

HOUSE BILL 1199

R1
HB 981/07 – ENV

8lr2606
CF 8lr3793

By: **Delegates Jacobs, Arentz, Ghrist, and Otto**
Introduced and read first time: February 8, 2018
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Northern Bay Crossing**

3 FOR the purpose of repealing certain authority of the State Roads Commission concerning
4 the construction and financing of a northern crossing of the Chesapeake Bay between
5 Millers Island in Baltimore County and Kent County; prohibiting the Maryland
6 Department of Transportation, the Maryland Transportation Authority, or any unit
7 in the Department, from including in certain plans and other documents any
8 reference or statement with respect to a northern crossing of the Chesapeake Bay
9 that has a terminus that lies in whole or in part in Kent County; providing that a
10 certain provision of this Act may not be construed in a certain manner; providing
11 that bonds or other financing mechanisms authorized by law may not be used to
12 finance the planning, design, or construction of a northern crossing of the
13 Chesapeake Bay that has a terminus that lies in whole or in part in Kent County;
14 requiring the Department, the Authority, and any unit of the Department, if it is in
15 possession of any plan or other document prepared on or after a certain date, that
16 has a reference or statement with respect to a northern crossing of the Chesapeake
17 Bay that has a terminus that lies in whole or in part in Kent County, to remove or
18 cause the removal of that reference or statement from the plan or document;
19 amending a provision of law to prohibit the Authority from condemning property in
20 connection with the construction of a northern crossing of the Chesapeake Bay that
21 has a terminus that lies in whole or in part in Kent County; stating certain findings
22 and declarations of the General Assembly; requiring the Department and the
23 Authority to consider certain options to a northern bridge across the Chesapeake
24 Bay; stating the intent of the General Assembly; and generally relating to
25 prohibitions concerning a northern Chesapeake Bay crossing that has a terminus in
26 Kent County.

27 BY repealing and reenacting, with amendments,
28 Chapter 608 of the Acts of the General Assembly of 1976
29 Section 3. 1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Transportation
3 Section 2–112
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2017 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Transportation
8 Section 4–206
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Transportation
13 Section 4–407
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2017 Supplement)

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

18 **Chapter 608 of the Acts of 1976**

19 SECTION 3. AND BE IT FURTHER ENACTED, That Sections 120 through 140,
20 inclusive, of Article 89B – State Roads, of the Annotated Code of Maryland (1969
21 Replacement Volume and 1975 Supplement) be and they are hereby repealed and
22 reenacted, with amendments, and transferred from the Annotated Code of Maryland to the
23 Session Laws, to read as follows:

24 Bridge, Tunnel, and Motorway Revenue Bonds.

25 1.

26 (a) In order to remove the present handicaps and hazards on the congested
27 highways in the State, to facilitate vehicular traffic between different sections of the State,
28 to promote the agricultural and industrial development of the State, and to provide for the
29 construction of modern transportation facilities embodying practical safety devices, the
30 State Roads Commission is hereby authorized and empowered to construct, maintain,
31 repair and operate bridges, tunnels and motorways (as hereinafter defined), including a
32 crossing (as hereinafter defined) across the Chesapeake Bay generally parallel to the
33 existing Chesapeake Bay Bridge between Sandy Point and Kent Island, [a northern
34 crossing of the bay between Millers Island in Baltimore County and a point in Kent
35 County,] a southern crossing of the bay between Calvert County and Dorchester County,
36 and an additional crossing across the Baltimore Harbor, and to issue revenue bonds of the
37 State, payable solely from revenues, to pay the cost of such projects. [Such commission]
38 **EXCEPT FOR A NORTHERN CROSSING OF THE CHESAPEAKE BAY THAT HAS A**
39 **TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT**

1 COUNTY, THE COMMISSION is authorized to establish construction priorities and
2 determine the order of the construction of such projects.

3 (b) In order to establish the location of such crossings and their approaches
4 thereby permitting orderly land development and to permit the acquisition of necessary
5 rights-of-way for such projects at the minimum cost to the State, the State Roads
6 Commission is hereby authorized to perform or have performed preliminary engineering
7 for a crossing of the bay generally parallel to the existing Chesapeake Bay Bridge, [a
8 crossing of the bay between Millers Island in Baltimore County and a point in Kent
9 County,] a crossing of the bay between Calvert County and Dorchester County, and a
10 second crossing across the Baltimore Harbor and the approaches thereto of each of such
11 crossings. [The] **EXCEPT FOR A NORTHERN CROSSING OF THE CHESAPEAKE BAY**
12 **THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES**
13 **OF KENT COUNTY, THE** Commission is further authorized to perform or have performed
14 such engineering and other services as are necessary to enable it to acquire the
15 right-of-way for such projects and is authorized to acquire such right-of-way. [In]
16 **EXCEPT FOR A NORTHERN CROSSING OF THE CHESAPEAKE BAY THAT HAS A**
17 **TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT**
18 **COUNTY, IN** order to pay the cost of such engineering and other services and to pay the
19 cost of such right-of-way the Commission is authorized to issue revenue bonds as
20 authorized in § 1(a) hereof, or the Commission may pay such costs, or parts thereof, from
21 its Construction Fund or other appropriate funds and be reimbursed therefor upon the sale
22 of such revenue bonds. As to contracts which are not let by competitive bidding procedures,
23 the State Roads Commission shall not make any contract for engineering, architectural, or
24 construction studies or work under the provisions of this section without the prior approval
25 of the Board of Public Works.

26 Article – Transportation

27 2-112.

28 (A) (1) THIS SUBSECTION SHALL APPLY NOTWITHSTANDING ANY
29 PROVISION OF TITLE 3 OR TITLE 4 OF THIS ARTICLE OR ANY OTHER LAW TO THE
30 CONTRARY.

31 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
32 DEPARTMENT, INCLUDING ANY UNIT OF THE DEPARTMENT AND THE MARYLAND
33 TRANSPORTATION AUTHORITY, MAY NOT INCLUDE IN THE MARYLAND
34 TRANSPORTATION PLAN, THE CONSOLIDATED TRANSPORTATION PROGRAM, OR
35 ANY OTHER PLAN, STUDY, ANALYSIS, REPORT, PROPOSAL, CONCEPTUALIZATION, OR
36 OTHER DOCUMENT A REFERENCE OR STATEMENT WITH RESPECT TO A POSSIBLE
37 NORTHERN CHESAPEAKE BAY CROSSING THAT HAS A TERMINUS THAT LIES IN
38 WHOLE OR IN PART WITHIN THE BOUNDARIES OF KENT COUNTY.

39 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE

1 CONSTRUED:

2 1. TO PRECLUDE THE DEPARTMENT, INCLUDING ANY
3 UNIT OF THE DEPARTMENT, OR THE MARYLAND TRANSPORTATION AUTHORITY
4 FROM INCLUDING IN THE MARYLAND TRANSPORTATION PLAN, THE
5 CONSOLIDATED TRANSPORTATION PROGRAM, OR ANY OTHER PLAN, STUDY,
6 ANALYSIS, REPORT, CONCEPTUALIZATION, OR OTHER DOCUMENT A STATEMENT
7 THAT PROHIBITS THE PLANNING, DESIGN, OR CONSTRUCTION OF A NORTHERN
8 CHESAPEAKE BAY CROSSING THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN
9 PART WITHIN THE BOUNDARIES OF KENT COUNTY; OR

10 2. TO PRECLUDE KENT COUNTY FROM INCLUDING IN
11 ITS COMPREHENSIVE PLAN FOR THE COUNTY A STATEMENT THAT PROHIBITS THE
12 PLANNING, DESIGN, OR CONSTRUCTION OF A NORTHERN CHESAPEAKE BAY
13 CROSSING THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE
14 BOUNDARIES OF KENT COUNTY.

15 (3) BONDS OR FUNDING MECHANISMS OF ANY NATURE AUTHORIZED
16 UNDER THIS ARTICLE OR ANY OTHER LAW WITH RESPECT TO THE FINANCING OF THE
17 PLANNING, DESIGN, OR CONSTRUCTION OF ANY TRANSPORTATION FACILITY OR
18 TRANSPORTATION FACILITIES PROJECT MAY NOT BE USED TO FINANCE THE
19 PLANNING, DESIGN, OR CONSTRUCTION OF A NORTHERN CHESAPEAKE BAY
20 CROSSING THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN THE
21 BOUNDARIES OF KENT COUNTY.

22 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF, ON OR
23 AFTER JUNE 1, 2018, ANY PLAN, STUDY, ANALYSIS, REPORT, PROPOSAL,
24 CONCEPTUALIZATION, OR OTHER DOCUMENT CONTAINS A REFERENCE OR
25 STATEMENT IN VIOLATION OF SUBSECTION (A)(2)(I) OF THIS SECTION, THE
26 DEPARTMENT, INCLUDING ANY UNIT OF THE DEPARTMENT, OR THE MARYLAND
27 TRANSPORTATION AUTHORITY, AS APPROPRIATE, SHALL REMOVE OR CAUSE THE
28 REMOVAL OF THE REFERENCE OR STATEMENT.

29 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES TO ANY
30 DOCUMENT IN THE POSSESSION OF THE DEPARTMENT, INCLUDING ANY UNIT OF
31 THE DEPARTMENT, OR THE MARYLAND TRANSPORTATION AUTHORITY, WHETHER
32 OR NOT:

33 (I) THE DOCUMENT ORIGINATED IN THE DEPARTMENT; OR

34 (II) THE DOCUMENT IS IN PRINTED, ELECTRONIC, OR OTHER
35 FORMAT.

1 4-206.

2 Subject to Title 12 of the Real Property Article and Ch. 608, Acts of 1976, AS
3 **AMENDED BY CHAPTER _____ (S.B. _____/H.B. _____)(8LR2606) OF THE ACTS OF THE**
4 **GENERAL ASSEMBLY OF 2018, AND EXCEPT FOR A NORTHERN CROSSING OF THE**
5 **CHESAPEAKE BAY THAT HAS A TERMINUS THAT LIES IN WHOLE OR IN PART WITHIN**
6 **THE BOUNDARIES OF KENT COUNTY,** the Authority may condemn property for any
7 transportation facilities project authorized to be financed with revenue bonds of prior
8 issues.

9 4-407.

10 (a) This section applies to:

- 11 (1) Caroline County;
- 12 (2) Cecil County;
- 13 (3) Dorchester County;
- 14 (4) Kent County;
- 15 (5) Queen Anne's County;
- 16 (6) Somerset County;
- 17 (7) Talbot County;
- 18 (8) Wicomico County; and
- 19 (9) Worcester County.

20 (b) A State agency, including the Maryland Transportation Authority, may not
21 construct any toll road, toll highway, or toll bridge in the counties enumerated in this
22 section without the express consent of a majority of the governments of the affected
23 counties.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly finds
25 and declares that:

26 (1) The General Assembly has long recognized the value of preserving the
27 State's agricultural, rural, and historical traditions so that future generations will always
28 have areas of the State that reflect those traditions.

29 (2) Kent County, as a small, rural, and agricultural county, has always
30 enjoyed the peace and tranquility of a slower pace of life, and the residents of Kent County
31 cherish the hope that the county will always retain its character and integrity as a quiet

1 corner of the State.

2 (3) While a northern bridge across the Chesapeake Bay with a terminus in
3 Kent County would have a detrimental impact on the county and would disturb in a
4 significant way the character and way of life that mean so much to the residents of the
5 county, there are many State laws that remain in effect, however obscure they may be, that
6 refer to the possibility of such a northern Bay crossing.

7 (4) The many long-standing laws relating to a northern Chesapeake Bay
8 crossing, despite their dormancy for over 40 years, are still viable and could be construed
9 to give the State, in addressing concerns about moving traffic across the Bay to the Atlantic
10 beaches, a future option of constructing another Bay bridge that would have a terminus in
11 Kent County.

12 (5) While it is understood that the federal National Environmental Policy
13 Act (NEPA) requires agencies that participate in the NEPA process to explore and evaluate
14 all reasonable alternatives with respect to transportation projects:

15 (i) NEPA is clear that such an evaluation must focus on helping to
16 preserve and protect the value of environmental and community resources; and

17 (ii) A crossing of the Chesapeake Bay with a terminus in Kent
18 County would not preserve and protect the value of environmental and community
19 resources in Kent County.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Department of
21 Transportation and the Maryland Transportation Authority shall refocus attention away
22 from bridges across the Chesapeake Bay and consider other alternatives, such as:

23 (1) providing incentives to encourage motorists to use the Susquehanna
24 River Bridge crossing on Interstate 95; and

25 (2) reestablishing ferry service across the Bay between communities on the
26 eastern and western shores to reduce traffic across the Chesapeake Bay Bridge.

27 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General
28 Assembly in enacting this Act to remove from the laws of the State any provision that could
29 be used by the State to proceed in the future with the planning, funding, or construction of
30 a northern Chesapeake Bay crossing with a terminus in Kent County; and, further, it is
31 the intent of the General Assembly that the Maryland Department of Transportation
32 carefully reexamine the provisions of NEPA before making an assumption that any
33 enactment of the General Assembly that removes from the law the concept of a Chesapeake
34 Bay crossing with a terminus in Kent County would conflict with NEPA.

35 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
36 1, 2018.