

SENATE BILL 760

R2, R1

0lr1711
CF 0lr2068

By: **Senators Pugh and Harrington**

Introduced and read first time: February 10, 2010

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Transportation – Consolidated Transportation Program – Evaluation and**
3 **Selection of Proposed Capital Projects**

4 FOR the purpose of altering the process and the criteria used for selecting capital
5 projects to be included in the Consolidated Transportation Program; requiring
6 that the annual Consolidated Transportation Program report include certain
7 goals, a summary of how certain determinations were made, and certain
8 information for each major capital project; requiring that each major capital
9 project proposed by a certain entity include certain elements; requiring the
10 Department of Transportation to evaluate requests for major capital projects
11 based on a certain record and certain other information; requiring the
12 Department to rank and select the capital projects to be included in the
13 Consolidated Transportation Program based on certain criteria; requiring the
14 Smart Growth Subcabinet to conduct an annual review of certain goals,
15 benchmarks, and indicators that are used to select certain capital projects;
16 defining certain terms; and generally relating to the evaluation and selection
17 process for capital projects to be included in the Consolidated Transportation
18 Program.

19 BY repealing and reenacting, with amendments,
20 Article – Transportation
21 Section 2–103.1
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2009 Supplement)

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

26 **Article – Transportation**

27 2–103.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) “Capital project” means:

3 (i) Any project for which funds are expended for construction,
4 reconstruction, or rehabilitation of a transportation facility by the Department or of a
5 transportation facilities project by the Maryland Transportation Authority; or

6 (ii) Capital equipment, as defined by the Secretary.

7 (3) “Construction phase” means the phase of a capital project in which
8 the project is committed and advanced from the project development phase to
9 completion.

10 (4) “Major capital project” means any new, expanded, or significantly
11 improved facility or service that involves planning, environmental studies, design,
12 right-of-way, construction, or purchase of essential equipment related to the facility
13 or service.

14 (5) “Minor capital project” means any project for the preservation or
15 rehabilitation of an existing facility or service, including the planning, design,
16 right-of-way, construction, or purchase of equipment essential to the facility or
17 service, and generally not requiring the preparation of an environmental impact
18 assessment.

19 (6) “Project development phase” means the phase of a capital project
20 in which planning, engineering, and environmental studies and analyses are
21 conducted with full participation by the public, prior to commitment to construction.

22 (7) (I) **“PROPOSING ENTITY” MEANS A GOVERNMENT AGENCY**
23 **OR POLITICAL SUBDIVISION THAT REQUESTS THAT A TRANSPORTATION**
24 **PROJECT BE INCLUDED IN THE CONSOLIDATED TRANSPORTATION PROGRAM.**

25 (II) **“PROPOSING ENTITY” INCLUDES A COUNTY, A**
26 **MUNICIPALITY, A METROPOLITAN PLANNING ORGANIZATION, OR A MODAL**
27 **ADMINISTRATION OR ANY OTHER AGENCY OF THE DEPARTMENT.**

28 (8) **“PURPOSE AND NEED SUMMARY STATEMENT” MEANS A**
29 **STATEMENT THAT SPECIFIES THE UNDERLYING PURPOSE AND NEED FOR A**
30 **PROJECT.**

31 [(7)] (9) “Significant change” means any change that affects the size
32 or character of a project to the extent that the change:

- 1 (i) Substantially modifies the capacity, level of service, or cost
2 of the project;
- 3 (ii) Alters the function or purpose of the project; or
- 4 (iii) Impacts the ability of a modal administration to accomplish
5 the program priorities established by the Secretary in the State Report on
6 Transportation.

7 **(10) “STATE TRANSPORTATION GOALS” MEANS THE GOALS**
8 **DESCRIBED IN THE MARYLAND TRANSPORTATION PLAN.**

9 **[(8) (11)** “Transportation facility” has the meaning stated in §
10 3–101(l) of this article.

11 **[(9) (12)** “Transportation facilities project” has the meaning stated in
12 § 4–101(i) of this article.

13 (b) The State Report on Transportation consists of the Consolidated
14 Transportation Program and the Maryland Transportation Plan.

15 (c) (1) The Consolidated Transportation Program shall:

16 (i) Be revised annually; and

17 (ii) Include:

18 1. A list of [Program priorities];

19 **A. THE CURRENT STATE TRANSPORTATION GOALS;**

20 **B. PROGRAM PRIORITIES; AND**

21 **C. THE CRITERIA USED TO SELECT MAJOR CAPITAL**
22 **PROJECTS FOR INCLUSION IN THE CAPITAL PROGRAM, AS DETERMINED BY THE**
23 **DEPARTMENT;**

24 2. A statement of the Department’s projected annual
25 operating costs, set forth separately for the Office of the Secretary and for each modal
26 administration;

27 3. Expanded descriptions of major capital projects;

28 4. A list of major capital projects for the current year,
29 the budget request year, and the 4 successive planning years;

1 5. A list of anticipated minor capital projects, including a
2 specific list of anticipated special projects for the current year and the budget request
3 year and an estimate of the Program level for each of the 4 successive planning years;

4 6. A list of major bridge work projects;

5 7. A summary of the capital and operating programs, as
6 defined by the Secretary, for the Maryland Transportation Authority;

7 8. For each listed major capital project, an indication
8 whether the revenue source anticipated to support that project consists of federal,
9 special, general, or other funds;

10 9. The Department's estimates of the levels and sources
11 of revenues to be used to fund the projects in the Program;

12 10. A glossary of terms; and

13 11. A cross-reference table for the information contained
14 in the various parts of the State Report on Transportation.

15 (2) In addition to the items listed in paragraph (1) of this subsection,
16 the Consolidated Transportation Program shall include:

17 (i) A summary of current efforts and future plans, prepared
18 after consultation with the Director of Bicycle and Pedestrian Access and the Bicycle
19 and Pedestrian Advisory Committee established under § 2-606 of this title:

20 1. To develop and promote bicycle and pedestrian
21 transportation; and

22 2. Working together with local jurisdictions, to
23 accommodate in a safe and effective manner pedestrians and bicycles within a
24 reasonable distance for walking and bicycling to rail stops, light rail stops, and subway
25 stations;

26 (ii) A listing of all bicycle and pedestrian transportation projects
27 expected to use State or federal highway funds; and

28 (iii) Reflected under the Office of the Secretary, any
29 technology-related project to be funded from the account established under § 2-111 of
30 this subtitle, along with a description and projected cost of each.

31 (3) Annually, the Consolidated Transportation Program shall include
32 a report that:

1 (i) Identifies each major capital project for which the budget
2 bill or a supplemental budget amendment first requests funds for the project
3 development phase or for the construction phase;

4 (ii) With respect to each major capital project for which funds
5 are requested in the budget request year, states:

6 1. The amount of the funds requested; and

7 2. The total estimated cost of the project;

8 (iii) Identifies significant changes in the cost, scope, design, or
9 scheduling of major capital projects for each completed fiscal year;

10 (iv) When there is a significant change in cost, states the
11 amount by which the expenditures that have been authorized exceed the original
12 project estimate;

13 (v) When there is a significant change, states:

14 1. The amount by which costs exceed projected costs
15 during each completed fiscal year; and

16 2. The total amount that has been expended for a major
17 capital project; [and]

18 (VI) PROVIDES A PURPOSE AND NEED SUMMARY
19 STATEMENT THAT INCLUDES:

20 1. A GENERAL DESCRIPTION AND SUMMARY THAT
21 DESCRIBES WHY THE PROJECT IS NECESSARY AND SATISFIES STATE GOALS,
22 INCLUDING CURRENT STATE TRANSPORTATION GOALS, STATE DEVELOPMENT
23 PLAN GOALS, AND CLIMATE ACTION PLAN GOALS REQUIRED BY THE
24 GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER § 2-1205(B)
25 OF THE ENVIRONMENT ARTICLE;

26 2. THE LOCATION OF THE PROJECT, INCLUDING A
27 MAP OF THE PROJECT LIMITS, PROJECT AREA, OR TRANSPORTATION
28 CORRIDOR; AND

29 3. THE PROJECT RANK, BASED ON THE SELECTION
30 CRITERIA FOR INCLUSION IN THE CAPITAL PROGRAM; AND

31 [(vi)] (VII) Includes any other information that the Secretary
32 believes would be useful to the members of the General Assembly, THE GENERAL
33 PUBLIC, or other recipients of the Consolidated Transportation Program.

1 (4) The total operating and capital expenditures for the Department or
2 for the Office of the Secretary or any modal administration projected in the
3 Consolidated Transportation Program for the budget request year may not exceed the
4 budget request for the Department, Office, or modal administration for that year.

5 **(5) FOR A MAJOR CAPITAL PROJECT TO BE CONSIDERED FOR**
6 **INCLUSION IN THE CONSOLIDATED TRANSPORTATION PROGRAM, A REQUEST**
7 **MUST BE SUBMITTED TO THE SECRETARY BY THE PROPOSING ENTITY ALONG**
8 **WITH A PURPOSE AND NEED SUMMARY STATEMENT JUSTIFYING THE PROJECT**
9 **THAT INCLUDES:**

10 **(I) THE LOCATION OF THE PROJECT, INCLUDING A MAP OF**
11 **THE PROJECT LIMITS, PROJECT AREA, OR TRANSPORTATION CORRIDOR; AND**

12 **(II) A LIST OF THE PRIORITIES AND FACTORS CONSIDERED**
13 **IN PRESENTING THE PURPOSE AND NEED SUMMARY STATEMENT, INCLUDING:**

14 1. THE PROJECT NECESSITY;

15 2. A DESCRIPTION OF HOW THE PROJECT MEETS
16 STATE TRANSPORTATION GOALS;

17 3. A DESCRIPTION OF HOW THE PROJECT
18 ADDRESSES OTHER STATE GOALS, INCLUDING THOSE IN THE STATE
19 DEVELOPMENT PLAN AND IN THE CLIMATE ACTION PLAN AS REQUIRED UNDER
20 THE GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER §
21 2-1205(B) OF THE ENVIRONMENT ARTICLE;

22 4. HOW THE PROJECT IS CONSISTENT WITH LOCAL
23 GOVERNMENT LAND USE PLANS;

24 5. POTENTIAL LAND USE CHANGES THAT SUPPORT
25 THE PURPOSE AND NEED FOR THE PROJECT; AND

26 6. ANY OTHER INFORMATION THAT THE SECRETARY
27 DEEMS NECESSARY TO EVALUATE THE PROJECT.

28 **(6) THE DEPARTMENT SHALL RANK REQUESTS FOR MAJOR**
29 **CAPITAL PROJECTS BASED ON THE STATE'S GOALS AND CRITERIA AS**
30 **DETERMINED BY THE INFORMATION SUBMITTED BY THE PROPOSING ENTITY**
31 **AND THE AVAILABILITY OF FUNDING.**

32 (d) The Maryland Transportation Plan shall:

1 (1) Be revised every 5 years through an inclusive public participation
2 process;

3 (2) Include a 20–year forecast of State transportation needs, based on
4 the financial resources anticipated to be available to the Department during that
5 20–year period;

6 (3) Be expressed in terms of goals and objectives; and

7 (4) Include a summary of the types of projects and programs that are
8 proposed to accomplish the goals and objectives, using a multi–modal approach when
9 feasible.

10 (e) On or before November 15 of each year, the Department shall visit each
11 county to give local governments and local legislative delegations information about
12 and an opportunity to comment on the proposed Consolidated Transportation Program
13 and the proposed Maryland Transportation Plan.

14 (f) At the earliest practical date but no later than November 1 of each year,
15 the Department shall provide the proposed Consolidated Transportation Program and
16 the proposed Maryland Transportation Plan to the Department of Planning for review
17 and comment on planning issues including consistency between transportation
18 investments and the State Economic Growth, Resource Protection, and Planning
19 Policy and State priority funding areas established under Title 5, Subtitle 7B, of the
20 State Finance and Procurement Article.

21 (g) Beginning with the year 2002 State Report on Transportation and
22 continuing thereafter, before the General Assembly considers the proposed Maryland
23 Transportation Plan and the proposed Consolidated Transportation Program, the
24 Department shall submit an annual report on the attainment of transportation goals
25 and benchmarks for the approved and proposed Maryland Transportation Plan and
26 the approved and proposed Consolidated Transportation Program to the Governor
27 and, subject to § 2–1246 of the State Government Article, to the General Assembly.

28 (h) (1) The report required under subsection (g) of this section shall
29 include:

30 (i) The establishment of certain measurable performance
31 indicators or benchmarks, in priority funding areas at a minimum, designed to
32 quantify the goals and objectives specified in the Maryland Transportation Plan; and

33 (ii) The degree to which the projects and programs contained in
34 the approved Maryland Transportation Plan and Consolidated Transportation
35 Program attain those goals and benchmarks as measured by the performance
36 indicators or benchmarks.

1 (2) The Department shall include in its report measurable long-term
2 goals, and intermediate benchmarks of progress toward the attainment of the
3 long-term goals, for the following measurable transportation indicators:

4 (i) An increase in the share of total person trips for each of
5 transit, high occupancy auto, pedestrian, and bicycle modes of travel;

6 (ii) A decrease in indicators of traffic congestion as determined
7 by the Department; and

8 (iii) Any other performance goals established by the Department
9 for reducing automobile traffic and increasing the use of nonautomobile traffic.

10 **(I) THE SMART GROWTH SUBCABINET, ESTABLISHED UNDER TITLE 9,**
11 **SUBTITLE 14 OF THE STATE GOVERNMENT ARTICLE, SHALL CONDUCT AN**
12 **ANNUAL REVIEW OF THE TRANSPORTATION GOALS, BENCHMARKS, AND**
13 **INDICATORS THAT ARE USED TO SELECT MAJOR CAPITAL PROJECTS THAT ARE**
14 **TO BE INCLUDED IN THE CAPITAL PROGRAM.**

15 **[(i)] (J)** (1) An advisory committee shall be assembled to advise the
16 Department on the establishment of the transportation goals, benchmarks, and
17 indicators under subsection (h) of this section.

18 (2) Membership of the advisory committee shall include but is not
19 limited to the following members appointed by the Governor:

20 (i) A representative of the Maryland business community;

21 (ii) A representative of the disabled citizens community;

22 (iii) A representative of rural interests;

23 (iv) A representative of an auto users group;

24 (v) A representative of a transit users group;

25 (vi) A representative of the goods movement industry;

26 (vii) A nationally recognized expert on transportation demand
27 management;

28 (viii) A nationally recognized expert on pedestrian and bicycle
29 transportation;

30 (ix) A nationally recognized expert on transportation
31 performance measurement;

- 1 (x) A representative of an environmental advocacy organization;
- 2 (xi) A representative from the Maryland Department of
- 3 Planning;
- 4 (xii) A representative of the Maryland Association of Counties;
- 5 and
- 6 (xiii) A representative of the Maryland Municipal League.

7 (3) The Governor shall appoint the chairman of the advisory

8 committee.

9 (4) The advisory committee shall meet at least four times during the

10 process of developing the Maryland Transportation Plan to provide advice to the

11 Department on meeting the requirements of this subsection.

12 (5) The Department and the advisory committee shall consider the

13 following:

14 (i) Transportation and population trends and their impact on

15 the State's transportation system and priority funding areas;

16 (ii) Past and present State funding devoted to the various

17 transportation modes and demand management;

18 (iii) The full range of unmet transportation needs in priority

19 funding areas;

20 (iv) The full range of transportation measures and facilities

21 available, and their role, effectiveness, and cost effectiveness in providing travel

22 choices and reducing congestion;

23 (v) A review of transportation performance indicators and their

24 use in other states;

25 (vi) A review of the coordination of State transportation

26 investments with local growth plans for priority funding areas; [and]

27 (vii) The types of investments needed and their levels of funding

28 for supporting the goals and objectives of the Maryland Transportation Plan; AND

29 **(VIII) THE FULL RANGE OF THE ENVIRONMENTAL IMPACTS OF**

30 **THE TRANSPORTATION INVESTMENT.**

31 **[(j)] (K)** The Department may:

1 (1) Conduct its analysis of planned transportation investments in
2 priority funding areas on a statewide basis or in groupings of priority funding areas
3 centered on regions, metropolitan areas, cities, or other groupings suitable for
4 transportation modeling; and

5 (2) Choose to exclude from its analysis priority funding areas which
6 have an insignificant role in transportation trends because of small size, population, or
7 physical isolation.

8 **[(k)] (L)** In the report required under subsection (g) of this section, the
9 Department shall:

10 (1) Use narrative, graphs, charts, tables, and maps as appropriate to
11 make the results easily understood by the public;

12 (2) Include projected long-term trends for each of the indicators and
13 the effect of planned transportation investments on the trends;

14 (3) To the extent practicable, account for the effect of planned
15 transportation investments on inducing automobile travel;

16 (4) To the extent practicable, account for automobile trips not taken
17 due to demand management measures, including teleworking, teleshopping, and land
18 use patterns supporting alternatives to driving; and

19 (5) Indicate the cost effectiveness of investments for achieving
20 relevant performance goals and benchmarks, including a specific analysis of planned
21 transportation investments detailing:

22 (i) Any projected decreases or increases in indicators of traffic
23 congestion **AND ACCESSIBILITY TO HOUSING, EMPLOYMENT, AND PUBLIC**
24 **BENEFITS** as defined by the Department; and

25 (ii) The cost per passenger mile and other indicators of cost
26 effectiveness as defined by the Department, **INCLUDING THE COST OF**
27 **MAINTENANCE AND OPERATIONS OVER THE LIFE OF THE PROJECT.**

28 **[(l)] (M)** (1) (i) Subject to § 2-1246 of the State Government Article:

29 1. On or before September 1 of each year, the
30 Department shall submit copies of the proposed Consolidated Transportation Program
31 and the supporting financial forecast to the General Assembly; and

32 2. On submission of the budget bill to the presiding
33 officers of the General Assembly, the Department shall submit copies of the approved
34 Consolidated Transportation Program and the supporting financial forecast to the
35 General Assembly.

1 (ii) Notwithstanding § 2–1246(b)(2) of the State Government
2 Article, the Department shall provide to each member of the General Assembly a copy
3 of the proposed Consolidated Transportation Program and the approved Consolidated
4 Transportation Program.

5 (2) (i) The financial forecast supporting the Consolidated
6 Transportation Program to be submitted to the General Assembly under paragraph (1)
7 of this subsection shall include the following components:

8 1. A schedule of operating expenses for each specific
9 modal administration;

10 2. A schedule of revenues, including tax and fee
11 revenues, deductions from revenues for other agencies, Department program and fees,
12 Motor Vehicle Administration cost recovery, deductions for highway user revenues,
13 operating revenues by modal administration, and miscellaneous revenues; and

14 3. A summary schedule for the Transportation Trust
15 Fund that includes the opening and closing Fund balance, revenues, transfers, bond
16 sales, bond premiums, any other revenues, expenditures for debt service, operating
17 expenses, amounts available for capital expenses, bond interest rates, bond coverage
18 ratios, total bonds outstanding, federal capital aid, and the total amount for the
19 Transportation Capital Program.

20 (ii) The financial forecast shall include, for each of the
21 components specified in subparagraph (i) of this paragraph:

22 1. Actual information for the last full fiscal year; and

23 2. Forecasts of the information for each of the six
24 subsequent fiscal years, including the current fiscal year, the fiscal year for the
25 proposed budget, and the next four subsequent fiscal years.

26 (iii) The Department shall incorporate in the financial forecast
27 the most recent estimates by the Board of Revenue Estimates of the revenues from:

28 1. The corporate income tax and the sales and use tax
29 for each of the six subsequent years, including the current fiscal year and the fiscal
30 year for the proposed budget; and

31 2. Motor fuel taxes and motor vehicle titling taxes for
32 the current fiscal year and the fiscal year for the proposed budget.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2010.