

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 1239 (Delegate Cane, *et al.*)  
Environmental Matters

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Annexation Planning and Procedures Act of 2006

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This bill provides for the implementation of a joint planning agreement (JPA) between a county and a municipal corporation, and sets forth provisions under which land may be annexed and developed by a municipal corporation.

The bill takes effect June 1, 2006.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Potential county expenditure decrease for public facilities and infrastructure. Potential loss of future tax and fee revenues for municipalities and counties; the impact would likely vary by jurisdiction. Potential increase in expenditures related to mediation and holding referendums for municipalities and counties, and a potential increase in contractual expenditures for municipalities. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:**

*Joint Planning Agreement*

This bill authorizes a municipal corporation to submit a request to the county in which it is located to enter into a JPA. If the parties do not agree to a JPA within a specified time frame, the bill has provisions under which mediation may occur.

The request to enter into a JPA must include a number of items, including:

- a description of past growth patterns of the municipal corporation;
- an analysis of the capacity of land areas available for development within the municipal corporation;
- a description of the relationship of the JPA to a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services;
- an analysis of the land area needed to satisfy demand for development at densities consistent with the long-term development policy;
- a proposal for a growth boundary beyond the existing borders of the municipal corporation within which future annexations are planned;
- description of the manner and timing by which the necessary public services and infrastructure will be provided to areas within the proposed growth boundary;
- a plan for protecting sensitive areas that could be impacted by development planned within the proposed growth boundary;
- an analysis of any burden on services and infrastructure for which the municipal corporation would be responsible for development in areas proximate to and outside the proposed growth boundary; and
- a description of the relationship of the long-term development policy to a vision of the municipal corporation's future character.

The bill sets forth procedures and time frames for which designated representatives who are both authorized and competent to discuss the items included in the request must be appointed by the parties, the creation of a meeting schedule, and the time frame for which responses to disagreements must be submitted. The representatives from each party must negotiate in good faith.

The JPA must (1) reflect the consideration of the factors included in the JPA request; and (2) include a description and map of the growth boundary for the municipal corporation. The bill provides for the enactment and amendment of the JPA. Upon enactment, the JPA is in effect for 10 years, unless otherwise agreed upon by the parties.

#### *Annexation of Land by a Municipal Corporation*

The bill provides that a municipal corporation annexing land outside of a growth boundary may not, for 10 years, develop the annexed land for a land use or at a density different from the land use or density specified in the zoning classification of the county at the time of annexation. The bill provides for the applicability of any county public

facilities ordinance to land annexed by a municipal corporation outside of a growth boundary.

The bill provides the procedures for holding a referendum when proposing a change in the boundaries of a municipal corporation. These procedures include provisions for a referendum by qualified voters living within one mile of a proposed annexation by a municipality exercising zoning authority, which is both outside a growth boundary and not substantially developed for a land use and at a density authorized by the county's zoning ordinance. The bill also contains provisions regarding who must pay the expenses associated with having a referendum.

The bill provides for an annexation agreement between the owners or developers within the proposed annexation and the municipal corporation. If the proposed annexation is outside of the growth boundary, the municipality must adopt an annexation plan. For an annexation within a growth boundary, the annexation agreement must implement and be consistent with the JPA. For an annexation outside of a growth boundary, the annexation agreement must implement and be consistent with the annexation plan and include the county as a party to the agreement. The annexation plan must contain:

- a description of the proposed land use and density for the area to be annexed;
- a description of the consistency of the proposed land use and density of the area to be annexed with the county's comprehensive master plan and zoning classification;
- an analysis of the capacity of land areas available for development within the municipal corporation;
- a description of the relationship of the plan to a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services;
- an analysis of the land area needed to satisfy demand for development at densities consistent with the long-term development policy;
- a description of the manner by which sensitive areas that could be impacted by development planned within the area to be annexed will be protected; and
- a description of the manner by which the necessary public services and infrastructure will be provided to the area to be annexed.

The bill makes provisions for the extension of water and sewer service to an annexed area within the growth boundaries.

**Current Law:** The legislative body of every municipal corporation in the State may enlarge its corporate boundaries as provided for in statute. In order to be annexed to a

municipality, the area must be contiguous and adjoining to the existing municipal corporate area and not located in another municipality. Certain procedural requirements are provided for in statute regarding annexations, including consent of at least 25% of the voters and owners of at least 25% of the assessable valuation of real property affected. Statute also contains provisions allowing for referendum regarding the annexation resolution if a petition is filed by at least 20% of the voters residing in the annexed area or if petitioned by a two-thirds majority vote of the governing body of the affected county.

A municipality's annexation resolution must provide that individuals residing in the area to be annexed and their property will be added to the corporate boundaries of the municipality. In addition to the resolution, but not part of it, the legislative body of the municipality must provide a proposed outline for the extension of services and public facilities into the area proposed to be annexed. The outline must contain a description of the land use pattern proposed for the area to be annexed, which may include any county master plan already in effect for the area, so as to demonstrate the available land for public facilities that may reasonably be considered to be necessitated by the proposed use. The outline must also contain a statement describing the schedule for extending to the area to be annexed each municipal service performed within the municipality at the time of annexation and a statement as to the general methods by which the municipality anticipates to finance the extension of municipal services into the area.

For five years, a municipality annexing land may not place that land in a zoning classification which permits land use substantially different from the land's use specified in the current adopted master plan or general plan (if applicable) of the county or agency having planning or zoning authority over the land.

**Background:** There are 156 municipalities in Maryland. Based on 2004 population estimates, approximately 15% of Maryland's population resides within municipalities (excluding Baltimore City). Municipalities in Maryland are relatively small, with 60%, or 94 municipalities, having fewer than 2,500 residents and 5%, or 8 municipalities, having more than 25,000 residents. Gaithersburg (Montgomery County) with 58,100 residents is Maryland's largest municipality, followed by Rockville (Montgomery County) with 57,100 residents and Frederick (Frederick County) with 57,000 residents. Port Tobacco (Charles County) is the smallest with 18 residents.

**Local Fiscal Effect:** This bill could potentially affect the revenues and expenditures of both counties and municipalities.

### *Fiscal Effect on Municipalities*

The Maryland Municipal League (MML) advises that the information and analyses necessary to (1) request that counties participate in a JPA; and (2) create an annexation plan, could be handled with existing staff in larger municipalities. The smaller municipalities, however, may need to contract out this work. The Town of Berlin advises, for example, that it may not have an individual who has the level of expertise required to participate in the negotiating of a JPA, and may have to contract with a person who does. The fiscal impact associated with hiring a person with the expertise to conduct the analyses and compile the information required would depend on how many times the services of a contractor would be needed, the time required to analyze and compile the information, and the time necessary for the negotiation of a JPA.

To the extent that potential future annexations fail to occur as a result of the bill's provisions, MML advises that potentially significant future revenues from taxes and fees would not materialize for municipalities.

### *Fiscal Effect on Counties*

The Maryland Association of Counties (MACo) advises that potential future county revenues resulting from a greater amount of taxes and fees collected from annexed areas developed beyond the current approved plan could not materialize. However, MACo further advises that unplanned development puts a strain on county public facilities and infrastructure, such as schools and roads. To the extent that the bill inhibits future unplanned use at a density different from the land use or density specified in the zoning classification, the county could save on expenditures related to public facilities and infrastructure. The net fiscal impact would depend on the amount of future county expenditures related to public facilities and infrastructure as a result of "planned" versus "unplanned" development, as well as what the county could possibly lose in foregone future tax and fee revenue, none of which can be reliably quantified at this time.

### *Fiscal Effect on Both Counties and Municipalities*

There could be an increase in expenditures related to the mediation of the JPA. The Maryland Mediation and Conflict Resolution Office advises that it provides informational, technical, and referral services to the parties. The fiscal impact would depend on the cost of the mediator, the length of the mediation process, and how often a mediator would be required, none of which can be reliably quantified at this time. The Mediation and Conflict Resolution Office advises that generally, mediators charge the parties on an hourly basis, the costs of which can range from \$250 to over \$600 per hour depending on the mediator chosen by the parties. The bill directs that these expenditures be shared equally between the municipality and the county, unless agreed otherwise.

To the extent that a greater number of referendums occur as a result of the bill, expenditures for both counties and municipalities for these referendums could increase. The bill makes provisions for who pays for certain types of referendums. Specifically, if the governing body of the county initiates the referendum, the county would pay for the related expenditures. The expenses associated with other types of referendums, including a referendum of qualified voters within one mile of a proposed annexed area, are to be paid for by the municipality. The fiscal impact associated with the referendums would depend on the number and type of referendums occurring as a result of the bill's provisions.

In any event, the fiscal impact associated with the bill's provisions would likely vary by jurisdiction.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 536 (Senator Hollinger, *et al.*) – Education, Health, and Environmental Affairs.

**Information Source(s):** Town of Berlin, City of Frostburg, City of Rockville, Anne Arundel County, Caroline County, Garrett County, Montgomery County, Prince George's County, Maryland Municipal League, Maryland Association of Counties, Maryland Mediation and Conflict Resolution Office, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2006  
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