

**Department of Legislative Services**  
 Maryland General Assembly  
 2001 Session

**FISCAL NOTE**

House Bill 1033 (Delegate Sher, et al.)  
 Environmental Matters

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

This bill amends the State zoning and planning law (Article 66B) and the Transportation Article to establish an adequacy link between land use and transportation infrastructure.

**Fiscal Summary**

**State Effect:** General fund expenditure increase of \$103,000 and Transportation Trust Fund (TTF) expenditure increase of \$154,500 in FY 2002 to review proposed developments and determine adequacy of facilities. This estimate does not include any TTF expenditures for any highway improvements that would occur as a result of the bill. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating expenses. No effect on revenues.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	103,000	129,900	136,600	143,800	151,400
SF Expenditure	154,500	194,800	204,900	215,700	227,100
Net Effect	(\$257,500)	(\$324,700)	(\$341,500)	(\$359,500)	(\$378,500)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential significant increase in local expenditures. No effect on revenues.  
**This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill requires a planning commission, in developing a comprehensive plan for a charter county or Baltimore City, to include a land use plan element and a community facilities element, as specified by the bill. The bill also provides that in its transportation plan element required under current law, a local jurisdiction's proposals relating to State-funded facilities must be consistent with the Maryland Transportation Plan. Except for specified exceptions approved by a local legislative body, the demands projected by the land use element must be fully within the capacity allowed by the transportation infrastructure and community facilities elements included in the plan.

A local jurisdiction may only approve an application for development if transportation facilities sufficient to support the transportation demands for State-funded transportation infrastructure that are projected to occur in any county because of the proposed development exist or are consistent with the transportation element of the land use plan and are listed in the Highway Construction Program or the Consolidated Transportation Program (CTP). A local jurisdiction may approve a proposed development if the demands created by the proposed development are projected to result in not more than a minimal further degradation of operation of State-funded infrastructure, based on "levels of service" as provided in a specified federal transportation manual.

For a proposed development in a priority funding area, a local jurisdiction may adopt a lower sufficiency standard if it finds that the lower standard is in the overall public interest. A local jurisdiction that has not adopted a lower sufficiency standard may approve an individual application that fails to comply with the standard if it finds that the development is in the overall public interest. Each approval of a standard or of a proposed development must incorporate reasonable measures to minimize and mitigate congestion impacts due to development. The local jurisdiction must report to the Maryland Department of Transportation (MDOT) any approval of a standard or of a proposed development granted pursuant to the bill that does not comply with the standard established as a result of the bill. MDOT must include the determinations made in the report on the CTP, but a determination may not be construed as a commitment to advance the affected transportation facility to a future CTP. The bill does not limit the authority of a local jurisdiction to adopt stricter sufficiency standards or any other adequate public facilities ordinance or regulation that is not inconsistent with the bill.

**Current Law:** Article 66B governs zoning and planning in the State. It has limited applicability to charter counties and Baltimore City. Local planning commissions are required to develop and approve a plan that must: (1) be recommended to the local legislative body for adoption; and (2) serve as a guide to public and private actions and decisions relating to development. The plan, at a minimum, must contain a statement of

goals and standards, a land use plan element, a transportation plan element, a community facilities plan element, a mineral resources plan element under specified conditions, recommendations for land development regulations, recommendations for the designation of areas of critical concern, and a sensitive area element. For charter counties and Baltimore City, the plan must include a transportation plan element, a mineral resources plan element under specified circumstances, recommendations for land development regulations, and a sensitive areas element.

**Background:** Twelve local jurisdictions currently operate under an Adequate Public Facilities Ordinance (APFO), which limits growth to the existence of adequate public facilities. Proposed projects are analyzed for adequacy of existing facilities on a project-by-project basis. The Maryland Department of Planning (MDP) is currently examining methods to use computer modeling to address adequate public facility analyses on a larger scale.

The federal Highway Capacity Manual includes several levels of service that relate to traffic movements. Levels of service are generally higher, or better, in less congested areas such as rural areas. Congested areas have lower levels of service.

**State Expenditures:** By requiring additional analysis of proposed developments and the adequacy of transportation infrastructure, the bill will necessitate additional review and analysis by both MDP and MDOT. In fiscal 2002 general fund expenditures could increase by \$103,000 for MDP and TTF expenditures could increase by \$154,500 for MDOT as follows:

*Maryland Department of Planning*

General fund expenditures could increase by an estimated \$103,000 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring two planners to review local development plans for the adequacy of transportation facilities within priority funding areas and to examine local findings and decisions regarding proposed developments. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$92,500
Equipment	9,100
Operating Expenses	<u>1,400</u>
<b>Department of Planning FY 2002 Expenditures</b>	<b>\$103,000</b>

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

*Maryland Department of Transportation*

MDOT advises that TTF expenditures would increase by approximately \$410,000 in fiscal 2002 to hire nine transportation planners to perform consistency reviews of local plans; determine levels of service for all facilities; and report determinations, standards, and development activity to the General Assembly. Legislative Services advises, however, that because MDOT currently reviews traffic reports completed as a result of APFOs to determine the effect that proposed developments will have on State highways, and because MDP will also be reviewing local plans and the adequacy of facilities in priority funding areas, the need for nine additional employees is unclear at this time. Accordingly, Legislative Services advises that TTF expenditures could increase by an estimated \$154,500 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring three transportation planners to perform consistency reviews of local comprehensive plans; determine levels of service; and report determinations, standards, and development activity to the General Assembly. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$138,700
Equipment	13,700
Operating Expenses	<u>2,100</u>
<b>MDOT FY 2002 TTF Expenditures</b>	<b>\$154,500</b>

This estimate does not include any expenditures related to highway improvements. To the extent that developments proposed in areas with inadequate State highway facilities require additional improvements to be made to the State highway system, TTF expenditures could increase. Any such improvements and their costs cannot be predicted at this time.

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Should three transportation planners prove insufficient to perform the requirements of the bill, MDOT may request additional positions in the annual budget process.

**Local Fiscal Effect:** The bill would likely result in an increase in local expenditures to analyze the adequacy of public facilities and levels of service before development permits  
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are issued. According to the MDP at least one or two additional transportation planning staff may be needed in many local jurisdictions to effectively model the overall impacts of proposed developments. The bill could also result in the delay or prohibition of projects within areas where adequate public facilities or levels of service do not exist. Because the bill ties proposed developments to State-funded transportation infrastructure, local jurisdictions will have little control over what improvements can be made and, therefore, which projects move forward. The bill could also, in many instances, result in increased pressure for local funding of improvements so that projects can be permitted. Any fiscal effect cannot be quantified at this time, but could be significant, especially for local jurisdictions in urban areas and local jurisdictions that do not already have a similar APFO in place. Local jurisdictions that do not already have a land use plan element and a community facilities plan element in their comprehensive plans could also incur increased costs to develop those elements and incorporate them into their plans.

**Small Business Effect:** Small businesses wishing to locate in areas without adequate public facilities or levels of service could be denied a zoning or building permit. Because levels of service are generally higher in rural areas and lower in more congested areas, small businesses involved with the establishment of proposed developments in urban areas could be prohibited from developing in those areas.

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### **Additional Information**

**Prior Introductions:** Similar legislation was introduced during the 2000 session as HB 900. The bill received an unfavorable report from the House Environmental Matters Committee.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Maryland Department of Planning, Maryland Department of Transportation, Montgomery and Prince George's counties, Department of Legislative Services

**Fiscal Note History:** First Reader –March 1, 2001  
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Analysis by: Lesley Frymier

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510

