

SENATE BILL 276

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CF 9lr0230

By: **The President (By Request – Administration) and Senators Della, Madaleno, and Rosapepe**

Introduced and read first time: January 23, 2009

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Smart, Green, and Growing – Annual Report – Smart Growth Measures and**
3 **Indicators and Implementation of Planning Visions**

4 FOR the purpose of requiring certain local jurisdictions to file an annual report;
5 requiring local jurisdictions to include information about smart growth
6 measures and indicators and information about implementation of the planning
7 visions in a certain annual report; requiring the Department of Planning to
8 adopt regulations before a certain date on the measures and indicators;
9 requiring a planning commission to hold a hearing on the annual report;
10 requiring the Department to consider certain factors when developing the
11 measures and indicators; requiring the Task Force on the Future for Growth
12 and Development to make certain recommendations on or before a certain date;
13 providing for the date of the annual report; requiring the Department to provide
14 technical assistance; and generally relating to annual reports.

15 BY repealing and reenacting, with amendments,
16 Article 66B – Land Use
17 Section 1.02, 2.13, and 3.09
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2008 Supplement)

20 BY adding to
21 Article 66B – Land Use
22 Section 3.10
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2008 Supplement)

25 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Advancement of public policy objectives like Smart and Sustainable
2 Growth are helped by the application and analysis of broadly accepted and reliable
3 information about land use goals, indicators, trends, forecasts, and metrics; and

4 WHEREAS, Despite its critical importance, limited comprehensive quantitative
5 information exists to measure how Maryland is growing at the State, regional, and, at
6 times, local levels. While some measures and indicators exist statewide, additional
7 ones are needed; and

8 WHEREAS, BayStat is charged with tracking and assessing the progress of
9 governmental programs to improve the health of the Chesapeake Bay, tracking and
10 assessing the enforcement of laws and regulations to curb the pollution of the
11 Chesapeake Bay, providing a forum for the exchange and continuous analysis of data
12 that will generate new insights for cleaning up the Chesapeake Bay, and identifying
13 and making recommendations for the establishment of measurable goals in the
14 process of Chesapeake Bay restoration; and

15 WHEREAS, Better quantitative information about land use goals, indicators,
16 trends, forecasts, and metrics will assist the State and local governments in their
17 efforts to provide accurate and timely data to the public and policymakers for
18 informational purposes and tracking efforts at BayStat about the efficacy and
19 cost-effectiveness of governmental programs to restore the vitality of the Chesapeake
20 Bay and growth and development patterns; and

21 WHEREAS, Some indicators or measures are more appropriately collected by
22 the State and some indicators should be collected by local governments; and

23 WHEREAS, Since 1970, Article 66B, § 3.09 of the Code has required an annual
24 report for all local governments with planning authority except for charter counties;
25 and

26 WHEREAS, The Task Force on the Future for Growth and Development
27 recommended that the Department of Planning work with local governments and
28 other stakeholders, including the Task Force itself, to jointly develop a set of Smart
29 and Sustainable Growth indicators that can be used at the local, regional, and State
30 levels; now, therefore,

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

33 **Article 66B – Land Use**

34 1.02.

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

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

- 1 (1) § 1.00(j) (Definition of “sensitive areas”);
- 2 (2) § 1.01 (Visions);
- 3 (3) § 1.03 (Charter county – Comprehensive plans);
- 4 **(4) § 3.09 (ANNUAL REPORT – PREPARATION AND FILING);**
- 5 **(5) § 3.10 (ANNUAL REPORT – MEASURES AND INDICATORS);**
- 6 [[4]] **(6)** § 4.01(b)(2) (Regulation of bicycle parking);
- 7 [[5]] **(7)** § 5.03(d) (Easements for burial sites);
- 8 [[6]] **(8)** § 7.02 (Civil penalty for zoning violation);
- 9 [[7]] **(9)** § 10.01 (Adequate Public Facilities Ordinances);
- 10 [[8]] **(10)** § 11.01 (Transfer of Development Rights);
- 11 [[9]] **(11)** § 12.01 (Inclusionary Zoning);
- 12 [[10]] **(12)** Except in Montgomery County or Prince George’s County, §
- 13 13.01 (Development rights and responsibilities agreements);
- 14 [[11]] **(13)** For Baltimore County only, § 14.02; and
- 15 [[12]] **(14)** For Howard County only, § 14.06.1.
- 16 (c) This section supersedes any inconsistent provision of Article 28 of the
- 17 Code.
- 18 2.13.
- 19 (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15
- 20 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) § 3.09 (ANNUAL REPORT – PREPARATION AND FILING);**

1 **(5) § 3.10 (ANNUAL REPORT – MEASURES AND INDICATORS);**

2 **[(4)] (6) § 4.01(b)(2) (Regulation of bicycle parking);**

3 **[(5)] (7) § 5.03(d) (Easements for burial sites);**

4 **[(6)] (8) § 7.02 (Civil penalty for zoning violation);**

5 **[(7)] (9) § 10.01 (Adequate Public Facilities Ordinances);**

6 **[(8)] (10) § 11.01 (Transfer of Development Rights);**

7 **[(9)] (11) § 12.01 (Inclusionary Zoning); and**

8 **[(10)] (12) § 13.01 (Development Rights and Responsibilities**
9 **Agreements).**

10 3.09.

11 **(A) IN THIS SECTION, “PLANNING COMMISSION” INCLUDES A PLANNING**
12 **COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF**
13 **THE CODE.**

14 **[(a)] (B) A planning commission shall prepare, adopt, and file an annual**
15 **report, ON OR BEFORE MARCH 1 OF EACH YEAR FOR THE PREVIOUS CALENDAR**
16 **YEAR, with the local legislative body.**

17 **[(b)] (C) The annual report shall:**

18 (1) Index and locate on a map all changes in development patterns
19 which occurred during the period covered by the report, including land use,
20 transportation, community facilities patterns, zoning map amendments, and
21 subdivision plats;

22 (2) State whether these changes are or are not consistent with:

23 (i) Each other;

24 (ii) The recommendations of the last annual report;

25 (iii) The adopted plans of the local jurisdiction;

26 (iv) The adopted plans of all adjoining local jurisdictions; and

1 (v) The adopted plans of State and local jurisdictions that have
2 responsibility for financing or constructing public improvements necessary to
3 implement the local jurisdiction's plan; [and]

4 (3) Contain statements and recommendations for improving the
5 planning and development process within the local jurisdiction; **AND**

6 (4) **STATE WHICH ORDINANCES OR REGULATIONS HAVE BEEN**
7 **ADOPTED OR CHANGED TO IMPLEMENT THE VISIONS IN § 1.01 OF THIS ARTICLE**
8 **AS REQUIRED UNDER § 1.03(E) OR § 4.09 OF THIS ARTICLE.**

9 (D) (1) **THE PLANNING COMMISSION SHALL HOLD A PUBLIC HEARING**
10 **ON THE ANNUAL REPORT WITHIN 60 DAYS AFTER THE REPORT HAS BEEN**
11 **SUBMITTED TO THE LOCAL LEGISLATIVE BODY.**

12 (2) (I) **THE PUBLIC HEARING SHALL INCLUDE AN**
13 **OPPORTUNITY FOR CITIZENS TO COMMENT ON THE REPORT.**

14 (II) **THE PUBLIC HEARING REQUIRED UNDER PARAGRAPH**
15 **(1) OF THIS SUBSECTION MAY BE COMBINED WITH A REGULARLY SCHEDULED**
16 **MEETING OF THE PLANNING COMMISSION.**

17 (3) **THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON**
18 **THE REPORT.**

19 [(c)] (E) The local legislative body shall review the annual report and direct
20 that any appropriate and necessary studies and other actions be undertaken to insure
21 the continuation of a viable planning and development process.

22 [(d)] (F) (1) The annual report shall be made available for public
23 inspection.

24 (2) A copy of the report shall be mailed to the Secretary of the
25 Department of Planning.

26 **3.10.**

27 (A) **IN THIS SECTION, "PRIORITY FUNDING AREA" HAS THE MEANING**
28 **STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

29 (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
30 **SUBSECTION, THE ANNUAL REPORT REQUIRED TO BE FILED UNDER § 3.09 OF**
31 **THIS ARTICLE SHALL INCLUDE INFORMATION ON MEASURES AND INDICATORS,**
32 **IF APPLICABLE, ADOPTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS**
33 **SECTION.**

1 **(2) A COUNTY OR MUNICIPAL CORPORATION THAT ISSUES FEWER**
2 **THAN 50 BUILDING PERMITS PER YEAR IS NOT REQUIRED TO INCLUDE**
3 **INFORMATION IN THE ANNUAL REPORT ON MEASURES AND INDICATORS.**

4 **(3) A COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE THE**
5 **DEPARTMENT OF PLANNING DOCUMENTATION ANNUALLY THAT LESS THAN 50**
6 **BUILDING PERMITS ARE ISSUED.**

7 **(C) (1) THE DEPARTMENT OF PLANNING SHALL ADOPT**
8 **REGULATIONS THAT IDENTIFY MEASURES AND INDICATORS THAT A LOCAL**
9 **JURISDICTION IS REQUIRED TO COLLECT AND INCLUDE IN THE ANNUAL**
10 **REPORT.**

11 **(2) WHEN DEVELOPING THE MEASURES AND INDICATORS, THE**
12 **DEPARTMENT OF PLANNING SHALL:**

13 **(I) TAKE INTO ACCOUNT DIFFERENCES IN LOCAL**
14 **JURISDICTIONS;**

15 **(II) CONSIDER MEASURES AND INDICATORS THAT CAN BE**
16 **USED AT THE LOCAL, REGIONAL, AND STATE LEVEL; AND**

17 **(III) CONSIDER WHICH MEASURES OR INDICATORS MAY BE**
18 **COLLECTED BY THE STATE AND WHICH MEASURES OR INDICATORS MAY BE**
19 **COLLECTED BY THE LOCAL JURISDICTION; AND**

20 **(IV) CONSIDER THE CAPACITY OF THE LOCAL JURISDICTION**
21 **TO COLLECT THE MEASURES OR INDICATORS AND THE RELEVANCE OF THE**
22 **INDICATOR OR MEASURE TO A PARTICULAR JURISDICTION.**

23 **(D) THE MEASURES AND INDICATORS SHALL BE LIMITED TO THE**
24 **FOLLOWING CATEGORIES OF INFORMATION:**

25 **(1) THE AMOUNT AND SHARE OF GROWTH THAT IS BEING**
26 **LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;**

27 **(2) THE DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE**
28 **AND OUTSIDE THE PRIORITY FUNDING AREAS;**

29 **(3) THE CREATION OF NEW LOTS AND THE ISSUANCE OF**
30 **BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;**

31 **(4) THE HOUSING CHOICES, INCLUDING AFFORDABILITY;**

1 **(5) THE IMPACT OF GROWTH ON THE ENVIRONMENT, INCLUDING**
2 **LAND, AIR, AND WATER;**

3 **(6) AGRICULTURAL PRESERVATION;**

4 **(7) DEVELOPMENT CAPACITY ANALYSIS;**

5 **(8) THE FISCAL COST OF GROWTH;**

6 **(9) THE JOB AND HOUSING BALANCE;**

7 **(10) THE IMPACT OF TRANSPORTATION ON GROWTH;**

8 **(11) THE IMPACT OF GROWTH ON BUSINESS, INCLUDING JOB**
9 **CREATION, FISCAL IMPACT, AGRIBUSINESS, TOURISM, AND FORESTRY; AND**

10 **(12) THE IMPACT OF GROWTH ON CULTURAL AND HISTORIC**
11 **RESOURCES.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That:

13 (a) After consulting with local governments and other stakeholders, the Task
14 Force on the Future for Growth and Development, as established by Chapter 381 of
15 the Acts of the General Assembly of 2006, as amended by Chapter 626 of the Acts of
16 the General Assembly of 2007, shall make recommendations, on or before July 1, 2009,
17 on the identification of measures and indicators that a local jurisdiction should be
18 required to collect.

19 (b) The Department of Planning shall:

20 (1) adopt regulations as required by Section 1 of this Act on or before
21 July 1, 2010; and

22 (2) provide BayStat and other entities with the data provided in the
23 annual reports required by Section 1 of this Act.

24 (c) The Department of Planning shall provide technical assistance to local
25 jurisdictions concerning the collection of measures that a local jurisdiction is required
26 to collect.

27 (d) The annual report required under Section 1 of this Act shall be filed on or
28 before March 1, 2011.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 June 1, 2009.