

Chapter 725

(House Bill 1155)

AN ACT concerning

Transportation – Consolidated Transportation Program – Evaluation and Selection of Proposed Capital Projects

FOR the purpose of altering the process and the criteria used for selecting capital projects to be included in the Consolidated Transportation Program; requiring that the annual Consolidated Transportation Program report include certain goals, ~~a summary of how certain determinations were made, and certain information for each major capital project; requiring that each major capital project proposed by a certain entity include certain elements; certain criteria, and a certain statement that describes the purpose and need for each major capital project; requiring an entity that proposes a major capital project to submit a request and a certain statement justifying the project to the Secretary of Transportation; requiring the Department of Transportation to evaluate requests for major capital projects based on a certain record and certain other information; requiring the Department to evaluate and select the capital projects to be included in the Consolidated Transportation Program based on certain criteria~~ certain goals and criteria; requiring that certain indicators or benchmarks acknowledge the difference between urban and rural transportation needs; requiring the Smart Growth Subcabinet to conduct an annual review of certain goals, benchmarks, and indicators that are used to select certain capital projects; requiring the Department and a certain advisory committee to consider certain factors when establishing certain transportation goals, benchmarks, and indicators; requiring the Department to include certain information concerning the cost effectiveness of transportation investments in a certain report; defining certain terms; and generally relating to the evaluation and selection process for capital projects to be included in the Consolidated Transportation Program.

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

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

Article – Transportation

2-103.1.

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

(2) “Capital project” means:

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

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

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

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

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

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

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

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

(8) “PURPOSE AND NEED SUMMARY STATEMENT” MEANS A BRIEF STATEMENT THAT SPECIFIES THE UNDERLYING PURPOSE AND NEED FOR A PROJECT.

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

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

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

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

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

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

- (c) (1) The Consolidated Transportation Program shall:
 - (i) Be revised annually; and
 - (ii) Include:
 1. A list of **[Program priorities]**:
 - A. THE CURRENT STATE TRANSPORTATION GOALS;**
 - B. PROGRAM PRIORITIES; AND**
 - C. ~~THE~~ FOR PROJECTS IN THE CONSTRUCTION PHASE, THE CRITERIA USED TO SELECT MAJOR CAPITAL PROJECTS FOR INCLUSION IN THE CAPITAL PROGRAM, AS DETERMINED BY THE DEPARTMENT;**
 2. A statement of the Department’s projected annual operating costs, set forth separately for the Office of the Secretary and for each modal administration;
 3. Expanded descriptions of major capital projects;
 4. A list of major capital projects for the current year, the budget request year, and the 4 successive planning years;

5. A list of anticipated minor capital projects, including a specific list of anticipated special projects for the current year and the budget request year and an estimate of the Program level for each of the 4 successive planning years;
6. A list of major bridge work projects;
7. A summary of the capital and operating programs, as defined by the Secretary, for the Maryland Transportation Authority;
8. For each listed major capital project, an indication whether the revenue source anticipated to support that project consists of federal, special, general, or other funds;
9. The Department's estimates of the levels and sources of revenues to be used to fund the projects in the Program;
10. A glossary of terms; and
11. A cross-reference table for the information contained in the various parts of the State Report on Transportation.

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

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

1. To develop and promote bicycle and pedestrian transportation; and
2. Working together with local jurisdictions, to accommodate in a safe and effective manner pedestrians and bicycles within a reasonable distance for walking and bicycling to rail stops, light rail stops, and subway stations;

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

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

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

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

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

1. The amount of the funds requested; and
2. The total estimated cost of the project;

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

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

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

1. The amount by which costs exceed projected costs during each completed fiscal year; and
2. The total amount that has been expended for a major capital project; [and]

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

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

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

3. ~~THE PROJECT EVALUATION, BASED ON A SUMMARY OF HOW THE PROJECT MEETS~~ THE SELECTION CRITERIA FOR INCLUSION IN THE CAPITAL PROGRAM; AND

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

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

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

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

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

- ~~1. THE PROJECT NECESSITY;~~**
- ~~2. A DESCRIPTION OF HOW THE PROJECT MEETS STATE TRANSPORTATION GOALS;~~**
- ~~3. A DESCRIPTION OF HOW THE PROJECT ADDRESSES OTHER STATE GOALS, INCLUDING THOSE IN THE STATE DEVELOPMENT PLAN AND IN THE CLIMATE ACTION PLAN AS REQUIRED UNDER THE GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER § 2-1205(B) OF THE ENVIRONMENT ARTICLE;~~**
- ~~4. HOW THE PROJECT IS CONSISTENT WITH LOCAL GOVERNMENT LAND USE PLANS;~~**
- ~~5. POTENTIAL LAND USE CHANGES THAT SUPPORT THE PURPOSE AND NEED FOR THE PROJECT; AND~~**
- ~~6. ANY OTHER INFORMATION THAT THE SECRETARY DEEMS NECESSARY TO EVALUATE THE PROJECT.~~**

(II) THE NEED FOR THE PROJECT; AND

(III) A DISCUSSION OF HOW THE PROJECT:

- AND
1. ADDRESSES STATE TRANSPORTATION GOALS;
 2. SUPPORTS LOCAL GOVERNMENT LAND USE PLANS AND GOALS.

(6) (I) THE DEPARTMENT SHALL EVALUATE REQUESTS FOR MAJOR CAPITAL PROJECTS BASED ON THE STATE'S GOALS AND, AS APPROPRIATE, CRITERIA AS DETERMINED BY THE INFORMATION SUBMITTED BY THE PROPOSING ENTITY AND THE AVAILABILITY OF FUNDING.

(II) AS PART OF THE EVALUATION UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL ACKNOWLEDGE THE DIFFERENCE BETWEEN URBAN AND RURAL TRANSPORTATION NEEDS.

(d) The Maryland Transportation Plan shall:

- (1) Be revised every 5 years through an inclusive public participation process;
- (2) Include a 20-year forecast of State transportation needs, based on the financial resources anticipated to be available to the Department during that 20-year period;
- (3) Be expressed in terms of goals and objectives; and
- (4) Include a summary of the types of projects and programs that are proposed to accomplish the goals and objectives, using a multi-modal approach when feasible.

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

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

(g) Beginning with the year 2002 State Report on Transportation and continuing thereafter, before the General Assembly considers the proposed Maryland

Transportation Plan and the proposed Consolidated Transportation Program, the Department shall submit an annual report on the attainment of transportation goals and benchmarks for the approved and proposed Maryland Transportation Plan and the approved and proposed Consolidated Transportation Program to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.

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

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

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

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

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

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

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

(3) THE PERFORMANCE INDICATORS OR BENCHMARKS DESCRIBED IN THIS SUBSECTION SHALL ACKNOWLEDGE THE DIFFERENCE BETWEEN URBAN AND RURAL TRANSPORTATION NEEDS.

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

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

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

- (i) A representative of the Maryland business community;
- (ii) A representative of the disabled citizens community;
- (iii) A representative of rural interests;
- (iv) A representative of an auto users group;
- (v) A representative of a transit users group;
- (vi) A representative of the goods movement industry;
- (vii) A nationally recognized expert on transportation demand management;
- (viii) A nationally recognized expert on pedestrian and bicycle transportation;
- (ix) A nationally recognized expert on transportation performance measurement;
- (x) A representative of an environmental advocacy organization;
- (xi) A representative from the Maryland Department of Planning;
- (xii) A representative of the Maryland Association of Counties; and
- (xiii) A representative of the Maryland Municipal League.

(3) The Governor shall appoint the chairman of the advisory committee.

(4) The advisory committee shall meet at least four times during the process of developing the Maryland Transportation Plan to provide advice to the Department on meeting the requirements of this subsection.

(5) The Department and the advisory committee shall consider the following:

- (i) Transportation and population trends and their impact on the State's transportation system and priority funding areas;

(ii) Past and present State funding devoted to the various transportation modes and demand management;

(iii) The full range of unmet transportation needs in priority funding areas;

(iv) The full range of transportation measures and facilities available, and their role, effectiveness, and cost effectiveness in providing travel choices and reducing congestion;

(v) A review of transportation performance indicators and their use in other states;

(vi) A review of the coordination of State transportation investments with local growth plans for priority funding areas; **[and]**

(vii) The types of investments needed and their levels of funding for supporting the goals and objectives of the Maryland Transportation Plan; ~~AND~~

(VIII) ~~THE FULL RANGE OF THE ENVIRONMENTAL IMPACTS OF THE TRANSPORTATION INVESTMENT~~ THE IMPACT OF TRANSPORTATION INVESTMENT ON:

1. THE ENVIRONMENT;

2. ENVIRONMENTAL JUSTICE AS DEFINED IN § 1-701 OF THE ENVIRONMENT ARTICLE; AND

3. COMMUNITIES; AND

4. ECONOMIC DEVELOPMENT; AND

(IX) THE CLIMATE ACTION PLAN GOALS REQUIRED BY THE GREENHOUSE GAS EMISSIONS REDUCTION ACT OF 2009 UNDER § 2-1205(B) OF THE ENVIRONMENT ARTICLE.

[j)] (K) The Department may:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Notwithstanding § 2-1246(b)(2) of the State Government Article, the Department shall provide to each member of the General Assembly a copy

of the proposed Consolidated Transportation Program and the approved Consolidated Transportation Program.

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 20, 2010.