

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE

Third Reader - Revised

House Bill 80

(Chair, Environment and Transportation Committee)(By
Request - Departmental - Transportation)

Environment and Transportation

Budget and Taxation

Land Use - Transit-Oriented Development - Alterations

This departmental bill makes certain changes to the State's regulatory framework governing Transit-Oriented Developments (TODs). Broadly, the bill (1) establishes prohibitions and requirements with respect to local governments' regulation of land use in relation to TODs; (2) specifies that TODs are not subject to State procurement law or Board of Public Works (BPW) oversight, with certain exceptions; and (3) authorizes the establishment of a scoring preference – in the review of TOD Capital Grant and Revolving Loan Fund applications – for projects that use project labor agreements for specified purposes.

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances.

Local Effect: The bill is not expected to have a direct, material impact on local government finances, as discussed below.

Small Business Effect: The Maryland Department of Transportation (MDOT) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Land Use Prohibitions and Requirements

A legislative body (meaning the elected body of a local jurisdiction and including the board of county commissioners, the county council, and the governing body of a municipal corporation), or other local agency with land use authority, may not:

- impose a minimum off-street parking requirement on a residential or mixed-use development that is located within 0.25 miles of a rail transit station that receives at least hourly service on average from 8:00 a.m. until 6:00 p.m. Monday through Friday; or
- for State-owned land in use for a transportation purpose contiguous to a rail transit station that receives at least hourly service on average from 8:00 a.m. until 6:00 p.m. Monday through Friday, impose limitations or restrictions on land use classification, height, or setback, or any similar requirements if the land is subject to a TOD plan approved by MDOT and developed in coordination with the local jurisdiction.

In addition, a local jurisdiction's zoning regulations must allow mixed-use development on land designated for residential use or appropriate commercial use for mixed-use development within 0.5 miles of a rail transit station that receives at least hourly service on average from 8:00 a.m. until 6:00 p.m. Monday through Friday. "Mixed-use" means any combination of a residential use with a recreational, office, dining, or retail use. This requirement only applies to land use rezonings or actions taken by a legislative body on or after the bill's October 1, 2025 effective date.

The bill's prohibition regarding State-owned land in use for a transportation purpose contiguous to a specified rail transit station, and the requirement that a local jurisdiction's zoning regulations' allow specified mixed-use development, may not be construed to alter the land use authority of a local jurisdiction governing (1) environmental or natural resources concerns; (2) public health and safety considerations; or (3) adequate public facilities ordinances.

A legislative body or other local agency with land use authority must prioritize the processing and approval of any site plan or permit for a designated TOD.

Except as otherwise required by State law, a local government may not require that a project under the bill's provisions described above – that prohibit limitations or restrictions on specified State-owned land and require zoning regulations to allow specified mixed-use development – be reviewed at more than:

- two public hearings before each of (1) the local governing body and (2) the planning commission; and
- one public hearing before each of (1) a historic district commission or historic preservation commission and (2) the board of appeals.

Procurement Exemption

The bill establishes that Division II of the State Finance and Procurement Article does not apply to a TOD, with the exception of specified provisions that apply to a TOD to the extent otherwise required by law, including minority business participation provisions, to the extent practicable and permitted by the U.S. Constitution, and prevailing wage and living wage provisions.

Transit-Oriented Development Capital Grant and Revolving Loan Fund

The bill authorizes the Smart Growth Subcabinet, in establishing eligibility requirements and objective scoring standards for the review of applications for financial assistance from the TOD Capital Grant and Revolving Loan Fund, to establish a scoring preference for applications that demonstrate that the proposed project will use project labor agreements to promote project efficiency, cost control, enhanced worker safety, a skilled workforce, and labor harmony.

Current Law:

Transit-oriented Developments – Generally

“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 is:

- part of a deliberate development plan or strategy involving (1) property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; (2) property, any part of which is located within 0.5 miles of the passenger boarding and alighting location of a planned or existing transit station; or (3) property that is adjacent to a planned or existing transit corridor;
- planned to maximize the use of transit, walking, and bicycling by residents and employees; and
- designated as a TOD by (1) the Smart Growth Subcabinet and (2) the local government or multicounty agency with land use and planning responsibility for the relevant area applying for designation.

(The Smart Growth Subcabinet was renamed the Sustainable Growth Subcabinet in 2024, and is established to articulate, coordinate, and implement the State’s sustainable growth policy.)

It is the policy of the State that the development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and

coordinated regional transportation system, and the realization of TOD throughout the State, represent transportation purposes that are essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

Transit-Oriented Development Capital Grant and Revolving Loan Fund

Chapter 512 of 2023 made numerous changes to the State's regulatory framework governing TODs. Among other things, the Act established the TOD Capital Grant and Revolving Loan Fund as a special nonlapsing fund. The purpose of the fund is to promote the equitable and inclusive development of TODs throughout the State.

The fund consists of (1) money appropriated in the State budget to the fund; (2) money made available for qualifying uses by the fund from other governmental sources, as specified; (3) ground rents or land sale proceeds received from a capital asset being leased or sold to a private party for the purpose of realizing a TOD; (4) payments of principal of and interest on loans made from the fund; (5) investment earnings of the fund; and (6) any other money from any other source, public or private, accepted for the benefit of the fund. Contributions to the fund from ground rents or land sale proceeds must be separately accounted for in the fund and may only be used for the benefit of TODs in the same county in which the real property subject to the ground rent or land sale is located.

The fund may be used by MDOT to provide financial assistance to local jurisdictions for (1) design plans for a TOD, as specified; (2) public infrastructure improvements within a TOD; or (3) gap funding for public or private development within a TOD. A private entity, including a nonprofit entity, participating in the development of a TOD may partner with a local jurisdiction to submit an application for financial assistance for gap funding.

The Sustainable Growth Subcabinet is required to establish eligibility requirements and objective scoring standards for the review of applications for financial assistance from the fund. The subcabinet may establish scoring preferences for applications that demonstrate that the proposed project will:

- enhance access to transit for low-income and minority residents of the local jurisdiction;
- enhance access to transit in areas with affordable housing and a diversity of job and educational opportunities; or
- encourage development around underdeveloped and underutilized transit stations in TODs.

Procurement

Except for procurements for roads and bridges, and certain cybersecurity infrastructure modernization, BPW controls procurement by State agencies and may delegate that authority to other agencies. As such, authority over contracts for construction, commodities, services, and more for most Executive Branch agencies is delegated to the Department of General Services (DGS); the Office of State Procurement within DGS carries out the delegated authority. However, most contracts valued at more than \$200,000 (except for commodities) must still be approved by BPW.

The University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College are exempt from most provisions of State procurement law. In addition, the following agencies are exempted in whole or in part from most State procurement law:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Commerce;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery and Gaming Control Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- DGS, for historic preservation;
- Department of Natural Resources, for conservation service opportunities;
- Maryland State Archives;
- Maryland Stadium Authority;
- State Retirement and Pension System, for specified investment-related services;
- College Savings Plan of Maryland;
- Chesapeake Bay Trust;
- Department of Service and Civic Engagement, for the Maryland Corps Program; and
- Maryland Thoroughbred Racetrack Operating Authority.

Land Use

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments under the Land Use Article of the Maryland Code and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article).

Both the Land Use Article and Express Powers Act contain the State's policy statement that (1) the orderly development and use of land and structures requires comprehensive regulations through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government.

Division I of the Land Use Article: Local governments are governed by varying provisions of the Maryland Code relating to land use. Most of Division I of the Land Use Article (to which the bill's provisions are added) applies only to commission counties and municipalities. Sections 1-401(a), 1-402(b), and 10-103(a) of the Land Use Article establish that only certain provisions of Division I – those listed in §§ 1-401(b) and 10-103(b) – apply to charter counties (including Montgomery and Prince George' counties), code counties that choose to exercise the powers related to land use in the Express Powers Act, and Baltimore City. (The bill's provisions, however, are added to, or fall under, the provisions listed in §§ 1-401(b) and 10-103(b) and, therefore, apply to all jurisdictions.)

Development Projects Near a Rail Station that Include Affordable Dwellings: The Housing Expansion and Affordability Act (Title 7, Subtitle 5 of the Land Use Article), enacted by Chapter 122 of 2024, among other things, requires a local jurisdiction, subject to certain exceptions, to allow the density of a residential development project within three-quarters of a mile of a rail station, that contains at least 15% affordable dwelling units, to exceed the density otherwise authorized in a district or zone. A project in an area zoned:

- for single-family residential use, may include middle housing units (duplexes, triplexes, quadplexes, cottage clusters, or townhouses);
- for multifamily residential use, (1) must have a density limit that exceeds by 30% the allowable density in that zone for other uses/projects and (2) may consist of mixed-use;
- for nonresidential use, may consist of mixed-use, with density limits that do not exceed the highest allowable density in the local jurisdiction's multifamily residential zones (provided the project complies with public health impact assessment requirements); and
- for mixed-use, may include 30% more housing units than are allowed in that zone for other uses/projects.

Also, a local jurisdiction is prohibited from imposing any unreasonable limitation or requirements on such projects, including limitations on or requirements concerning (1) height; (2) setback; (3) bulk; (4) parking; (5) loading, dimensional, or area; or (6) similar requirements.

“Unreasonable limitation or requirement” includes any limitation or requirement that amounts to a *de facto* denial by having a substantial adverse impact on (1) the viability of an affordable housing development in a project; (2) the degree of affordability of affordable dwelling units in a project; or (3) the allowable density or number of units of the project.

Off-street Parking Requirements for Development Near Transit Stations – Baltimore City: Chapter 651 of 2024 prohibits the Mayor and City Council of Baltimore City from adopting or enforcing a local law that requires creation of new motor vehicle off-street parking for a development that includes residential use and that is located within a 0.25-mile radius of a present or planned (1) MARC station; (2) Baltimore Maryland Transit Administration Light Rail Station; (3) Red Line station, regardless of transit mode; or (4) Metro station.

Background: MDOT indicates that the bill (1) is intended to address barriers to the implementation of transit-oriented and joint development within the State, primarily through zoning reform, and (2) also addresses ambiguities in procurement law related to joint development. MDOT indicates that accelerating the pace of progress for TOD development is intended to ultimately (1) create more housing units and job opportunities and catalyze other development projects in and near TODs and (2) encourage transit use.

Local Fiscal Effect:

Land Use Provisions

The bill’s land use provisions are not expected to have a direct, material impact on local government finances. In certain jurisdictions, the prohibition on minimum off-street parking requirements for residential and mixed-use development within 0.25 miles of a rail transit station that receives at least hourly service (as specified in the bill) may strain on-street or other parking availability in areas around those rail transit stations. However, it does not appear that potential increased strain on parking capacity resulting from the bill has a direct, material impact on local government finances.

The bill’s other land use provisions – while they limit local governments’ land use authority and may have operational impacts – do not appear to have a direct, material impact on local government finances. In addition, the bill establishes that specified provisions of the bill do not alter a local jurisdiction’s land use authority governing adequate public facilities ordinances, retaining a local jurisdiction’s ability to limit development if existing or planned facilities/services cannot support the development.

Scoring Preference

DLS notes that to the extent the Sustainable Growth Subcabinet establishes a scoring preference for TOD Capital Grant and Revolving Loan Fund applications that demonstrate the proposed project will use project labor agreements, local governments that choose to take advantage of the scoring preference by using a project labor agreement may incur increased project costs to do so. However, such an impact is not considered a direct impact of the bill on local government for the purposes of this analysis because such an impact only occurs if (1) the scoring preference is established under the bill's authorization and (2) local governments, at their discretion, apply for finance assistance from the fund and choose to use project labor agreements to take advantage of the scoring preference.

Small Business Effect: Although MDOT advises that the bill is anticipated to have minimal or no impact on small businesses in the State, DLS advises that the bill's land use provisions may have a meaningful impact on any small businesses involved in residential or mixed-use development affected by the bill, by reducing costs of, and barriers to, such development.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 190 (Chair, Budget and Taxation Committee)(By Request - Departmental - Transportation) - Budget and Taxation.

Information Source(s): Maryland Department of Transportation; Maryland Department of Planning; Maryland Association of Counties; Anne Arundel, Cecil, Frederick, and Montgomery counties; Maryland Municipal League; cities of Frederick and Havre de Grace; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Land Use - Transit-Oriented Development - Alterations

BILL NUMBER: HB 80

PREPARED BY: Maryland Department of Transportation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

____ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill is anticipated to have no direct economic impact as proposed.