

SENATE BILL 19

R2

SB 23/22 – FIN

(PRE-FILED)

3lr0394

CF HB 9

By: Senator Carter

Requested: September 13, 2022

Introduced and read first time: January 11, 2023

Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Equity in Transportation Sector – Guidelines and Analyses

FOR the purpose of requiring that equity be considered when certain State transportation plans, reports, and goals are developed; altering the membership of the advisory committee on State transportation goals, benchmarks, and indicators; requiring the Department of Transportation, in collaboration with the Maryland Transit Administration, to conduct certain analyses and consult with certain communities before announcing or proposing certain service changes; requiring the Administration to take certain actions to avoid or minimize certain disparate impacts or disproportionate burdens; requiring the Administration to compile a report on the impacts of a proposed service change after holding a public hearing on the proposed service change; requiring the Department, in collaboration with the Administration, to conduct certain analyses and consult with certain communities before announcing any reduction or cancellation of a capital expansion project in the construction program of the Consolidated Transportation Program; requiring the Administration to compile a report on the impacts of a proposed reduction or cancellation of a capital expansion project in the construction program of the Consolidated Transportation Program; and generally relating to equity in transportation.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 2–103.1(d), (h), and (j) and 7–101

Annotated Code of Maryland

(2020 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 2–103.1(g) and (i)

Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2020 Replacement Volume and 2022 Supplement)

BY adding to

Article – Transportation

Section 7–714 through 7–716

Annotated Code of Maryland

(2020 Replacement Volume and 2022 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.

(d) (1) The Maryland Transportation Plan shall:

[(1)] (I) Except as otherwise provided, be revised every 5 years through an inclusive public participation process;

[(2)] (II) 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)] (III) Be expressed in terms of the State transportation goals and measures; and

[(4)] (IV) Include a summary of the types of projects and programs that are proposed to accomplish the State transportation goals and measures, using a multi–modal approach when feasible.

(2) BEGINNING WITH THE 2045 MARYLAND TRANSPORTATION PLAN, THE DEPARTMENT SHALL CONSIDER WAYS TO ACHIEVE EQUITY IN THE TRANSPORTATION SECTOR WHEN DEVELOPING THE STATE TRANSPORTATION GOALS.

(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 State 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 § 2–1257 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 State transportation goals and measures specified in the Maryland Transportation Plan and § 2-103.7 of this subtitle; 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) (I) BEGINNING WITH THE 2024 ATTAINMENT REPORT ON TRANSPORTATION SYSTEM PERFORMANCE, THE ADVISORY COMMITTEE ADVISING THE DEPARTMENT ON STATE TRANSPORTATION GOALS, BENCHMARKS, AND INDICATORS SHALL RECOMMEND MEASURABLE TRANSPORTATION INDICATORS THAT CAN BE EVALUATED FOR:

1. RACIAL AND ETHNIC DISPARITIES; AND

2. TO THE EXTENT DATA IS AVAILABLE, IMPACTS ON PERSONS WITH DISABILITIES.

(II) THE DEPARTMENT SHALL EVALUATE THE INDICATORS RECOMMENDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO IDENTIFY ANY:

1. RACIAL AND ETHNIC DISPARITIES; AND

2. TO THE EXTENT DATA IS AVAILABLE, IMPACTS ON PERSONS WITH DISABILITIES.

[(3)] (4) 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 State transportation goals,

benchmarks, and indicators.

(j) (1) An advisory committee shall be assembled to advise the Department on the State 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;

(XIV) A REPRESENTATIVE OF THE MARYLAND STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; AND

(XV) A REPRESENTATIVE OF A TRANSPORTATION LABOR ORGANIZATION, DESIGNATED BY THE MARYLAND STATE AND DISTRICT OF COLUMBIA AFL-CIO.

(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;

(vii) The types of investments needed and their levels of funding for supporting the State transportation goals and measures established under § 2-103.7 of this subtitle;

(viii) The impact of transportation investment on:

1. The environment;

2. Environmental justice as defined in § 1-701 of the Environment Article;

3. Communities; [and]

4. Economic development; [and]

5. **RACIAL EQUITY; AND**

6. TO THE EXTENT DATA IS AVAILABLE, PERSONS WITH DISABILITIES, INCLUDING SERVICE ACCESSIBILITY; 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.

7-101.

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

(b) "Administration" means the Maryland Transit Administration.

(c) "Administrator" means the Maryland Transit Administrator.

(D) "DISPARATE IMPACT" MEANS A FACIALLY NEUTRAL POLICY OR PRACTICE THAT DISPROPORTIONATELY AFFECTS MEMBERS OF A GROUP IDENTIFIED BY RACE, COLOR, OR NATIONAL ORIGIN, WHERE THE RECIPIENT'S POLICY OR PRACTICE LACKS A SUBSTANTIAL LEGITIMATE JUSTIFICATION AND WHERE THERE EXIST ONE OR MORE ALTERNATIVES THAT WOULD SERVE THE SAME LEGITIMATE OBJECTIVES BUT WITH LESS DISPROPORTIONATE EFFECT ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN.

(E) "DISPROPORTIONATE BURDEN" MEANS A FACIALLY NEUTRAL POLICY OR PRACTICE THAT DISPROPORTIONATELY AFFECTS LOW-INCOME POPULATIONS MORE THAN NON-LOW-INCOME POPULATIONS AND, ON A FINDING OF DISPROPORTIONATE BURDEN, REQUIRES THE RECIPIENT TO EVALUATE ALTERNATIVES AND MITIGATE BURDENS WHERE PRACTICABLE.

[(d)] (F) "District" means:

(1) The Metropolitan Transit District, consisting of Baltimore City, Baltimore County, Anne Arundel County, and other areas as designated by the Secretary after consultation and coordination with the affected jurisdiction and subject to the provisions of the Washington Metropolitan Transit Authority Compact; and

(2) Any area in which railroad service is performed under contract with the Administration or in which railroad facilities are owned by the Administration.

[(e)] (G) "Excursion train" means any special event train sponsored or contracted for in connection with the promotion of a public event benefiting the State and its citizens.

[(f)] (H) "Light rail transit" means rail transit which is electrically powered and can operate in mixed traffic with automobiles.

[(g)] (I) "Private carrier" means any person that renders transit service within the District under an operating permit or license issued by an agency of this State exercising regulatory jurisdiction over transportation of passengers within this State and

over persons engaged in that business.

[(h)] (J) “Proof of fare payment” means evidence of fare prepayment authorized by the Administration for the use of transit service.

[(i)] (K) “Railroad company” means any entity engaged in the providing of railroad service under this title.

[(j)] (L) (1) “Railroad facility” means any facility used in providing railroad services, and includes any one or more or combination of:

(i) Switches, spurs, tracks, structures, terminals, yards, real property, and other facilities useful or designed for use in connection with the transportation of persons or goods by rail; and

(ii) All other appurtenances, including locomotives, cars, vehicles, and other instrumentalities of shipment or carriage, useful or designed for use in connection with the transportation of persons or goods by rail.

(2) “Railroad facility” does not include any transit facility.

[(k)] (M) “Railroad service” means any service utilizing rail or railroad facilities performed by any common carrier operating under the jurisdiction of the State or federal government as a common carrier and includes any such service performed by the National Railroad Passenger Corporation.

[(l)] (N) “Transit facility” includes any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

[(m)] (O) “Transit-oriented development” means a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

(1) Is part of a deliberate development plan or strategy involving:

(i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or

(ii) Property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;

(2) Is planned to maximize the use of transit, walking, and bicycling by

residents and employees; and

(3) Is designated as a transit-oriented development by:

(i) The Secretary, after considering a recommendation of the Smart Growth Subcabinet established under § 9-1406 of the State Government Article; and

(ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

[(n)] (P) (1) “Transit service” means the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the District.

(2) “Transit service” does not include any:

(i) Vanpool operation; or

(ii) Railroad service.

[(o)] (Q) (1) “Transit station” means any facility, the primary function of which relates to the boarding and alighting of passengers from transit vehicles.

(2) “Transit station” includes platforms, shelters, passenger waiting facilities, parking areas, access roadways, and other real property used to facilitate passenger access to transit service or railroad service.

[(p)] (R) “Transit vehicle” means a mobile device used in rendering transit service.

7-714.

THE ADMINISTRATION SHALL DEVELOP TRANSIT EQUITY ANALYSIS POLICIES AND GUIDELINES, INCLUDING THRESHOLDS FOR WHEN A REDUCTION OR CANCELLATION OF A CAPITAL EXPANSION PROJECT IN THE CONSTRUCTION PROGRAM OF THE CONSOLIDATED TRANSPORTATION PROGRAM REQUIRES ANALYSIS.

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

Article – Transportation

7-715.

(A) BEFORE ANNOUNCING ANY SERVICE CHANGE THAT WOULD

CONSTITUTE A MAJOR SERVICE CHANGE UNDER THE FEDERAL TRANSIT ADMINISTRATION'S TITLE VI REQUIREMENTS AND GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS, THE DEPARTMENT, IN COLLABORATION WITH THE ADMINISTRATION, SHALL:

(1) CONDUCT A TRANSIT EQUITY ANALYSIS IN ACCORDANCE WITH THE TITLE VI REQUIREMENTS AND GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS TO DETERMINE WHETHER THE CHANGE WILL CREATE A DISPARATE IMPACT OR A DISPROPORTIONATE BURDEN;

(2) PERFORM A COST-BENEFIT ANALYSIS, INCLUDING AN ANALYSIS OF IMPACTS ON:

- (I) ECONOMIC DEVELOPMENT;
- (II) EMPLOYMENT;
- (III) EDUCATION;
- (IV) HEALTH; AND
- (V) ENVIRONMENTAL JUSTICE; AND

(3) CONSULT WITH MEMBERS AND LEADERS OF AFFECTED COMMUNITIES, INCLUDING THROUGH COMMUNITY OUTREACH TO:

- (I) RACIAL MINORITY COMMUNITIES;
- (II) LOW-INCOME COMMUNITIES;
- (III) DISABLED RIDERS;
- (IV) RIDERS WITH LIMITED ENGLISH PROFICIENCY;
- (V) TRANSIT-RELIANT RIDERS; AND
- (VI) SENIOR RIDERS.

(B) (1) IF A TRANSIT EQUITY ANALYSIS REVEALS DISPARATE IMPACT OR DISPROPORTIONATE BURDEN, THE ADMINISTRATION SHALL:

- (I) DEVELOP ALTERNATIVES THAT WOULD MEET THE GOALS OF THE PROPOSED SERVICE CHANGE; AND
- (II) CONDUCT A TRANSIT EQUITY ANALYSIS ON THE

ALTERNATIVES.

(2) IF A DISPARATE IMPACT CAN BE AVOIDED THROUGH USE OF ONE OF THE ALTERNATIVES ANALYZED, THE ADMINISTRATION SHALL PROCEED WITH THAT ALTERNATIVE AS THE PRIMARY PROPOSED SERVICE CHANGE.

(3) IF THERE IS NO ALTERNATIVE THAT WOULD AVOID A DISPARATE IMPACT OR DISPROPORTIONATE BURDEN, THE ADMINISTRATION:

(I) MAY NOT IMPLEMENT THE PROPOSED SERVICE CHANGE UNLESS A SUBSTANTIAL JUSTIFICATION EXISTS THAT NECESSITATES THE CHANGE; AND

(II) SHALL IMPLEMENT THE ALTERNATIVE THAT CAUSES THE LEAST DISPARATE IMPACT OR DISPROPORTIONATE BURDEN.

(C) BEFORE HOLDING A PUBLIC HEARING ON A PROPOSED SERVICE CHANGE, THE ADMINISTRATION SHALL PUBLISH ON THE ADMINISTRATION'S WEBSITE, FOR THE ROUTES OR LINES IMPACTED BY THE SERVICE CHANGE, AN EVALUATION ON THE DEMOGRAPHICS OF:

(1) THE RIDERS OF THE ROUTES OR LINES; AND

(2) THE SERVICE AREA.

(D) (1) AFTER COMPLETING THE PUBLIC HEARINGS, THE ADMINISTRATION SHALL:

(I) PUBLISH THE TRANSIT EQUITY ANALYSIS AND COST–BENEFIT ANALYSIS ON THE ADMINISTRATION'S WEBSITE; AND

(II) COMPILE A REPORT ON THE IMPACTS OF THE PROPOSED SERVICE CHANGE.

(2) THE REPORT SHALL INCLUDE:

(I) THE TRANSIT EQUITY ANALYSIS;

(II) THE COST–BENEFIT ANALYSIS;

(III) A COMMUNITY OUTREACH REPORT;

(IV) ANY ALTERNATIVES ANALYZED; AND

(V) IF APPLICABLE, THE FINAL ALTERNATIVE SELECTED.

(3) IF A DISPARATE IMPACT OR DISPROPORTIONATE BURDEN EXISTS IN THE FINAL ALTERNATIVE SELECTED, THE REPORT SHALL INCLUDE A SUBSTANTIAL JUSTIFICATION STATEMENT.

(4) THE REPORT SHALL BE:

(I) MADE AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE, WITH A VISIBLE LINK FROM THE PRIMARY INFORMATION PAGE RELATING TO THE PROPOSED SERVICE CHANGE; AND

(II) DISTRIBUTED TO:

1. THE MEMBERS OF THE BOARD OF PUBLIC WORKS;
2. THE ATTORNEY GENERAL;
3. THE SECRETARY OF TRANSPORTATION;
4. ANY ELECTED OFFICIALS WHOSE DISTRICTS WOULD BE IMPACTED BY THE PROPOSED SERVICE CHANGE;

5. ANY COMMUNITY LEADERS CONSULTED DURING THE COMMUNITY OUTREACH PROCESS; AND

6. IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE:

A. THE PRESIDENT OF THE SENATE;
B. THE SPEAKER OF THE HOUSE;
C. THE SENATE FINANCE COMMITTEE; AND
D. THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.

7-716.

(A) BEFORE ANNOUNCING ANY REDUCTION OR CANCELLATION OF A CAPITAL EXPANSION PROJECT IN THE CONSTRUCTION PROGRAM OF THE CONSOLIDATED TRANSPORTATION PROGRAM THAT EXCEEDS THE THRESHOLDS DEVELOPED BY THE ADMINISTRATION, THE DEPARTMENT, IN COLLABORATION WITH THE ADMINISTRATION, SHALL:

(1) CONDUCT A TRANSIT EQUITY ANALYSIS IN ACCORDANCE WITH THE TITLE VI REQUIREMENTS AND GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS AND THE GUIDELINES DEVELOPED BY THE ADMINISTRATION TO DETERMINE WHETHER THE REDUCTION OR CANCELLATION WILL CREATE A DISPARATE IMPACT OR A DISPROPORTIONATE BURDEN;

(2) PERFORM A COST–BENEFIT ANALYSIS, INCLUDING AN ANALYSIS OF IMPACTS ON:

- (I) ECONOMIC DEVELOPMENT;
- (II) EMPLOYMENT;
- (III) EDUCATION; AND
- (IV) HEALTH; AND

(3) CONSULT WITH MEMBERS AND LEADERS OF AFFECTED COMMUNITIES, INCLUDING THROUGH COMMUNITY OUTREACH TO:

- (I) RACIAL MINORITY COMMUNITIES;
- (II) LOW–INCOME COMMUNITIES;
- (III) DISABLED RIDERS;
- (IV) RIDERS WITH LIMITED ENGLISH PROFICIENCY;
- (V) TRANSIT–RELIANT RIDERS; AND
- (VI) SENIOR RIDERS.

(B) (1) AFTER COMPLETING THE REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL COMPILE A REPORT ON THE IMPACTS OF THE PROPOSED REDUCTION OR CANCELLATION OF A CAPITAL EXPANSION PROJECT IN THE CONSTRUCTION PROGRAM OF THE CONSOLIDATED TRANSPORTATION PROGRAM.

(2) THE REPORT SHALL INCLUDE:

- (I) THE TRANSIT EQUITY ANALYSIS;
- (II) THE COST–BENEFIT ANALYSIS; AND
- (III) A COMMUNITY OUTREACH REPORT.

(3) THE REPORT SHALL BE:

(I) MADE AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE, WITH A VISIBLE LINK FROM THE PRIMARY INFORMATION PAGE RELATING TO THE PROPOSED REDUCTION OR CANCELLATION; AND

(II) DISTRIBUTED TO:

1. THE MEMBERS OF THE BOARD OF PUBLIC WORKS;
2. THE ATTORNEY GENERAL;
3. THE SECRETARY OF TRANSPORTATION;
4. ANY ELECTED OFFICIALS WHOSE DISTRICTS WOULD BE IMPACTED BY THE PROPOSED SERVICE CHANGE;

5. ANY COMMUNITY LEADERS CONSULTED DURING THE COMMUNITY OUTREACH PROCESS; AND

6. IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE:

A. THE PRESIDENT OF THE SENATE;
B. THE SPEAKER OF THE HOUSE;
C. THE SENATE FINANCE COMMITTEE; AND
D. THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2024.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2023.