

HOUSE BILL 294

M1, M3

(91r0249)

ENROLLED BILL

—*Environmental Matters/Education, Health, and Environmental Affairs*—

Introduced by **The Speaker (By Request - Administration) and Delegates Ali, Barve, Beidle, Benson, Cane, Carr, V. Clagett, Feldman, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Healey, Hecht, Howard, Hucker, Lafferty, Lee, Mizeur, Montgomery, Niemann, ~~and Pena-Melnyk~~ Pena-Melnyk, Manno, Glenn, and Stein**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

- 1 AN ACT concerning
- 2 **Smart, Green, and Growing - Local Government Planning - Planning Visions**
- 3 FOR the purpose of revising the planning visions for the State's Economic Growth,
- 4 Resource Protection, and Planning Policy and for local comprehensive planning;
- 5 requiring local jurisdictions to report on certain restrictions that are the result
- 6 of an adequate public facilities ordinance; specifying the contents of the local
- 7 jurisdiction's report; requiring the Department of Planning to prepare a report
- 8 on the statewide impacts of adequate public facilities ordinances; specifying the
- 9 contents of the Department's report; authorizing a certain local legislative body
- 10 to establish a transfer of development rights program within a priority funding

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber committee amendments.

Bold italics indicate conference committee amendments.



1 area to assist in the purchase of land for public facilities; requiring the proceeds
 2 of the sale of ~~the development right~~ certain development rights to be used to
 3 assist in the purchase of the ~~site land on which the public facility will be located~~
 4 site or the construction of the facility; requiring that, for schools and educational
 5 facilities, the proceeds of the sale of development rights be used to assist in the
 6 purchase of the land on which the school or educational facility will be located;
 7 limiting the transfer of development rights to a priority funding area;
 8 prohibiting the sale or transfer of development rights associated with certain
 9 public land owned by a local jurisdiction on a certain date under certain
 10 circumstances; providing for the timing of certain reports; defining certain
 11 terms; and generally relating to local government planning.

12 BY repealing and reenacting, with amendments,
 13 Article – State Finance and Procurement
 14 Section 5–7A–01
 15 Annotated Code of Maryland
 16 (2006 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article 66B – Land Use
 19 Section 1.01, 10.01, and 11.01
 20 Annotated Code of Maryland
 21 (2003 Replacement Volume and 2008 Supplement)

22 Preamble

23 WHEREAS, The “Eight Visions” that form the basis of planning in Maryland
 24 were first adopted by Maryland in the 1992 Economic Growth, Resource Protection,
 25 and Planning Act; and

26 WHEREAS, Local jurisdictions are required to implement the visions through
 27 the Plan and § 4.09 of Article 66B of the Code requires that jurisdictions “shall ensure
 28 that the implementation of the provisions of the plan that comply with §§ 1.01
 29 (visions) and 3.05(a)(4)(vi) and (viii) (the land use and sensitive areas elements) are
 30 achieved through the adoption of applicable zoning ordinances ... subdivision
 31 ordinances ? and other land use ordinances ? that are consistent with the plan”; and

32 WHEREAS, The visions are a now–familiar touchstone of Maryland land use
 33 law and policy and have been in place without significant amendment for 16 years;
 34 and

35 WHEREAS, The visions have never been modernized to reflect and keep pace
 36 with current growth and development patterns and trends or Maryland’s commitment
 37 to Smart Growth; and

1 WHEREAS, The Task Force on the Future of Growth and Development in
2 Maryland recommended that a new set of visions to guide growth and development in
3 Maryland be adopted to help achieve Smart and Sustainable Growth; now, therefore,

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

6 **Article – State Finance and Procurement**

7 5–7A–01.

8 The State Economic Growth, Resource Protection, and Planning Policy is [that]
9 **THE FOLLOWING:**

10 [(1) development shall be concentrated in suitable areas;

11 (2) sensitive areas shall be protected;

12 (3) in rural areas, growth shall be directed to existing population
13 centers and resource areas shall be protected;

14 (4) stewardship of the Chesapeake Bay and the land shall be a
15 universal ethic;

16 (5) conservation of resources, including a reduction in resource
17 consumption, shall be practiced;

18 (6) to encourage the achievement of paragraphs (1) through (5) of this
19 subsection, economic growth shall be encouraged and regulatory mechanisms shall be
20 streamlined;

21 (7) adequate public facilities and infrastructure are available or
22 planned in areas where growth is to occur; and

23 (8) funding mechanisms shall be addressed to achieve this policy.]

24 **(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF**
25 **LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER,**
26 **AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE**
27 **ENVIRONMENT;**

28 **(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN**
29 **THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE**
30 **SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;**

1 **(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING**
2 **POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE**
3 **CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;**

4 **(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE**
5 **DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED**
6 **NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE**
7 **EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND**
8 **PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES,**
9 **RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL**
10 **RESOURCES;**

11 **(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER**
12 **RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND**
13 **BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY**
14 **SUSTAINABLE MANNER;**

15 **(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL**
16 **TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE,**
17 **AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND**
18 **BETWEEN POPULATION AND BUSINESS CENTERS;**

19 **(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES**
20 **PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;**

21 **(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND**
22 **NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT**
23 **OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE**
24 **STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE**
25 **ENCOURAGED;**

26 **(9) ENVIRONMENTAL PROTECTION: LAND AND WATER**
27 **RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE**
28 **CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER,**
29 **NATURAL SYSTEMS, AND LIVING RESOURCES;**

30 **(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS,**
31 **AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS**
32 **ARE CONSERVED;**

33 **(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND**
34 **RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE**
35 **COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH**
36 **RESOURCE PROTECTION; AND**

1 **(12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND**
2 **FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION,**
3 **INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE**
4 **LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE**
5 **VISIONS.**

6 **Article 66B - Land Use**

7 1.01.

8 In addition to the requirements of § 3.05(c) of this article, a commission shall
9 implement the following visions through the plan described in § 3.05 of this article:

10 (1) Development is concentrated in suitable areas.

11 (2) Sensitive areas are protected.

12 (3) In rural areas, growth is directed to existing population centers
13 and resource areas are protected.

14 (4) Stewardship of the Chesapeake Bay and the land is a universal
15 ethic.

16 (5) Conservation of resources, including a reduction in resource
17 consumption, is practiced.

18 (6) To assure the achievement of items (1) through (5) of this section,
19 economic growth is encouraged and regulatory mechanisms are streamlined.

20 (7) Adequate public facilities and infrastructure under the control of
21 the county or municipal corporation are available or planned in areas where growth is
22 to occur.

23 (8) Funding mechanisms are addressed to achieve these visions.]

24 **(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF**
25 **LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER,**
26 **AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE**
27 **ENVIRONMENT;**

28 **(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN**
29 **THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE**
30 **SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;**

1 **(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING**
2 **POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE**
3 **CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;**

4 **(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE**
5 **DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED**
6 **NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE**
7 **EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND**
8 **PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES,**
9 **RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL**
10 **RESOURCES;**

11 **(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER**
12 **RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND**
13 **BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY**
14 **SUSTAINABLE MANNER;**

15 **(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL**
16 **TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE,**
17 **AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND**
18 **BETWEEN POPULATION AND BUSINESS CENTERS;**

19 **(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND**
20 **SIZES PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND**
21 **INCOMES;**

22 **(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND**
23 **NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT**
24 **OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE**
25 **STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE**
26 **ENCOURAGED;**

27 **(9) ENVIRONMENTAL PROTECTION: LAND AND WATER**
28 **RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE**
29 **CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER,**
30 **NATURAL SYSTEMS, AND LIVING RESOURCES;**

31 **(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS,**
32 **AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS**
33 **ARE CONSERVED;**

34 **(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND**
35 **RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE**

1 COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH
2 RESOURCE PROTECTION; AND

3 (12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND
4 FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION,
5 INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE
6 LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE
7 VISIONS.

8 10.01.

9 (a) To encourage the preservation of natural resources or the provision of
10 affordable housing and to facilitate orderly development and growth, a local
11 jurisdiction that exercises authority granted by this article may enact, and is
12 encouraged to enact, ordinances or laws providing for or requiring:

13 (1) The planning, staging, or provision of adequate public facilities and
14 affordable housing;

15 (2) Off-site improvements or the dedication of land for public facilities
16 essential for a development;

17 (3) Moderately priced dwelling unit programs;

18 (4) Mixed use developments;

19 (5) Cluster developments;

20 (6) Planned unit developments;

21 (7) Alternative subdivision requirements that:

22 (i) Meet minimum performance standards set by the local
23 jurisdiction; and

24 (ii) Reduce infrastructure costs;

25 (8) Floating zones;

26 (9) Incentive zoning; and

27 (10) Performance zoning.

28 (b) Notwithstanding any other provision of law, a local legislative body that
29 exercises authority granted by this article may enact ordinances or laws providing for
30 the transfer, with or without consideration, of real property belonging to the local

1 jurisdiction to a public or private entity, to use in developing or preserving affordable
2 housing.

3 (c) The authority provided under this section is not intended to limit a local
4 jurisdiction's authority to:

5 (1) Exercise any planning and zoning powers not expressly authorized
6 under this section; or

7 (2) Adopt other methods to:

8 (i) Facilitate orderly development and growth;

9 (ii) Encourage the preservation of natural resources; or

10 (iii) Provide affordable housing.

11 (D) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE
12 THE MEANINGS INDICATED.

13 (II) "PRIORITY FUNDING AREA" HAS THE MEANING STATED
14 IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (III) "RESTRICTION" MEANS A RESTRICTION, MORATORIUM,
16 OR CAPACITY LIMITATION IMPOSED ON DEVELOPMENT AS A RESULT OF AN
17 ORDINANCE OR LAW ADOPTED UNDER THIS SECTION.

18 (2) (I) IF AN ADEQUATE PUBLIC FACILITY ORDINANCE HAS
19 RESULTED IN A RESTRICTION WITHIN A PRIORITY FUNDING AREA, A LOCAL
20 JURISDICTION SHALL REPORT ON THE RESTRICTION ON OR BEFORE JULY 1
21 EVERY 2 YEARS TO THE DEPARTMENT OF PLANNING.

22 (II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF
23 THIS PARAGRAPH SHALL INCLUDE:

24 1. THE LOCATION OF THE RESTRICTION;

25 2. THE TYPE OF INFRASTRUCTURE AFFECTED BY
26 THE RESTRICTION;

27 3. THE PROPOSED RESOLUTION OF THE
28 RESTRICTION, IF AVAILABLE;

29 ~~3.~~ 4. THE ESTIMATED DATE FOR THE RESOLUTION OF
30 THE RESTRICTION, IF AVAILABLE;

1 ~~4~~ **5. IF A RESTRICTION WAS LIFTED, THE DATE THE**
 2 **RESTRICTION WAS LIFTED; AND**

3 ~~5~~ **6. THE RESOLUTION THAT LIFTED THE**
 4 **RESTRICTION.**

5 (3) (I) **THE DEPARTMENT OF PLANNING SHALL PREPARE AND**
 6 **PUBLISH A REPORT ON THE STATEWIDE IMPACTS OF ADEQUATE PUBLIC**
 7 **FACILITIES ORDINANCES ON OR BEFORE JANUARY 1 EVERY 2 YEARS.**

8 (II) **THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF**
 9 **THIS PARAGRAPH SHALL INCLUDE THE IDENTIFICATION OF:**

10 1. **GEOGRAPHIC AREAS AND FACILITIES WITHIN**
 11 **PRIORITY FUNDING AREAS THAT FAIL TO MEET LOCAL ADEQUATE PUBLIC**
 12 **FACILITY STANDARDS; AND**

13 2. **IMPROVEMENTS TO FACILITIES SCHEDULED OR**
 14 **PROPOSED IN THE LOCAL JURISDICTION'S CAPITAL IMPROVEMENT PROGRAM.**

15 11.01.

16 (A) **A local legislative body that exercises authority granted by this article**
 17 **may establish a program for the transfer of development rights to:**

18 (1) **Encourage the preservation of natural resources; and**

19 (2) **Facilitate orderly growth and development in the State.**

20 (B) (1) (I) **IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE**
 21 **THE MEANINGS INDICATED.**

22 (II) **"~~PRIORITY~~ PRIORITY FUNDING AREA" HAS THE**
 23 **MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT**
 24 **ARTICLE.**

25 (III) **"PUBLIC FACILITY" INCLUDES:**

26 1. **RECREATIONAL FACILITIES;**

27 2. **TRANSPORTATION FACILITIES AND TRANSIT**
 28 **ORIENTED DEVELOPMENT; AND**

29 3. **SCHOOLS AND EDUCATIONAL FACILITIES.**

1 (2) A LOCAL LEGISLATIVE BODY THAT EXERCISES AUTHORITY
2 GRANTED BY THIS ARTICLE MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF
3 DEVELOPMENT RIGHTS WITHIN A PRIORITY FUNDING AREA TO ASSIST A LOCAL
4 JURISDICTION IN THE PURCHASE OF LAND FOR ~~A SCHOOL OR THE~~
5 CONSTRUCTION OF A PUBLIC FACILITY WITHIN A PRIORITY FUNDING AREA.

6 (3) (I) ~~PROCEEDS~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH
7 (II) OF THIS PARAGRAPH, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS
8 SHALL BE USED TO ASSIST ~~A LOCAL JURISDICTION~~ IN:

9 ~~(I)~~ 1. THE PURCHASE OF THE ~~PUBLIC SITE LAND ON~~
10 ~~WHICH THE PUBLIC FACILITY WILL BE LOCATED~~ PUBLIC SITE; OR

11 ~~(II)~~ 2. THE CONSTRUCTION OF THE ~~PUBLIC~~ FACILITY.

12 (II) FOR SCHOOLS AND EDUCATIONAL FACILITIES,
13 PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST IN
14 THE PURCHASE OF THE LAND ON WHICH THE SCHOOL OR EDUCATIONAL
15 FACILITY WILL BE LOCATED.

16 (4) ANY DEVELOPMENT RIGHTS SOLD UNDER THE AUTHORITY OF
17 THIS SUBSECTION SHALL ONLY BE TRANSFERRED WITHIN A PRIORITY FUNDING
18 AREA.

19 (5) DEVELOPMENT RIGHTS ASSOCIATED WITH EXISTING PUBLIC
20 LAND THAT IS OWNED BY A LOCAL JURISDICTION ON OCTOBER 1, 2009, MAY NOT
21 BE SOLD OR TRANSFERRED UNDER THIS SUBSECTION.

22 SECTION 2. AND IT BE FURTHER ENACTED, That, as required by Article
23 66B, § 10.01, as enacted by Section 1 of this Act, a local jurisdiction's initial report
24 shall be submitted on or before July 1, 2010, and the Department of Planning's initial
25 report shall be prepared and published on or before January 1, 2011.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2009.