

Chapter 708

(House Bill 1201)

AN ACT concerning

Department of Planning – State Development Plan – Use and Conflicts of Law

FOR the purpose of requiring the Smart Growth Subcabinet to meet at least biannually with certain individuals to discuss certain local government issues; prohibiting the State Development Plan from being used to ~~create or establish a new cause for State denial of certain projects, permits, or approvals or to deny certain State funding; requiring the Department of Planning and a certain county or municipal corporation to meet in good faith and seek to resolve a certain conflict under certain circumstances; providing that the comprehensive plan, zoning laws, and local ordinances of a county or municipal corporation shall govern for a certain purpose if a certain conflict is not resolved; and generally relating to restrictions on the use of, and conflicts that may arise regarding,~~ deny a State-issued permit or certain State funding; clarifying that the Plan does not supersede any State statute or regulation or any local ordinance or regulation, affect the delegation of planning and zoning powers granted by the State to local jurisdictions under certain provisions of law, or overturn or prevent a decision of a local jurisdiction to fund a project; prohibiting the Plan from requiring a local government to change or alter a local ordinance, regulation, or comprehensive plan; providing for the effective date of certain provisions of this Act; correcting a certain cross-reference; providing for the termination of certain provisions of this Act; and generally relating to restrictions on the use and effect of the State Development Plan.

BY repealing and reenacting, with amendments,

Article – State Government

Section 9-1406

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement

Section 5-606

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – State Government9–1406.

(a) There is a Smart Growth Subcabinet.

(b) The Subcabinet consists of:

(1) the Special Secretary;

(2) the Secretary of Agriculture;

(3) the Secretary of Budget and Management;

(4) the Secretary of Business and Economic Development;

(5) the Secretary of the Environment;

(6) the Secretary of General Services;

(7) the Secretary of Higher Education;

(8) the Secretary of Housing and Community Development;

(9) the Assistant Secretary of the Office of Neighborhood Revitalization;

(10) the Secretary of Natural Resources;

(11) the Secretary of Planning;

(12) the Secretary of Transportation;

(13) a representative of the Governor’s office;

(14) the Secretary of Health and Mental Hygiene;

(15) the Secretary of Labor, Licensing, and Regulation; and

(16) the Director of the Maryland Energy Administration.

(c) The Executive Director of the National Center for Smart Growth Education and Research at the University of Maryland, College Park shall serve as an ex officio member of the Subcabinet.

(d) (1) The Special Secretary shall chair the Subcabinet and shall be responsible for the oversight, direction, and accountability of the work of the Subcabinet.

(2) The Secretary of Planning shall be the vice chair of the Subcabinet.

(e) (1) The Office shall provide the primary staff support for the Subcabinet.

(2) The Special Secretary and the Secretary of Planning may call upon any of the Subcabinet members to provide additional staff assistance as needed.

(f) The Special Secretary and the Secretary of Planning may establish subcommittees to carry out the work of the Subcabinet.

(g) The Subcabinet shall meet regularly at such times and places as it determines.

(h) (1) The Subcabinet shall:

(i) provide a forum for discussion of interdepartmental issues relating to activities that affect growth, development, neighborhood conservation, and resource management;

(ii) work together using all available resources to promote the understanding of smart growth;

(iii) work together to create, enhance, support, and revitalize sustainable communities across the State;

(IV) MEET AT LEAST BIANNUALLY WITH COUNTY AND MUNICIPAL ELECTED LEADERS AND PLANNING OFFICIALS TO DISCUSS LOCAL GOVERNMENT ISSUES RELATING TO ACTIVITIES THAT AFFECT SMART GROWTH, DEVELOPMENT, NEIGHBORHOOD CONSERVATION, AND RESOURCE MANAGEMENT;

[(iv)] (V) subject to paragraph (2) of this subsection, make recommendations to:

1. the Department of Business and Economic Development in accordance with § 5-1304 of the Economic Development Article;

2. the Department of Housing and Community Development in accordance with § 6-206 of the Housing and Community Development Article;

3. the Department of Planning in accordance with § 5A-303 of the State Finance and Procurement Article; and

4. the Department of Transportation in accordance with § 7-101 of the Transportation Article;

[(v)] (VI) in coordination with State agencies, evaluate and report annually to the Governor and, in accordance with § 2-1246 of this article, to the General Assembly on the implementation of the State's smart growth policy; and

[(vi)] (VII) perform other duties assigned by the Governor.

(2) The failure of the Subcabinet to make a recommendation under paragraph [(1)(iv)] (1)(V) of this subsection may not be construed as prohibiting a department to act in accordance with the department's authority under State law.

(i) The annual report required in subsection [(h)(3)] (H)(1) of this section shall include:

(1) a description of the projects, programs, and costs of activities located in priority funding areas;

(2) a description of projects, programs, and costs of activities funded under the exceptions allowed in § 5-7B-06 of the State Finance and Procurement Article;

(3) projects submitted to the Board of Public Works for funding outside priority funding areas under the extraordinary circumstances exception in accordance with § 5-7B-05 of the State Finance and Procurement Article and the impact of these projects upon the State's smart growth policy;

(4) a list of programs and policies reviewed and changed to ensure compliance with the State's smart growth policy; and

(5) a list of projects or programs approved and funded under Chapter 759, § 2 of the Acts of 1997.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

5-606.

(A) THE PLAN MAY NOT BE USED TO DENY:

~~(1) CREATE OR ESTABLISH A NEW CAUSE FOR STATE DENIAL OF PROJECTS, PERMITS, OR APPROVALS; OR~~

~~(2) DENY STATE FUNDING MANDATED BY STATUTE, REGULATION, OR IN THE ANNUAL STATE OPERATING OR CAPITAL BUDGETS.~~

~~(B) (1) IF THERE IS A CONFLICT BETWEEN THE PLAN AND A COUNTY OR MUNICIPAL CORPORATION CONCERNING THE IDENTIFICATION OF GROWTH, PRESERVATION, OR OTHER PLANNING AREAS IN THE PLAN, THE DEPARTMENT AND THE COUNTY OR MUNICIPAL CORPORATION SHALL MEET IN GOOD FAITH AND SEEK TO RESOLVE THE CONFLICT.~~

~~(2) IF THE CONFLICT IS NOT RESOLVED, THE COMPREHENSIVE PLAN, ZONING LAWS, AND LOCAL ORDINANCES OF THE COUNTY OR MUNICIPAL CORPORATION SHALL GOVERN WITH RESPECT TO THE IDENTIFICATION OF A GROWTH, PRESERVATION, OR OTHER PLANNING AREA.~~

(1) A STATE-ISSUED PERMIT; OR

(2) STATE FUNDING:

(I) MANDATED BY STATUTE OR REGULATION; OR

(II) PROVIDED FOR IN THE STATE OPERATING BUDGET OR CAPITAL BUDGET.

(B) THE PLAN DOES NOT:

(1) SUPERSEDE ANY STATE STATUTE OR REGULATION;

(2) SUPERSEDE ANY LOCAL ORDINANCE OR REGULATION;

(3) AFFECT THE DELEGATION OF PLANNING AND ZONING POWERS GRANTED BY THE STATE TO LOCAL JURISDICTIONS UNDER ARTICLES 23A, 25A, 25B, AND 66B OF THE CODE; OR

(4) OVERTURN OR PREVENT A DECISION OF A LOCAL JURISDICTION TO FUND A PROJECT.

(C) THE PLAN MAY NOT REQUIRE A LOCAL GOVERNMENT TO CHANGE OR ALTER A LOCAL ORDINANCE, REGULATION, OR COMPREHENSIVE PLAN.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement5-606.(A) THE PLAN MAY NOT BE USED TO DENY:(1) A STATE-ISSUED PERMIT; OR(2) STATE FUNDING:(I) MANDATED BY STATUTE OR REGULATION; OR(II) PROVIDED FOR IN THE STATE OPERATING BUDGET OR CAPITAL BUDGET.(B) THE PLAN DOES NOT:(1) SUPERSEDE ANY STATE STATUTE OR REGULATION;(2) SUPERSEDE ANY LOCAL ORDINANCE OR REGULATION;(3) AFFECT THE DELEGATION OF PLANNING AND ZONING POWERS GRANTED BY THE STATE TO LOCAL JURISDICTIONS UNDER ARTICLES 23A, 25A, AND 25B OF THE CODE AND DIVISION I OF THE LAND USE ARTICLE; OR(4) OVERTURN OR PREVENT A DECISION OF A LOCAL JURISDICTION TO FUND A PROJECT.(C) THE PLAN MAY NOT REQUIRE A LOCAL GOVERNMENT TO CHANGE OR ALTER A LOCAL ORDINANCE, REGULATION, OR COMPREHENSIVE PLAN.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of Chapter 426 (H.B. 1290) of the Acts of the General Assembly of 2012. If Section 3 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 22, 2012.