

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 878 (Senators Harrington and Frosh)  
 Education, Health, and Environmental Affairs

**Smart Growth - Visions and Performance Standards**

This bill amends the State’s planning visions, establishes specified performance standards to measure implementation of the visions, and requires local jurisdictions to integrate these visions and performance standards into specified planning documents. By October 1, 2012, local jurisdictions are required to demonstrate to the Maryland Department of Planning (MDP) that specified planning documents will achieve the performance standards by October 1, 2018; and two six-month deadline extensions are authorized. The bill requires MDP to review specified local planning documents, follow specified procedures, and meet specified deadlines when reviewing the documents. Local jurisdictions that have certified comprehensive plans and achieve specified performance standards must be given priority in the disbursement of State funds to the same extent as a priority funding area (PFA). The Maryland Department of the Environment (MDE) must deny approval of specified permits and plans in local jurisdictions that fail to adopt a plan to achieve, or fail to achieve, specified performance standards by October 1, 2018.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$113,200 in FY 2010 to provide technical assistance, track compliance, and review and certify specified planning documents. Future year estimates are annualized and adjusted for inflation. Special fund revenues decrease to the extent the bill prohibits specified permits.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	-	-	-	-	-
GF Expenditure	\$113,200	\$141,700	\$148,400	\$155,500	\$163,000
Net Effect	(\$113,200)	(\$141,700)	(\$148,400)	(\$155,500)	(\$163,000)

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

**Local Effect:** Local expenditures increase to develop revised planning documents and achieve specified performance standards. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** The bill replaces the State's 8 existing planning visions with 12 new visions that address quality of life and sustainability, public participation, growth areas, community design, infrastructure, transportation, housing, economic development, environmental protection, resource conservation, stewardship, and implementation approaches.

The bill establishes five performance standards to measure implementation of the visions that address locations where development occurs, vehicle mileage, housing affordability, job creation in PFAs, and water and wastewater discharge limits.

Local jurisdictions submitting proof of less than 50 building permits being issued in a given year are exempt from providing performance standard information in their annual planning reports.

Annual reports submitted by local planning commissions are required to document compliance with specified performance standards and address achieving the performance standards. Specified regulations adopted by a local legislative body must be designed to achieve performance standards.

MDP is required to provide technical assistance with plan development to local jurisdictions.

If local jurisdictions fail to adopt a plan to achieve, or fail to achieve, specified performance standards, MDE is required to withhold approval of specified stormwater permits and plans, grading permits, and amendments to water and sewerage plans. Exemptions to this requirement are authorized when there is an urgent threat to public health or safety and when a jurisdiction submits proof of less than 50 building permits being issued per calendar year.

The Governor is required to establish procedures for reviewing PFA projects by December 1, 2009, and local jurisdictions are required to establish procedures for prioritizing local projects based on specified review and approval procedures.

**Current Law:** Article 66B governs zoning and planning in the State and gives significant authority to local governments. Two laws provide for additional State involvement: the Maryland Economic Growth, Resource Protection, and Planning Act of 1992 (the Planning Act), and the Smart Growth and Neighborhood Conservation Act of 1997 (Priority Funding Areas Act).

The Planning Act sought to organize and direct comprehensive planning, regulating, and funding by State, county, and municipal governments in furtherance of a specific economic growth and resource protection policy. This Act is organized around eight statutory vision statements which must be pursued in county and municipal comprehensive plans, where priorities for land use, economic growth, and resource protection are established. The visions must also be followed by the State in undertaking its various programs. Both State and local funding decisions on public construction projects must adhere to the visions.

The State sought to strengthen its efforts to control sprawl, enhance land use, and control pollution with the Priority Funding Areas Act. This Act capitalized on the influence of State expenditures on economic growth and development by directing State spending to PFAs. The broad purpose of PFAs is to focus State spending to make the most efficient and effective use of existing infrastructure; preserve existing neighborhoods; and preserve Maryland's fields, farms, and open spaces. The Act established certain areas as PFAs and allowed counties to designate additional areas if they meet minimum criteria. **Exhibit 1** lists the areas initially established as PFAs and areas eligible for county designation. Most State programs that encourage or support growth and development are affected by this Act, including economic development assistance and the construction of public schools, State highways, and water and wastewater facilities. The Act allows funds to be allocated for projects outside PFAs under certain conditions, such as when the project is required to protect public health or safety.

Statute requires local planning commissions in noncharter counties and in all municipalities that exercise planning and zoning authority to prepare, adopt, and file an annual report with their local legislative body. The report is required to:

- index and locate on a map all changes in development patterns, including land use, transportation, community facilities patterns, zoning map amendments, and subdivision plats;
- state whether these changes are consistent with each other, the previous annual report, the jurisdiction's adopted plans, and State and other local jurisdictions' plans; and
- contain statements and recommendations for improving the planning and development process within the local jurisdiction.

The local legislative body is required to review the report, take appropriate actions, make the report available to the public, and send a copy to MDP.

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**Exhibit 1**  
**Smart Growth – Priority Funding Areas**

**Areas Initially Established by Law**

**Areas Eligible for County Designation**

Municipalities

Areas with industrial zoning

Baltimore City

Areas with employment as the principal use which are served by, or planned for, a sewer system

Areas inside the Baltimore and Washington beltways

Existing communities within county-designated growth areas which are served by a water or sewer system and which have an average density of two or more units per acre

Neighborhoods designated for revitalization by the Department of Housing and Community Development

Rural villages

Enterprise and empowerment zones

Other areas within county-designated growth areas that, among other things, have a permitted density of 3.5 or more units per acre for new residential development

Certified heritage areas within county-designated growth areas

Source: Maryland Department of Planning

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**Background:** The Task Force on the Future for Growth and Development in Maryland (established by Chapter 381 of 2006 and modified by Chapter 626 of 2007) is charged with studying a wide range of smart growth and land use issues impacting Maryland. The task force is required to advise the Smart Growth Subcabinet until it terminates in December 2010. The task force released a report in January 2009 providing detailed recommendations for action at various levels of State and local government. The report's recommendations fall within the 15 categories outlined in **Exhibit 2**.

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**Exhibit 2**  
**Recommendations of the Task Force on the Future for**  
**Growth and Development in Maryland**

- Modernize the State’s planning visions to achieve smart and sustainable growth by updating the “Eight Visions”
- Collect good information for good planning
- Emphasize transit-oriented development
- Assess and address critical infrastructure needs
- Stimulate revitalization of existing communities
- Incorporate climate change into growth planning
- Identify inconsistent and/or conflicting laws, regulations, and policies
- Strengthen comprehensive plans
- Promote preparation and adoption of State development, housing, and transportation plans
- Sharpen the focus of PFAs
- Preserve land for resource production
- Address housing challenges
- Ensure adequate water and sewer for smart growth
- Establish a statewide planning advisory committee
- Promote smart growth education and outreach

Source: Task Force on the Future for Growth and Development in Maryland, January 2009

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**State Fiscal Effect:** The bill requires MDP to review planning documents submitted by local jurisdictions within 60 days of being submitted, certify whether the planning documents meet specified requirements, assist local jurisdictions with developing planning documents that achieve the bill’s requirements, and track local government progress toward meeting the performance standards.

General fund expenditures increase by \$113,160 in fiscal 2010, which accounts for the bill’s October 1, 2009 effective date. This estimate reflects the cost of hiring two

SB 878 / Page 5

planners to review and certify plans, provide technical assistance, and track local government progress. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$100,267
Equipment and Operating Expenses	<u>12,893</u>
<b>MDP FY 2010 Administrative Expenditures</b>	<b>\$113,160</b>

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

MDE is required to deny specified permits for projects located in local jurisdictions that fail to adopt a plan to achieve, or fail to achieve, performance standards. To the extent permits are denied by MDE or withheld by potential applicants, MDE special fund revenues decrease.

**Local Fiscal Effect:** The bill requires local planning commissions in jurisdictions that issue 50 or more building permits in a calendar year to change planning documents to reflect new visions and performance standards. This change must occur by October 1, 2012, not within the normally scheduled revision period of every six years. To some extent, local jurisdictions have planning documents and information that may be adapted to meet the annual report requirements. However, several local jurisdictions advise that creating new planning documents may require additional staff and expenditures. For example:

- Baltimore City advises an estimated \$490,000 in expenditures is required for additional staff to implement required comprehensive plan revisions;
- Montgomery County reports additional staff are needed to produce and review the new planning documents required by the bill; and
- Harford County reports the bill results in a significant increase in its staffing and reporting expenditures.

The bill requires local jurisdictions to develop and implement strategies for achieving performance measures that may require significant expenditures. For example, one performance standard requires 75% of the jobs created to be in PFAs and within one-half of a mile from a public transit stop operating seven days per week. In this example, to the extent local jurisdictions are required to develop a more comprehensive public transportation infrastructure, expenditures increase. Furthermore, necessary tracking data associated with some of the performance standards is not currently available

at the county level. To the extent counties are required to develop and track such data, expenditures increase.

Counties that fail to meet the performance standards, based on MDP's assessment, must be given lower priority to receive State infrastructure funding. Therefore, the bill may have a potentially significant impact on the distribution of a variety of types of State aid.

**Small Business Effect:** To the extent permits are denied outside PFAs and small businesses lose the flexibility to locate where they want, costs may increase.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1116 is designated as a cross file; however, it is not identical.

**Information Source(s):** Baltimore City, Harford and Montgomery counties, Department of Business and Economic Development, Board of Public Works, Maryland Department of Planning, Maryland Department of the Environment, Maryland Municipal League, Department of Legislative Services

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