Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 190 (Chair, Budget and Taxation Committee)(By Request - Departmental - Transportation)

Budget and Taxation

Land Use - Transit-Oriented Development - Alterations

This departmental bill makes various changes to the State's regulatory framework governing Transit-Oriented Developments (TODs). Broadly, the bill (1) prohibits a legislative body from making certain land use decisions within 0.5 miles of a TOD; (2) specifies that TODs are not subject to State procurement law or Board of Public Works (BPW) oversight; (3) expands the authorized uses of the TOD Capital Grant and Revolving Loan Fund and allows the Maryland Department of Transportation (MDOT) to issue bonds to support the fund; and (4) authorizes MDOT to establish TOD corridor funds to collect revenues from county special taxing districts.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by $101,000 in FY 2026, increasing to $138,200 by FY 2030, for staff. Special fund revenues and expenditures for MDOT increase, potentially significantly, to the extent bonds are issued to support the TOD Capital Grant and Revolving Loan Fund and as revenues are collected into TOD corridor funds. Because MDOT's capital program is generally fully subscribed, directing bond proceeds to the TOD Capital Grant and Revolving Loan Fund may also reduce funding for other capital projects, as discussed below.

Local Effect: The bill's special taxing district and special fund provisions may affect local government finances, as discussed below. The bill's land use provisions are not expected to have a direct, material impact on local government finances, as discussed below.

Small Business Effect: 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.

Analysis

Bill Summary:

Land Use Prohibitions

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), may not:

- impose a minimum off-street parking requirement on a residential or mixed-use development that is located within 0.5 miles of a rail transit station;
- take an action to preclude mixed-use development that is located within 0.5 miles of a rail transit station; or
- for State-owned land in use for a transportation purpose adjacent to a transit station, impose local zoning restrictions if the land is subject to a TOD plan approved by MDOT.

The prohibitions only apply to land use rezonings or actions taken by a legislative body on or after the bill's October 1, 2025 effective date.

Procurement Exemption

Division II of the State Finance and Procurement Article does not apply to a TOD.

Transit-Oriented Development Capital Grant and Revolving Loan Fund

The bill specifies that, in addition to its existing sources of revenue, the TOD Capital Grant and Revolving Loan Fund consists of proceeds from bonds issued by MDOT; this change allows MDOT to issue bonds in support of the fund. The bill also repeals the requirement that contributions to the fund sourced from ground rents or land sale proceeds be used only for the benefit of TODs in the same county where the real property subject to the ground rent or land sale is located.

The bill also expands the authorized uses of the fund to include providing financial assistance to local jurisdictions for planning efforts for a site adjacent to transit that is not designated as a TOD to prepare that site for such designation.

Transit-Oriented Development Corridor Funds and Special Taxing Districts

MDOT may establish "TOD corridor funds" to collect revenues from county special taxing districts established to benefit TOD. A TOD corridor fund may be used within applicable special taxing districts to (1) support the issuance of bonds for TOD-related activities; (2) provide a dedicated source of revenues to repay federal loans for TOD; and (3) support other financing activities for the benefit of TOD.

A special tax imposed by the governing body of a county for the benefit of a TOD is exempt from any county tax limitation or bond cap. Revenues generated by a special tax imposed for the benefit of TOD by a county may be distributed to a TOD corridor fund established pursuant to the bill.

"TOD corridor fund" means a fund established and administered by MDOT to support TOD adjacent to a planned or existing transit corridor.

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.

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.

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's counties), code counties that choose to exercise the powers related to land use in the Express Powers Act, and Baltimore City. (The bill's provision added under § 4-104(c)(2), relating to minimum off-street parking requirements, falls under the provisions listed in §§ 1-401(b) and 10-103(b), and therefore applies to all jurisdictions. The bill's provisions added under § 4-104 (e) and (f), however, do not, and therefore do not apply to charter counties (including Montgomery and Prince George's counties), code counties that choose to exercise the powers related to land use in the Express Powers Act, and Baltimore City.)

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.

Special Taxing Districts

Special taxing districts are defined geographic areas within which a special tax is imposed on property owners to fund infrastructure improvements or services. Most special taxing districts are created by local governments, but a small number of State-created special taxing districts also exist. A county or municipality must have enabling authority from the General Assembly to create a special taxing district.

A frequently used statute, codified in Title 21, Subtitle 5 of the Local Government Article, authorizes 16 specified counties to create special taxing districts for infrastructure improvements, including TOD projects. This statute allows a special taxing district to be created only if two-thirds of the owners of real property parcels and two-thirds of the assessed valuation of real property in the proposed district make a request to the county. The statute authorizes the county to issue bonds to finance the infrastructure improvements. Revenue from taxes imposed within the district is deposited in a special fund that is used to pay the bonds. The statute requires that the special taxing district terminates when bonds are no longer outstanding with respect to the special taxing district and the county determines not to use the money in the special fund for other specified purposes.

For more information about special taxing districts see the *Guide to Local Government Taxing Authority*.

Tax Limitation Measures

Five charter counties (Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico) have amended their charters to limit property tax rates or revenues. In Anne Arundel County, the total annual increase in property tax revenues is limited to the lesser of 4.5% or the increase in the Consumer Price Index (CPI). In Montgomery County, a real property tax rate that exceeds the real property tax rate approved for the previous year may only be adopted if approved by all members of the county council. In Prince George's County, the general property tax rate is capped at $0.96 per $100 of assessed value. Special taxing districts, such as the Maryland-National Capital Park and Planning Commission, are not included under the tax cap. In Wicomico County, the total annual increase in property tax revenues is limited to the lesser of 2% or the increase in CPI. In Talbot County, the total annual increase in property tax revenues is limited to 2%. However, in fiscal 2022 through 2026, the property tax rate set by the county council can exceed the charter limit by one cent.

Counties may exceed the charter limitations on local property taxes for the purpose of funding the approved budget of the local boards of education. If a local property tax rate is set above the charter limit, the county governing body may not reduce funding provided to the local board of education from any other local source and must appropriate to the local board of education all of the revenues generated from any increase beyond the existing charter limit. This authority was adopted at the 2012 regular session to ensure that counties have the fiscal ability to meet education Maintenance of Effort requirements.

Background: MDOT advises that the bill is intended to address barriers to the implementation of transit-oriented and joint development within the State through zoning reform, addressing administrative barriers, and improving funding and financing strategies. MDOT advises that accelerating the pace of progress for TOD development in the manner effectuated by the bill 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.

State Fiscal Effect:

Maryland Department of Transportation – Staff

TTF expenditures increase by $101,048 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one program manager to oversee the existing TOD Capital Grant and Revolving Loan Program and to oversee any TOD corridor funds established by MDOT. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	$93,679
Operating Expenses	7,369
Total FY 2026 Staff Expenditures	**$101,048**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Funding for Transit-oriented Development Special Funds

The bill authorizes MDOT to issue bonds in support of the existing TOD Capital Grant and Revolving Loan Fund and authorizes MDOT to establish TOD corridor funds to collect revenues from local special taxing districts to support the corresponding TODs. MDOT advises that the TOD Capital Grant and Revolving Loan Fund is a special fund it manages separately from TTF and any TOD corridor funds established under the bill will be managed the same way.

Accordingly, to the extent that these funds receive additional funding through bond proceeds and special tax revenues, special fund revenues for MDOT increase, potentially significantly. Special fund expenditures increase correspondingly as the revenues are used for authorized purposes. However, any such impact cannot be reliably estimated without actual experience under the bill.

Additionally, to the extent that MDOT chooses to issue bonds to support the TOD Capital Grant and Revolving Loan Fund, those revenues are no longer available to MDOT to support its Consolidated Transportation Program. Thus, as TTF revenues decrease in this manner, MDOT may be required to delay or cancel other projects to accommodate the reduction in revenues.

Procurement Exemption

Exempting TODs from procurement law is not anticipated to affect MDOT expenditures or revenues, but doing so may make the procurement process for TODs more administratively streamlined.

Local Fiscal Effect:

Transit-oriented Development Funding

The bill authorizes MDOT to issue bonds in support of the TOD Capital Grant and Revolving Loan Fund, and the fund's primary purpose is to provide funding for local governments in support of TODs. Thus, to the extent that the bill increases funding available to the TOD Capital Grant and Revolving Loan Fund, additional funding is available for local government TOD activities. Local government revenues and expenditures increase accordingly as local governments receive the funding and use it for authorized purposes. Any such impact, however, cannot be reliably estimated without actual experience under the bill.

Land Use

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 0.5 miles of a rail transit station may strain on-street or other parking availability in areas around rail transit stations where transportation options are not sufficient for most residents to go without a car. (This possibility was indicated by the Maryland Association of Counties, with respect to Cecil, Frederick, and Harford counties, and also by the City of Frederick.) 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 two land use provisions – prohibiting (1) future legislative preclusion of mixed-use development within 0.5 miles of a transit station and (2) zoning restrictions on certain State-owned land adjacent to a transit station – limit local land use authority but do not appear to have a direct, material impact on local government finances.

Special Taxing Districts

Local government revenues and expenditures increase to the extent that the bill results in the imposition of a special tax to support TODs in a local jurisdiction and to the extent that those revenues are transferred to a TOD corridor fund established by MDOT under the bill's authority. As counties can generally impose special taxes under current law, and the bill authorizes, but does not require, MDOT to establish TOD corridor funds, any such impact cannot be estimated.

Otherwise, the bill allows special taxing districts in Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico counties to raise revenue from a special taxing district tax in excess of each county's revenue or property tax rate limit (as these are the only counties that have imposed a property tax limit), provided these revenues are used for transportation-related improvements and are deposited into a specified TOD corridor fund. As such, the bill may have a more pronounced effect on these counties, since, absent the bill, it is unclear whether they would be able to impose a special tax to support TODs.

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 within 0.5 miles of a rail transit station, by reducing costs of, and barriers to, such development.

Additional Information

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

Designated Cross File: HB 80 (Chair, Environment and Transportation Committee)(By Request - Departmental - Transportation) - Environment and Transportation.

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

Fiscal Note History: First Reader - January 26, 2025
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

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

BILL NUMBER: SB 190

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.