

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1201

(Delegate Conway, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

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

This bill prohibits the State Development Plan from being used to deny a State-issued permit or State funding mandated by statute or regulation or provided in the State operating or capital budget. The bill clarifies that 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 specified provisions of law; or (4) overturn or prevent a local jurisdiction's decision to fund a project. The plan may not require a local government to change or alter a local ordinance, regulation, or comprehensive plan. The Smart Growth Subcabinet is required to 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.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances, but allocation of funding could shift.

Local Effect: The bill is not expected to materially affect local finances, but allocation of funding could shift.

Small Business Effect: None.

Analysis

Current Law: The powers of zoning and planning, including the power to adopt zoning ordinances and a comprehensive plan, and grant special exceptions and planning variances, are part of the police power of the State. The General Assembly has designated planning and zoning powers to local governments in varying degrees and with certain requirements through several statutes. The General Assembly may revoke a local jurisdiction's power of zoning if the local jurisdiction fails to adopt certain elements in its comprehensive plan. The General Assembly has not designated to local jurisdictions the powers of water and sewer planning, which relate to local land use and can affect a local jurisdiction's land use decisions.

The Maryland Department of Planning (MDP), a cabinet-level agency, is responsible for planning matters concerning the resources and development of the State. MDP must function as an advisory, consultative, and coordinating agency that (1) harmonizes its planning activities with the planning activities of local governments; and (2) cooperates with and assists local governments in the execution of their planning functions, to harmonize their planning activities with the State Development Plan. MDP provides planning technical assistance, including land use plans and other planning work, to local governments.

MDP must prepare and periodically revise a State Development Plan that promotes the general welfare and prosperity of the people of the State through coordinated development of the State. The plan must be based on studies of governmental, economic, physical, and social conditions and trends. The plan must embody MDP's policy recommendations regarding the economic and physical development of the State.

When preparing and revising the plan, MDP must seek (1) comments from local governments affected by the plan; and (2) cooperation and advice from government units, regional planning commissions, educational institutions, research organizations, civic groups, and other interested persons.

Upon completion, the Secretary of Planning must submit the plan, or its parts or revisions, to the Governor. The Governor must file the plan, or its parts or revisions, as well as any comments made by the Governor with the Secretary of State. Copies of the plan and the Governor's comments must be (1) made available for general distribution or sale; and (2) sent to the head of each unit of State government and to the General Assembly.

Background:

Smart Growth Subcabinet

The Smart Growth Subcabinet was established in 2001 (Chapter 566) to promote smart growth policy. Specifically, the 13-member Smart Growth Subcabinet must (1) provide a forum for discussion of interdepartmental issues; (2) work together using all available resources to promote the understanding of smart growth; (3) in coordination with State agencies, evaluate and report annually to the Governor and the General Assembly on the implementation of the State's smart growth policy; and (4) perform other duties assigned by the Governor.

State Development Plan

Over the past four years, MDP has worked with State agencies, local governments, private industry, and the general public to develop the State's first comprehensive development plan, known as PlanMaryland. PlanMaryland is a policy framework for growth and preservation in the State and a blueprint to help guide State agencies in their decision making on programs and funding for growth and preservation. MDP released a draft plan in April 2011 and subsequently sought public input through open houses, targeted meetings, and an online comment tool. MDP released a revised draft plan in September 2011 that reflected public feedback and established an additional public comment period. The final PlanMaryland document was submitted to Governor O'Malley in December 2011. On December 19, 2011, the Governor accepted PlanMaryland and filed Executive Order 01.01.2011.22, which outlines a process for implementing the plan.

PlanMaryland proposes focusing State financial assistance in specific geographic areas and aligning State regulations and procedures. The plan calls for targeting State financial assistance to specific places that are designated for growth, revitalization, land preservation and resource conservation, and maintaining public services and quality of life. The plan anticipates a future local-State effort to identify planning areas that reflect local feedback and data from existing State mapping tools. To streamline State regulations and procedures, the plan proposes that (1) State capital spending and noncapital plans, programs, and procedures be realigned and focused to achieve the objectives; and (2) MDP collaborate with other State agencies to incorporate PlanMaryland into other strategic State plans for major needs, such as transportation.

The Governor's executive order on implementing PlanMaryland clarifies the plan's purpose; specifies a multiple stakeholder process for developing planning areas and associated planning area guidelines; and outlines other implementation requirements, which are summarized below.

- The Smart Growth Subcabinet, which is composed primarily of the heads of State agencies, must coordinate implementation of the plan among State agencies and report on progress.
- State agencies must review and then modify and align their plans, programs, and policies with the plan and within future State planning areas.
- State agencies must submit a report on their efforts, which includes implementation work plans, timelines, and performance tracking methods, in June 2012.
- The Smart Growth Subcabinet must review the State agency work plans, timelines, and tracking methods and prepare a report summarizing how each State agency proposes to implement the plan by August 2012.

There is some concern that PlanMaryland may lead to efforts to weaken local government planning and zoning authority and reduce State aid to some local jurisdictions. However, the Attorney General advises that PlanMaryland is simply a policy plan, not a law, and it cannot void a local government's planning and zoning authority.

Additional Information

Prior Introductions: None.

Cross File: SB 532 (Senator Middleton, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; Maryland Department of Agriculture; Department of Natural Resources; Maryland Department of Planning; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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