

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 938 (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 \$91,100 and Transportation Trust Fund (TTF) expenditure increase of \$139,000 in FY 2003 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 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	91,100	110,000	115,000	120,300	126,000
SF Expenditure	139,000	168,000	175,600	183,700	192,300
Net Effect	(\$230,100)	(\$278,000)	(\$290,600)	(\$304,000)	(\$318,300)

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 that planning commissions that are developing a comprehensive plan for charter counties and Baltimore City include: (1) a land use element that proposes the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and semipublic land and facilities; (2) a community facilities element that also proposes appropriate patterns for certain facilities such as parks, jails, libraries, and churches; and (3) a transportation element that is consistent with the Maryland Transportation Plan with respect to State-funded facilities.

Except for specified exceptions approved by a local legislative body, the demand of the land use element must be within the capacity of the transportation infrastructure and community facilities and planned with due regard to neighboring counties' existing and planned infrastructure. A local jurisdiction may only approve an application for development if State-funded infrastructure (e.g., highways) can accommodate the projected demand that the development would impose on that infrastructure or will be accommodated by projects listed in the six-year Consolidated Transportation Program (CTP) or Highway Infrastructure Program. This restriction only applies to an improvement to land or a change to an improvement that would generate more than 50 trips per day. Applications for a single development project may not be segmented in order to meet the 50-trip limit.

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 traffic density as measured by federal "levels of service."

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 (LOS) that relate to traffic movements. For example, LOS A describes free-flow speed in which vehicles can maneuver easily, whereas LOS D refers to traffic in which freedom to maneuver is noticeably limited and even minor incidents can create backups.

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 2003 general fund expenditures could increase by \$91,100 for MDP and TTF expenditures could increase by \$139,000 for MDOT as follows:

Maryland Department of Planning

General fund expenditures could increase by an estimated \$91,120 in fiscal 2003, which accounts for the bill's October 1, 2002 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

\$80,601

Equipment	9,376
Operating Expenses	<u>1,143</u>
Department of Planning FY 2003 Expenditures	\$91,120

Future year expenditures reflect: (1) full salaries with 3.5% annual increases with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Maryland Department of Transportation

MDOT would need to hire three 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. Accordingly, TTF expenditures could increase by an estimated \$138,975 in fiscal 2003 which accounts for the bill's October 1 effective date. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$123,246
Equipment	14,064
Operating Expenses	<u>1,665</u>
MDOT FY 2003 TTF Expenditures	\$138,975

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 3.5% annual increases with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

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 are issued. According to 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. For example, a convenience store may generate 50 or more trips per day, thus triggering the bill's review requirements. 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.

Additional Information

Prior Introductions: Similar legislation was introduced during the 2000 and 2001 sessions as HB 1033 and HB 900, respectively. These bills each received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Department of Planning, Montgomery County, Prince George's County, Garrett County, Department of Transportation, Department of Legislative Services

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Analysis by: Ann Marie Maloney

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