

HOUSE BILL 836

R1, M3

4r1143
CF SB 681

By: **Delegates Edelson, Embry, Foley, Holmes, J. Lewis, J. Long, Love, Palakovich Carr, Ruth, Smith, Solomon, Taveras, Vogel, and Wilkins**

Introduced and read first time: January 31, 2024

Assigned to: Appropriations and Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Major Highway Capacity Expansion Projects – Impact Assessments and**
3 **Mitigation Plans**
4 **(Transportation and Climate Alignment Act of 2024)**

5 FOR the purpose of requiring the Department of Transportation to establish a process for
6 performing major highway capacity expansion project impact assessments;
7 requiring the Department of Transportation and a metropolitan planning
8 organization to perform an impact assessment under certain circumstances;
9 requiring the Department of Transportation to use the impact assessment to make
10 a certain determination; requiring the Department of Transportation and a
11 metropolitan planning organization to develop a certain mitigation plan under
12 certain circumstances; requiring the Department of Transportation to review for
13 approval a mitigation plan developed by a metropolitan planning organization;
14 requiring the Department of the Environment to develop a methodology for making
15 a certain determination; authorizing the Department of Transportation to restrict
16 or redirect certain funding that would have been allocated to the metropolitan
17 planning organization under certain circumstances; requiring the Department of
18 Transportation or a metropolitan planning organization to post certain information
19 to its website; and generally relating to major highway capacity projects.

20 BY repealing and reenacting, without amendments,
21 Article – Environment
22 Section 1–701(a)(1), (7), and (8)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2023 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Transportation
27 Section 2–103.1(a)(1), (2), and (4)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2020 Replacement Volume and 2023 Supplement)

BY adding to

Article – Transportation

Section 2–901 through 2–907 to be under the new subtitle “Subtitle 9. Major Highway Capacity Expansion Projects”

Annotated Code of Maryland

(2020 Replacement Volume and 2023 Supplement)

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

Article – Environment

1–701.

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

(7) “Overburdened community” means any census tract for which three or more of the following environmental health indicators are above the 75th percentile statewide:

(i) Particulate matter (PM) 2.5;

(ii) Ozone;

(iii) National Air Toxics Assessment (NATA) diesel PM;

(iv) NATA cancer risk;

(v) NATA respiratory hazard index;

(vi) Traffic proximity;

(vii) Lead paint indicator;

(viii) National Priorities List Superfund site proximity;

(ix) Risk Management Plan facility proximity;

(x) Hazardous waste proximity;

(xi) Wastewater discharge indicator;

(xii) Proximity to a Concentrated Animal Feeding Operation (CAFO);

- 1 (xiii) Percent of the population lacking broadband coverage;
- 2 (xiv) Asthma emergency room discharges;
- 3 (xv) Myocardial infarction discharges;
- 4 (xvi) Low-birth-weight infants;
- 5 (xvii) Proximity to emitting power plants;
- 6 (xviii) Proximity to a Toxic Release Inventory (TRI) facility;
- 7 (xix) Proximity to a brownfields site;
- 8 (xx) Proximity to mining operations; and
- 9 (xxi) Proximity to a hazardous waste landfill.

10 (8) "Underserved community" means any census tract in which, according
11 to the most recent U.S. Census Bureau Survey:

- 12 (i) At least 25% of the residents qualify as low-income;
- 13 (ii) At least 50% of the residents identify as nonwhite; or
- 14 (iii) At least 15% of the residents have limited English proficiency.

15 Article – Transportation

16 2–103.1.

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

18 (2) "Capital project" means:

19 (i) Any project for which funds are expended for construction,
20 reconstruction, or rehabilitation of a transportation facility by the Department or of a
21 transportation facilities project by the Maryland Transportation Authority; or

22 (ii) Capital equipment, as defined by the Secretary.

23 (4) "Major capital project" means any new, expanded, or significantly
24 improved facility or service that involves planning, environmental studies, design,
25 right-of-way, construction, or purchase of essential equipment related to the facility or
26 service.

27 SUBTITLE 9. MAJOR HIGHWAY CAPACITY EXPANSION PROJECTS.

1 **2-901.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "CARBON DIOXIDE EQUIVALENT" MEANS THE MEASUREMENT OF A
5 GIVEN WEIGHT OF A GREENHOUSE GAS THAT HAS THE SAME GLOBAL WARMING
6 POTENTIAL, MEASURED OVER A SPECIFIED PERIOD OF TIME, AS 1 METRIC TON OF
7 CARBON DIOXIDE.

8 (C) "GREENHOUSE GAS" INCLUDES CARBON DIOXIDE, METHANE, NITROUS
9 OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, AND SULFUR
10 HEXAFLUORIDE.

11 (D) "GREENHOUSE GAS EMISSIONS" MEANS EMISSIONS OF GREENHOUSE
12 GASES IN THE STATE, MEASURED IN METRIC TONS OF CARBON DIOXIDE
13 EQUIVALENTS.

14 (E) "IMPACT ASSESSMENT" MEANS A MAJOR HIGHWAY CAPACITY
15 EXPANSION PROJECT IMPACT ASSESSMENT.

16 (F) "INDUCED DEMAND" MEANS THE SITUATION THAT ARISES WHEN AN
17 EXPANDED ROAD BECOMES CONGESTED DUE TO ADDITIONAL DRIVERS USING THE
18 ROAD BECAUSE IT WAS EXPANDED.

19 (G) "MAJOR CAPITAL PROJECT" HAS THE MEANING STATED IN § 2-103.1
20 OF THIS TITLE.

21 (H) (1) "MAJOR HIGHWAY CAPACITY EXPANSION PROJECT" MEANS A
22 MAJOR CAPITAL PROJECT:

23 (I) WHOSE TOTAL COST FOR ALL PHASES EXCEEDS
24 \$10,000,000; AND

25 (II) THAT:

26 1. INCREASES HIGHWAY CAPACITY;

27 2. IMPROVES HIGHWAY CAPACITY THROUGH THE USE
28 OF INTELLIGENT TRANSPORTATION SYSTEMS OR CONGESTION MANAGEMENT
29 SYSTEMS; OR

1 **3. INCLUDES GRADE SEPARATION AT AN**
2 **INTERSECTION.**

3 **(2) “MAJOR HIGHWAY CAPACITY EXPANSION PROJECT” DOES NOT**
4 **INCLUDE:**

5 **(I) PROJECTS IN THE MARYLAND AVIATION ADMINISTRATION**
6 **OR THE MARYLAND PORT ADMINISTRATION;**

7 **(II) MAINTENANCE AND STORAGE FACILITIES PROJECTS;**

8 **(III) WATER QUALITY IMPROVEMENT PROJECTS;**

9 **(IV) PROJECTS RELATED TO MARYLAND’S PRIORITIES FOR**
10 **TOTAL MAXIMUM DAILY LOAD DEVELOPMENT;**

11 **(V) PROJECTS THAT ARE SOLELY FOR SYSTEM PRESERVATION;**
12 **OR**

13 **(VI) THE CONSTRUCTION OR RECONSTRUCTION OF:**

14 1. **A HIGHWAY EXIT RAMP THAT IS LESS THAN 2,500**
15 **FEET IN LENGTH;**

16 2. **A BIKE LANE; OR**

17 3. **A DEDICATED BUS LANE.**

18 **(I) “OVERBURDENED COMMUNITY” HAS THE MEANING STATED IN § 1-701**
19 **OF THE ENVIRONMENT ARTICLE.**

20 **(J) “UNDERSERVED COMMUNITY” HAS THE MEANING STATED IN § 1-701**
21 **OF THE ENVIRONMENT ARTICLE.**

22 **(K) “VEHICLE MILES TRAVELED” MEANS THE TOTAL NUMBER OF ON-ROAD**
23 **MILES TRAVELED BY VEHICLES IN A GEOGRAPHIC REGION OVER A 1-YEAR PERIOD.**

24 **2-902.**

25 **(A) THE REQUIREMENTS OF THIS SUBTITLE ARE IN ADDITION TO AND MAY**
26 **NOT SUPPLANT ANY HEALTH AND SAFETY GOALS ESTABLISHED UNDER STATE OR**
27 **LOCAL LAWS OR REGULATIONS.**

(B) THIS SUBTITLE DOES NOT APPLY TO:

(1) A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT THAT WAS, BEFORE JULY 1, 2024, SUBMITTED FOR APPROVAL FOR INCLUSION IN, OR FUNDED FOR CONSTRUCTION UNDER:

(I) THE STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM;

(II) A METROPOLITAN PLANNING ORGANIZATION TRANSPORTATION IMPROVEMENT PROGRAM; OR

(III) THE CONSOLIDATED TRANSPORTATION PROGRAM; OR

(2) A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT FOR WHICH AN ASSESSMENT COMPARABLE TO THE IMPACT ASSESSMENT REQUIRED UNDER THIS SUBTITLE WAS PERFORMED.

2-903.

(A) THE DEPARTMENT SHALL ESTABLISH A PROCESS FOR PERFORMING MAJOR HIGHWAY CAPACITY EXPANSION PROJECT IMPACT ASSESSMENTS.

(B) (1) AN IMPACT ASSESSMENT SHALL INCLUDE AN ANALYSIS AND ESTIMATES OF A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT'S:

(I) QUANTITATIVE NET CHANGE IN:

1. GREENHOUSE GAS EMISSIONS FOR THE SIXTH YEAR AFTER THE PROJECT IS COMPLETE; AND

2. VEHICLE MILES TRAVELED IN THE PROJECT AREA FOR THE SIXTH YEAR AFTER THE PROJECT IS COMPLETE; AND

(II) IMPACT ON GREENHOUSE GAS EMISSIONS AND VEHICLE MILES TRAVELED CAUSED BY ANY INDUCED DEMAND CREATED BY THE PROJECT.

(2) THE ANALYSIS AND ESTIMATES SPECIFIED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE DETERMINED USING THE BEST AVAILABLE DATA AND MODELING TOOLS, SUCH AS:

(I) THE STATE HIGHWAY INDUCED FREQUENCY OF TRAVEL CALCULATOR;

1 (II) THE NATIONAL CENTER FOR SUSTAINABLE
2 TRANSPORTATION'S INDUCED TRAVEL CALCULATOR; OR

3 (III) ANY OTHER IMPACT ASSESSMENT TOOL USED FOR
4 MEASURING INDUCED DEMAND FOR GRADE SEPARATION PROJECTS.

5 **2-904.**

6 (A) (1) THE DEPARTMENT SHALL PERFORM AN IMPACT ASSESSMENT
7 FOR A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT BEFORE THE PROJECT
8 MAY BE CONSIDERED FOR INCLUSION IN THE STATEWIDE TRANSPORTATION
9 IMPROVEMENT PROGRAM OR THE CONSOLIDATED TRANSPORTATION PROGRAM.

10 (2) A METROPOLITAN PLANNING ORGANIZATION SHALL:

11 (I) PERFORM AN IMPACT ASSESSMENT FOR A MAJOR
12 HIGHWAY CAPACITY EXPANSION PROJECT BEFORE THE PROJECT MAY BE
13 CONSIDERED FOR INCLUSION IN A METROPOLITAN PLANNING ORGANIZATION
14 TRANSPORTATION IMPROVEMENT PROGRAM; AND

15 (II) SUBMIT AN IMPACT ASSESSMENT PERFORMED UNDER THIS
16 SECTION TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

17 (B) THE DEPARTMENT SHALL USE THE INFORMATION COLLECTED IN THE
18 IMPACT ASSESSMENT REQUIRED IN SUBSECTION (A) OF THIS SECTION TO
19 DETERMINE WHETHER A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT MEETS
20 THE FOLLOWING REQUIREMENTS:

21 (1) THE PROJECT WILL NOT INCREASE GREENHOUSE GAS
22 EMISSIONS;

23 (2) THE PROJECT WILL NOT INCREASE VEHICLE MILES TRAVELED;

24 (3) THE PROJECT CONFORMS WITH THE GREENHOUSE GAS
25 EMISSIONS REDUCTION TARGETS SPECIFIED IN § 2-1205 OF THE ENVIRONMENT
26 ARTICLE; AND

27 (4) THE PROJECT CONFORMS WITH THE VEHICLE MILES TRAVELED
28 REDUCTION TARGETS SPECIFIED IN THE 2024 ANNUAL ATTAINMENT REPORT ON
29 TRANSPORTATION SYSTEM PERFORMANCE.

1 3. **HIGHWAY BUS RAPID TRANSIT;**

2 4. **RAIL TRANSIT; AND**

3 5. **INTERCITY PASSENGER RAIL;**

4 **(II) TRANSIT SERVICE IMPROVEMENTS, INCLUDING:**

5 1. **INCREASED SERVICE LEVELS;**

6 2. **TRANSIT FARE REDUCTIONS OR INCENTIVES; AND**

7 3. **TRANSIT PRIORITY TREATMENTS;**

8 **(III) ACTIVE TRANSPORTATION INFRASTRUCTURE**
9 **IMPROVEMENTS, INCLUDING PROTECTED BICYCLE LANES OR PATHWAYS;**

10 **(IV) SHARED SERVICES FOR MANUAL OR ELECTRIC LOW SPEED**
11 **VEHICLES, INCLUDING ELECTRIC BICYCLES AND SCOOTERS;**

12 **(V) TRANSPORTATION DEMAND MANAGEMENT, INCLUDING:**

13 1. **VANPOOL AND SHARED VEHICLE PROGRAMS;**

14 2. **TELEWORKING PROGRAMS; AND**

15 3. **EXPANSION OF BROADBAND ACCESS;**

16 **(VI) PARKING MANAGEMENT, INCLUDING:**

17 1. **REDUCTION OR ELIMINATION OF PARKING**
18 **REQUIREMENTS;**

19 2. **PARKING COST ADJUSTMENTS; AND**

20 3. **ELIMINATION OF PARKING SUBSIDIES;**

21 **(VII) LAND USE IMPROVEMENTS, INCLUDING:**

22 1. **RESIDENTIAL AND OTHER DENSITY INCREASES;**

23 2. **INFILL DEVELOPMENT; AND**

1 **3. TRANSIT-ORIENTED DEVELOPMENT; AND**

2 **(VIII) INFRASTRUCTURE IMPROVEMENTS RELATED TO**
3 **PEDESTRIANS OR TRAFFIC OPERATIONS, INCLUDING:**

4 **1. COMPLETE STREETS;**

5 **2. REDUCED CONFLICT INTERSECTIONS;**

6 **3. CROSSWALKS;**

7 **4. MIXED-USE PATHS;**

8 **5. ROADWAY GEOMETRY WITH REDUCED DESIGN**
9 **SPEEDS; AND**

10 **6. BUFFERED AND SHELTERED SIDEWALKS.**

11 **(2) A MITIGATION ACTION MAY BE INCORPORATED IN THE**
12 **MITIGATION PLAN FOR A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT IF:**

13 **(I) THE NECESSARY FUNDING SOURCES ARE IDENTIFIED AND**
14 **SUFFICIENT AMOUNTS ARE COMMITTED;**

15 **(II) THE MITIGATION ACTION IS FOCUSED ON AREAS IN**
16 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION; AND**

17 **(III) PROCEDURES ARE ESTABLISHED TO ENSURE THAT THE**
18 **MITIGATION ACTION CONFORMS WITH THE REQUIREMENTS UNDER § 2-904(B) OF**
19 **THIS SUBTITLE.**

20 **(C) (1) THE BENEFITS PROVIDED BY A MITIGATION ACTION SHALL**
21 **FOCUS ON AREAS IN THE FOLLOWING ORDER OF PRIORITY:**

22 **(I) OVERBURDENED COMMUNITIES OR UNDERSERVED**
23 **COMMUNITIES IMPACTED BY THE MAJOR HIGHWAY CAPACITY EXPANSION**
24 **PROJECT;**

25 **(II) AREAS WITHIN OR ASSOCIATED WITH AT LEAST ONE OF**
26 **THE COMMUNITIES IMPACTED BY THE PROJECT;**

27 **(III) OVERBURDENED COMMUNITIES OR UNDERSERVED**
28 **COMMUNITIES;**

1 (IV) THE REGION IN WHICH THE MAJOR HIGHWAY CAPACITY
2 EXPANSION PROJECT IS LOCATED; OR

3 (V) BENEFITS TO THE ENTIRE STATE.

4 (2) THE DEPARTMENT OR A METROPOLITAN PLANNING
5 ORGANIZATION SHALL INCLUDE IN A MITIGATION PLAN AN EXPLANATION ON THE
6 FEASIBILITY OF AND RATIONALE FOR SELECTING A MITIGATION ACTION LOCATED
7 IN AN AREA SPECIFIED IN PARAGRAPH (1)(III) THROUGH (V) OF THIS SUBSECTION.

8 (D) (1) A METROPOLITAN PLANNING ORGANIZATION SHALL SUBMIT A
9 MITIGATION PLAN DEVELOPED UNDER THIS SECTION TO THE DEPARTMENT FOR
10 REVIEW AND APPROVAL.

11 (2) (I) THE DEPARTMENT SHALL APPROVE A MITIGATION PLAN IF
12 THE DEPARTMENT DETERMINES THAT THE MITIGATION PLAN COMPLIES WITH
13 THIS SECTION AND THE REQUIREMENTS UNDER § 2-904(B) OF THIS SUBTITLE.

14 (II) THE DEPARTMENT OF THE ENVIRONMENT SHALL
15 DEVELOP A METHODOLOGY FOR THE DEPARTMENT TO DETERMINE IF A
16 MITIGATION PLAN FOR A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT IS
17 SUFFICIENT FOR REDUCING GREENHOUSE GAS EMISSIONS.

18 (3) (I) IF THE DEPARTMENT DOES NOT APPROVE A
19 METROPOLITAN PLANNING ORGANIZATION'S MITIGATION PLAN SUBMITTED UNDER
20 THIS SECTION, THE METROPOLITAN PLANNING ORGANIZATION SHALL ADDRESS
21 ANY ISSUES RAISED BY THE DEPARTMENT AND RESUBMIT THE PLAN TO THE
22 DEPARTMENT FOR APPROVAL.

23 (II) IF A METROPOLITAN PLANNING ORGANIZATION'S
24 RESUBMITTED MITIGATION PLAN STILL DOES NOT CONFORM WITH THE
25 REQUIREMENTS OF THIS SECTION AND § 2-904(B) OF THIS SUBTITLE, THE
26 DEPARTMENT MAY RESTRICT AND REDIRECT ANY FUNDING THAT WOULD HAVE
27 BEEN ALLOCATED BY THE DEPARTMENT TO THE METROPOLITAN PLANNING
28 ORGANIZATION, INCLUDING FUNDING FROM:

29 1. THE CONGESTION MITIGATION AND AIR QUALITY
30 PROGRAM; AND

31 2. SURFACE TRANSPORTATION BLOCK GRANTS.

32 2-906.

1 **THE DEPARTMENT OR A METROPOLITAN PLANNING ORGANIZATION SHALL**
2 **PUBLISH ON ITS WEBSITE THE FOLLOWING INFORMATION FOR EACH IMPACT**
3 **ASSESSMENT THE DEPARTMENT OR METROPOLITAN PLANNING ORGANIZATION**
4 **PERFORMS:**

5 **(1) A SUMMARY OF THE MAJOR HIGHWAY CAPACITY EXPANSION**
6 **PROJECT AND AN OVERVIEW OF THE IMPACT ASSESSMENT, INCLUDING:**

7 **(I) THE ESTIMATED QUANTITATIVE NET CHANGE IN:**

8 **1. GREENHOUSE GAS EMISSIONS FOR THE SIXTH YEAR**
9 **AFTER THE PROJECT IS COMPLETE; AND**

10 **2. VEHICLE MILES TRAVELED IN THE PROJECT AREA**
11 **FOR THE SIXTH YEAR AFTER THE PROJECT IS COMPLETE;**

12 **(II) THE STATUS OF THE PROJECT; AND**

13 **(III) THE AMOUNT OF FUNDING ALLOCATED TO ANY**
14 **MITIGATION ACTIONS RELATED TO THE PROJECT; AND**

15 **(2) THE INDUCED DEMAND TRAFFIC MODEL AND METHODOLOGY**
16 **THE DEPARTMENT OR METROPOLITAN PLANNING ORGANIZATION USED TO ASSESS**
17 **A MAJOR HIGHWAY CAPACITY EXPANSION PROJECT'S IMPACT ON GREENHOUSE**
18 **GAS EMISSIONS AND VEHICLE MILES TRAVELED.**

19 **2-907.**

20 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**
21 **SUBTITLE.**

22 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
23 **1, 2024.**