEABLE TO BE IN PLACE AND CONSISTENT WITH THE
32 MARYLAND TRANSPORTATION PLAN UNDER § 2-103.1 OF THE TRANSPORTATION
33 ARTICLE.

34 (C) FOR PURPOSES OF PROJECTION UNDER SUBSECTION (B) OF THIS
35 SECTION:

1 (1) THE DISTANCE FROM THE PROPOSED DEVELOPMENT SHALL BE
2 COMMENSURATE WITH THE SIZE AND OTHER RELEVANT ATTRIBUTES OF THE
3 PROPOSED DEVELOPMENT; AND

4 (2) ANY PROJECTION SHALL INCLUDE ANY PORTION OF STATE-FUNDED
5 INFRASTRUCTURE THAT MAY REASONABLY BE EXPECTED TO BE AFFECTED BY THE
6 PROPOSED DEVELOPMENT, AND FOR WHICH THE CAPACITY OF THAT
7 INFRASTRUCTURE MAY NOT BE SUFFICIENT TO MEET THE DEMANDS CREATED BY
8 THE DEVELOPMENT.

9 (D) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION,
10 FOR PURPOSES OF THIS SECTION, A TRANSPORTATION FACILITY THAT IS A ROAD OR
11 HIGHWAY IS SUFFICIENT IF IT IS PROJECTED TO:

12 (I) OPERATE FOR THE NEXT 10 YEARS AT A LEVEL OF SERVICE OF
13 D OR BETTER AT ALL HOURS; OR

14 (II) MEET AN ALTERNATIVE STANDARD THAT THE DEPARTMENT OF
15 TRANSPORTATION DETERMINES SHALL PROVIDE THE SAME OR LESSER LEVEL OF
16 CONGESTION.

17 (2) A PROJECTION UNDER THIS SUBSECTION SHALL FULLY
18 INCORPORATE PROJECTIONS OF:

19 (I) DEMAND TO BE:

20 1. DIVERTED TO OTHER TRANSPORTATION MODES
21 THROUGH INCREASING THE LEVEL AND AVAILABILITY OF PUBLIC
22 TRANSPORTATION; OR

23 2. REDUCED BY DEMAND REDUCTION MEASURES; AND

24 (II) CAPACITY TO BE INCREASED BY IMPROVED SIGNALIZATION
25 AND OTHER MEASURES.

26 (E) NOTWITHSTANDING SUBSECTIONS (B) AND (D) OF THIS SECTION, A LOCAL
27 JURISDICTION MAY APPROVE A PROPOSED DEVELOPMENT IF THE DEMANDS
28 CREATED BY THE PROPOSED DEVELOPMENT ARE PROJECTED TO RESULT IN NOT
29 MORE THAN A MINIMAL FURTHER DEGRADATION OF OPERATION OF STATE-FUNDED
30 INFRASTRUCTURE.

31 (F) (1) THIS SUBSECTION APPLIES TO PROPOSED DEVELOPMENT LOCATED
32 IN A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE
33 AND PROCUREMENT ARTICLE.

34 (2) A LOCAL JURISDICTION MAY ADOPT A LOWER SUFFICIENCY
35 STANDARD THAN THE STANDARD UNDER SUBSECTION (D) OF THIS SECTION, IF THE
36 LOCAL LEGISLATIVE BODY FINDS THAT THE LOWER STANDARD IS IN THE OVERALL
37 PUBLIC INTEREST.

1 (3) NOTWITHSTANDING SUBSECTIONS (B) AND (D) OF THIS SECTION, A
2 LOCAL JURISDICTION THAT HAS NOT ADOPTED A LOWER SUFFICIENCY STANDARD
3 UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY APPROVE AN INDIVIDUAL
4 APPLICATION FOR DEVELOPMENT THAT FAILS TO COMPLY WITH THE STANDARD
5 UNDER SUBSECTION (B) OF THIS SECTION, IF THE LOCAL LEGISLATIVE BODY FINDS
6 THAT THE DEVELOPMENT IS IN THE OVERALL PUBLIC INTEREST.

7 (4) THE OVERALL PUBLIC INTEREST UNDER THIS SUBSECTION MAY
8 INCLUDE MITIGATION OF REGIONAL TRANSPORTATION CONGESTION BY LOCATING
9 APPROPRIATE DEVELOPMENT NEAR MASS TRANSIT OR RAIL FACILITIES.

10 (5) EACH APPROVAL OF A STANDARD OR OF A PROPOSED DEVELOPMENT
11 UNDER THIS SUBSECTION SHALL INCORPORATE REASONABLE MEASURES TO
12 MINIMIZE AND MITIGATE CONGESTION IMPACTS DUE TO DEVELOPMENT.

13 (6) THE LOCAL JURISDICTION SHALL REPORT TO THE SECRETARY OF
14 TRANSPORTATION ANY APPROVAL OF A STANDARD OR OF A PROPOSED
15 DEVELOPMENT GRANTED UNDER THIS SUBSECTION THAT DOES NOT COMPLY WITH
16 THE STANDARD UNDER SUBSECTION (D) OF THIS SECTION.

17 (G) (1) THE SECRETARY OF TRANSPORTATION SHALL INCLUDE THE
18 DETERMINATIONS MADE UNDER SUBSECTION (B)(2)(II) OF THIS SECTION IN THE
19 REPORT ON THE CONSOLIDATED TRANSPORTATION PROGRAM UNDER §
20 2-103.1(C)(3)(VI) OF THE TRANSPORTATION ARTICLE.

21 (2) A DETERMINATION MAY NOT BE CONSTRUED AS A COMMITMENT BY
22 THE SECRETARY TO ADVANCE THE AFFECTED TRANSPORTATION FACILITY TO A
23 FUTURE CONSOLIDATED TRANSPORTATION PROGRAM.

24 (3) AN APPROVAL BY A LOCAL JURISDICTION OF A TRANSPORTATION
25 FACILITY UNDER SUBSECTION (B) OF THIS SECTION IS NOT SUBJECT TO
26 ADVANCEMENT OF THE FACILITY TO A FUTURE CONSOLIDATED TRANSPORTATION
27 PROGRAM AS A CONDITION OF APPROVAL, UNLESS THE LOCAL JURISDICTION
28 IMPOSES THAT CONDITION ON THE APPROVAL.

29 (H) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT THE
30 AUTHORITY OF A LOCAL JURISDICTION TO ADOPT:

31 (1) STRICTER SUFFICIENCY STANDARDS THAN ARE IMPOSED BY THIS
32 SECTION; OR

33 (2) ANY OTHER ADEQUATE PUBLIC FACILITIES ORDINANCE OR
34 REGULATION THAT IS NOT INCONSISTENT WITH THIS SECTION.

35 **Article - Transportation**

36 2-103.1.

37 (c) (3) Annually, the Consolidated Transportation Program shall include a
38 report that:

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

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

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

6 (VI) IDENTIFIES EACH APPLICATION FOR DEVELOPMENT IN A
7 PRIORITY FUNDING AREA APPROVED BY A LOCAL JURISDICTION UNDER ARTICLE
8 66B, § 10.02(F) OF THE CODE, FOR WHICH THE LOCAL JURISDICTION HAS ADVISED
9 THE DEPARTMENT THAT THE STANDARDS OF ARTICLE 66B, § 10.02(D) WILL NOT BE
10 MET AND INCLUDES A BRIEF DISCUSSION OF THE CONCEPT AND COST OF FEASIBLE
11 CAPITAL IMPROVEMENTS AND OTHER MEASURES, INCLUDING IMPROVED
12 SIGNALIZATION AND AVAILABILITY OF PUBLIC TRANSPORTATION, THAT MAY
13 MITIGATE CONGESTION ON STATE-FUNDED INFRASTRUCTURE IMPACTED BY THE
14 DEVELOPMENT, WHICH MEASURES SHOULD BE CONSIDERED FOR INCLUSION IN
15 LATER REVISIONS OF THE CONSOLIDATED TRANSPORTATION PROGRAM;

16 (VII) IDENTIFIES PROJECTS THAT THE SECRETARY HAS
17 DETERMINED TO BE REASONABLY FORESEEABLE, ALLOWING A LOCAL
18 JURISDICTION TO APPROVE AN APPLICATION FOR DEVELOPMENT UNDER ARTICLE
19 66B, § 10.02(B)(2)(II) OF THE CODE, WHICH PROJECTS SHOULD BE CONSIDERED FOR
20 INCLUSION IN LATER REVISIONS OF THE CONSOLIDATED TRANSPORTATION
21 PROGRAM, BUT ARE NOT CONSIDERED COMMITTED FOR INCLUSION ON ACCOUNT OF
22 THE SECRETARY'S DETERMINATION; AND

23 [(vi)] (VIII) Includes any other information that the Secretary
24 believes would be useful to the members of the General Assembly or other recipients
25 of the Consolidated Transportation Program.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed only prospectively and may not be applied or interpreted to have any effect
28 on or application to any local comprehensive plan, master plan, sector plan, or
29 implementing ordinance or policy, or to any State development policy, the
30 development, implementation, enactment, or amendment of which begins before the
31 effective date of this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2001.