

# SENATE BILL 307

R1

~~EMERGENCY BILL~~

7lr0158  
CF HB 402

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By: **The President (By Request – Administration) and Senators Bates, Cassilly, Eckardt, Edwards, Hershey, Hough, Jennings, Norman, Ready, Salling, Serafini, Simonaire, ~~and Waugh~~ Waugh, Kasemeyer, Madaleno, Currie, DeGrange, Ferguson, Guzzone, King, Manno, McFadden, and Peters**

Introduced and read first time: January 20, 2017

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 15, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Repeal of the Maryland Open Transportation Investment Decision Act of 2016 –~~  
3 Application and Evaluation  
4 ~~(Road Kill Bill Repeal)~~

5 FOR the purpose of ~~repealing certain State transportation goals; repealing a requirement~~  
6 ~~that the Department of Transportation score the extent to which certain projects~~  
7 ~~satisfy certain goals; repealing a requirement that the Department develop a certain~~  
8 ~~scoring system and promulgate certain regulations; repealing a requirement that the~~  
9 ~~Department submit a certain list; repealing a requirement that the Department~~  
10 ~~evaluate, score, and rank certain projects for inclusion in a certain program;~~  
11 ~~repealing a requirement that certain projects be ranked in a certain manner;~~  
12 ~~repealing a requirement that the Department incorporate certain State~~  
13 ~~transportation goals into a certain program and a certain plan; repealing a~~  
14 ~~requirement that certain analyses and benchmarks are included in a certain~~  
15 ~~program and certain plan; making this Act an emergency measure altering the~~  
16 ~~definition of “major transportation project”; repealing the requirement that the~~  
17 ~~Department of Transportation adopt certain regulations on or before a certain date;~~  
18 ~~requiring the Department to develop a certain model that uses a certain~~  
19 ~~project-based scoring system to rank certain projects; requiring the Department to~~  
20 ~~use the model to rank certain projects; requiring the Department to include a certain~~  
21 ~~ranking and certain project scores in an appendix to the Consolidated Transportation~~  
22 ~~Program and make the ranking and project scores available on the Department’s~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Web site; altering the manner by which the Department evaluates and scores certain  
 2 major transportation projects; expanding and altering the list of the State's  
 3 transportation goals and establishing and altering certain measures for the goals;  
 4 repealing a requirement that the Department multiply certain scores by a certain  
 5 weighting factor; repealing the requirement that the Department prioritize certain  
 6 projects for inclusion in the Consolidated Transportation Program; repealing the  
 7 authorization of the Department to include certain projects with a certain score in  
 8 the Consolidated Transportation Program under certain circumstances; specifying  
 9 that certain provisions of this Act may not be construed to impede or alter the  
 10 inclusion of local transportation priorities in the Consolidated Transportation  
 11 Program; establishing the Workgroup on the Maryland Open Transportation  
 12 Investment Decision Act; providing for the composition, chair, and staffing of the  
 13 Workgroup; prohibiting a member of the Workgroup from receiving certain  
 14 compensation, but authorizing the reimbursement of certain expenses; requiring the  
 15 Workgroup to evaluate and make recommendations regarding certain matters;  
 16 requiring the Workgroup to report its findings and recommendations to the Governor  
 17 and the General Assembly on or before a certain date; providing for the termination  
 18 of this Act; and generally relating to State transportation programs and plans.

19 ~~BY repealing~~

20 ~~Chapter 36 of the Acts of the General Assembly of 2016~~

21 BY repealing and reenacting, with amendments,

22 Article – Transportation

23 Section 2-103.7

24 Annotated Code of Maryland

25 (2015 Replacement Volume and 2016 Supplement)

26 **Preamble**

27 ~~WHEREAS, Chapter 36 of the Acts of the General Assembly of 2016 created the~~  
 28 ~~“Road Kill Bill”, which had the effect of making 66 local transportation priorities ineligible~~  
 29 ~~for the State Consolidated Transportation Program; and~~

30 ~~WHEREAS, The Maryland Department of Transportation’s Capital Transportation~~  
 31 ~~Program has been in place for 34 years; and~~

32 ~~WHEREAS, Local transportation priority letters are used by the Maryland~~  
 33 ~~Department of Transportation to develop its draft and final Consolidated Transportation~~  
 34 ~~Program; and~~

35 ~~WHEREAS, The Maryland Department of Transportation, after releasing its draft~~  
 36 ~~Consolidated Transportation Program, visits all 23 counties and Baltimore City in order to~~  
 37 ~~receive additional local input on projects; and~~

38 ~~WHEREAS, The safety and security of Maryland’s transportation infrastructure is~~  
 39 ~~crucial to the State’s economic vitality; and~~

1 ~~WHEREAS, The Maryland Department of Transportation currently has more~~  
2 ~~projects underway than at any other time in its history; and~~

3 ~~WHEREAS, The Transportation Trust Fund is funded by all residents and~~  
4 ~~businesses statewide; and~~

5 ~~WHEREAS, The project scoring system passed during the 2016 legislative session~~  
6 ~~does not support a statewide transportation network for Maryland; and~~

7 ~~WHEREAS, Maryland's transportation network must support our nation's~~  
8 ~~homeland security and military needs with critical infrastructure projects; and~~

9 ~~WHEREAS, The prescriptive regulations and their imminent implementation~~  
10 ~~required by the law passed during the 2016 legislative session make it impossible for~~  
11 ~~projects statewide to be scored and evaluated equally, resulting in the cancellation of 66~~  
12 ~~projects across the State; now, therefore;~~

13 ~~WHEREAS, Thousands of Marylanders sit in traffic for hours every day as~~  
14 ~~congestion and gridlock prevent them from getting home and getting to and returning from~~  
15 ~~work in a reasonable amount of time; and~~

16 ~~WHEREAS, The transportation infrastructure is too important to the quality of life~~  
17 ~~of all Marylanders for the Maryland Department of Transportation to threaten projects~~  
18 ~~across the State due to a purely advisory law intended to shine a public light on the process~~  
19 ~~for making transportation decisions; and~~

20 ~~WHEREAS, Legislators voted for an increase in the gas tax because the need for~~  
21 ~~roads and bridges and enhancing our transit systems was nothing short of critical to~~  
22 ~~improving the lives of Marylanders, stimulating the economy, and creating jobs; and~~

23 ~~WHEREAS, It remains the intent of General Assembly that a public process for~~  
24 ~~transportation planning that provides Marylanders with a clear and transparent~~  
25 ~~explanation of how their transportation taxes and revenues are allocated to fund major~~  
26 ~~capital transportation projects be developed; now, therefore;~~

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
28 That ~~Chapter 36 of the Acts of the General Assembly of 2016 be repealed.~~ the Laws of  
29 Maryland read as follows:

30 Article – Transportation

31 2-103.7.

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

1           (2)    “Major capital project” has the meaning stated in § 2–103.1 of this  
 2 subtitle.

3           (3)    (i)    “Major transportation project” means a major capital project in  
 4 the State Highway Administration or the Maryland Transit Administration whose total  
 5 cost for all phases exceeds \$5,000,000 and that:

6                   1.    Increases highway or transit capacity;

7                   2.    **REDUCES AREAS OF HEAVY TRAFFIC CONGESTION;**

8                   3.    **IMPROVES COMMUTE TIMES IN AREAS OF HEAVY**  
 9 **TRAFFIC CONGESTION;**

10                  4.    Improves transit stations or station areas; or

11                   [3.] 5.    Improves highway capacity through the use of  
 12 intelligent transportation systems or congestion management systems.

13           (ii)   “Major transportation project” does not include:

14                   1.    Projects in the Maryland Aviation Administration, the  
 15 Maryland Port Administration, or the Maryland Transportation Authority;

16                   2.    Maintenance and storage facilities projects;

17                   3.    Water quality improvement projects;

18                   4.    Projects related to Maryland’s priorities for total  
 19 maximum daily load development;

20                   5.    Safety–related projects that do not increase highway or  
 21 transit capacity; ~~or~~

22                   6.    Roads within the Appalachian Development Highway  
 23 System; **OR**

24                   7.    **SYSTEM PRESERVATION PROJECTS.**

25           (b)    The Department shall:

26                   (1)   In accordance with federal transportation requirements, develop a  
 27 project–based scoring system using the goals and measures established under subsection  
 28 (c) of this section;

1           (2) Develop the weighting metrics for each goal and measure established  
2 under subsection (c) of this section;

3           (3) On or before January 1, [2017] 2018, [adopt regulations to carry out  
4 the provisions of this section] DEVELOP AN EXPERIMENTAL MODEL CONSISTENT WITH  
5 THE PROVISIONS OF THIS SECTION THAT USES THE PROJECT-BASED SCORING  
6 SYSTEM DEVELOPED UNDER THIS SUBSECTION TO RANK MAJOR TRANSPORTATION  
7 PROJECTS BEING CONSIDERED FOR INCLUSION IN THE DRAFT AND FINAL  
8 CONSOLIDATED TRANSPORTATION PROGRAM; [and]

9           (4) [In accordance with the project-based scoring system] USE THE  
10 MODEL developed under this subsection[,] TO rank major transportation projects BEING  
11 CONSIDERED for inclusion in the draft and final Consolidated Transportation Program;  
12 AND

13           (5) MAKE ANY RANKING UNDER ITEM (4) OF THIS PARAGRAPH  
14 AVAILABLE TO THE PUBLIC;

15                   (I) AS AN APPENDIX TO THE CONSOLIDATED  
16 TRANSPORTATION PROGRAM; AND

17                   (II) ON THE DEPARTMENT'S WEB SITE.

18           (c) (1) The State transportation goals are:

19                   (i) Safety and security;

20                   (ii) System preservation;

21                   (iii) Quality of service;

22                   (iv) Environmental stewardship;

23                   (v) Community vitality;

24                   (vi) Economic prosperity;

25                   (vii) Equitable access to transportation;

26                   (viii) Cost effectiveness and return on investment; [and]

27                   (ix) Local priorities ~~and planning~~;

28                   (X) REDUCING TRAFFIC CONGESTION; AND

1                    (XI) IMPROVING COMMUTE TIMES.

2                    (2) In evaluating whether and to what extent a major transportation  
3 project satisfies the goals established under paragraph (1) of this subsection, the  
4 Department, ~~using a 20-year forecast in the project area,~~ shall assign a score ~~from 1 to 100~~  
5 for each goal using **THE WEIGHTING METRICS DEVELOPED BY THE DEPARTMENT**  
6 **UNDER SUBSECTION (B)(2) OF THIS SECTION AND** the following measures:

7                    (i)      For safety and security:

8                                    1.      The expected reduction in total fatalities and severe  
9 injuries in all modes affected by the project; and

10                                   2.      The extent to which the project implements the Maryland  
11 State Highway Administration's Complete Streets policies.

12                    (ii)     For system preservation:

13                                   1.      The degree to which the project increases the lifespan of  
14 the affected facility;

15                                   2.      The degree to which the project increases the functionality  
16 of the facility; and

17                                   3.      The degree to which the project renders the facility more  
18 resilient.

19                    (iii)    For quality of service:

20                                   1.      The expected change in cumulative job accessibility within  
21 an approximately 60-minute commute for highway projects or transit projects;

22                                   2.      The degree to which the project has a positive impact on  
23 travel time reliability; and

24                                   3.      The degree to which the project supports connections  
25 between different modes of transportation and promotes multiple transportation choices.

26                    (iv)     For environmental stewardship:

27                                   1.      The potential of the project to limit or reduce harmful  
28 emissions;

29                                   2.      The degree to which the project avoids impacts on State  
30 resources in the project area and adjacent areas; and



1                    (X) FOR REDUCING TRAFFIC CONGESTION, THE DEGREE TO  
 2 WHICH THE PROJECT WILL REDUCE TRAFFIC CONGESTION.

3                    (XI) FOR IMPROVING COMMUTE TIMES, THE DEGREE TO WHICH  
 4 THE PROJECT WILL IMPROVE COMMUTE TIMES.

5                    ~~(3) The Department shall multiply the total combined score of each major~~  
 6 ~~transportation project by a weighting factor equal to one plus the results of dividing the~~  
 7 ~~population in the area served by the project, as determined [in regulations adopted] by the~~  
 8 ~~Department, by the population of Maryland.~~

9                    (d) (1) The score of a major transportation project shall be based solely on the  
 10 goals and measures established under subsection (c) of this section.

11                    (2) [Except as provided under paragraph (3) of this subsection, the  
 12 Department shall prioritize major transportation projects with higher scores for inclusion  
 13 in the Consolidated Transportation Program over major transportation projects with lower  
 14 scores.

15                    (3) The Department may include in the Consolidated Transportation  
 16 Program a major transportation project with a lower score over a major transportation  
 17 project with a higher score if it provides in writing a rational basis for the decision.] THE  
 18 DEPARTMENT SHALL MAKE THE SCORES OF ALL PROJECTS EVALUATED FOR  
 19 INCLUSION IN THE CONSOLIDATED TRANSPORTATION PROGRAM AND ASSIGNED A  
 20 SCORE UNDER THE MODEL AVAILABLE TO THE PUBLIC:

21                    (I) AS AN APPENDIX TO THE CONSOLIDATED  
 22 TRANSPORTATION PROGRAM; AND

23                    (II) ON THE DEPARTMENT'S WEB SITE.

24                    (e) Nothing in this section may be construed to impede or alter:

25                    (1) The priority letter process that outlines local transportation priorities  
 26 for the Department's consideration for inclusion in the Consolidated Transportation  
 27 Program under § 2-103.1 of this subtitle; [or]

28                    (2) The Department's visit to each county under § 2-103.1(e) of this  
 29 subtitle; OR

30                    (3) THE INCLUSION OF LOCAL TRANSPORTATION PRIORITIES IN THE  
 31 CONSOLIDATED TRANSPORTATION PROGRAM.

32                    SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act is an emergency~~  
 33 ~~measure, is necessary for the immediate preservation of the public health or safety, has~~  
 34 ~~been passed by a ye and nay vote supported by three-fifths of all the members elected to~~

1 ~~each of the two Houses of the General Assembly, and shall take effect from the date it is~~  
2 ~~enacted;~~

3 (a) There is a Workgroup on the Maryland Open Transportation Investment  
4 Decision Act.

5 (b) The Workgroup consists of the following members:

6 (1) the Majority Leader of the Senate of Maryland, or the Majority Leader's  
7 designee;

8 (2) the Minority Leader of the Senate of Maryland, or the Minority Leader's  
9 designee;

10 (3) the Majority Leader of the House of Delegates, or the Majority Leader's  
11 designee;

12 (4) the Minority Leader of the House of Delegates, or the Minority Leader's  
13 designee;

14 (5) one representative of the Senate Budget and Taxation Committee,  
15 appointed by the President of the Senate;

16 (6) one representative of the House Appropriations Committee, appointed  
17 by the Speaker of the House; and

18 (7) the Secretary of Transportation, or the Secretary's designee.

19 (c) The President of the Senate and the Speaker of the House shall each designate  
20 a cochair of the Workgroup.

21 (d) The Department of Legislative Services shall provide staff for the Workgroup.

22 (e) A member of the Workgroup:

23 (1) may not receive compensation as a member of the Workgroup; but

24 (2) is entitled to reimbursement for expenses under the Standard State  
25 Travel Regulations, as provided in the State budget.

26 (f) (1) The Workgroup shall:

27 (i) evaluate the model required under § 2-103.7(b) of the  
28 Transportation Article, as enacted by this Act;

29 (ii) evaluate how prioritizing major transportation projects with  
30 higher scores for inclusion in the Consolidated Transportation Program over major

1 transportation projects with lower scores applies to the Consolidated Transportation  
2 Program in fiscal years 2019 and 2020;

3 (iii) evaluate the prioritization process in Virginia and North  
4 Carolina and the applicability of these processes in Maryland;

5 (iv) evaluate regional prioritization processes and the applicability of  
6 these processes in Maryland; and

7 (v) make recommendations regarding whether modifications or  
8 changes to § 2-103.7 of the Transportation Article should be made.

9 (2) The Workgroup may:

10 (i) evaluate and test alternative models for prioritizing major  
11 transportation projects; and

12 (ii) evaluate how alternative models would apply to the Consolidated  
13 Transportation Program in fiscal years 2019 and 2020.

14 (3) In conducting its evaluation, the Workgroup shall solicit input from:

15 (i) local governments;

16 (ii) transportation planning organizations;

17 (iii) the Maryland Transit Administration;

18 (iv) the Maryland Transportation Authority; and

19 (v) other interested parties.

20 (g) On or before January 1, 2019, the Workgroup shall report its findings and  
21 recommendations to the Governor and, in accordance with § 2-1246 of the State  
22 Government Article, the General Assembly.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
24 1, 2017. It shall remain effective for a period of 2 years and 6 months and, at the end of  
25 ~~June 30,~~ December 31, 2019, with no further action required by the General Assembly, this  
26 Act shall be abrogated and of no further force and effect.