

# HOUSE BILL 252

L6, P1  
HB 654/12 – ENV

3lr0932

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By: **Delegates Smigiel, Afzali, Boteler, Eckardt, Fisher, Haddaway–Riccio, Jacobs, Krebs, McComas, McDermott, W. Miller, Myers, Otto, Parrott, and Stocksdale**

Introduced and read first time: January 23, 2013

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Development Plan – Repeal**

3 FOR the purpose of repealing a requirement that the Department of Planning prepare  
4 and revise certain plans for the development of the State for certain purposes  
5 and based on certain studies; repealing a requirement that the Department  
6 seek comments from and consult with certain local governments and seek the  
7 cooperation and advice of certain persons when preparing and revising the State  
8 Development Plan; repealing a provision stating that the Plan shall embody  
9 certain policy recommendations of the Department; repealing a requirement  
10 that the Secretary of Planning send to the Governor the Plan, substantial parts  
11 of the Plan, or revisions to the Plan; repealing a requirement that the Governor  
12 file with the Secretary of State the Plan, part of the Plan, or revisions to the  
13 Plan, together with certain comments; repealing a requirement that the  
14 Department make copies of certain materials available for general distribution  
15 or sale under certain circumstances; repealing a requirement that the Governor  
16 send copies of certain materials to certain persons under certain circumstances;  
17 repealing certain provisions relating to the required contents of the Plan;  
18 repealing a requirement that each county make a certain recommendation to  
19 the Department; repealing a requirement that the Secretary consult with and  
20 consider recommendations submitted by certain political subdivisions before  
21 making a certain designation; repealing the authority of the Secretary to adopt  
22 certain regulations; repealing a requirement that the Department furnish to  
23 certain political subdivisions the full text of certain proposed designations;  
24 repealing a requirement that the Department give certain political subdivisions  
25 a certain period of time to review and comment on a certain proposed  
26 designation; repealing a requirement that the Department publish certain  
27 designations and certain written comments; repealing a provision that prohibits  
28 the Plan from being used in a certain manner; repealing a provision that  
29 clarifies that the Plan does not supersede certain State or local laws or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 regulations, affect a certain delegation of planning or zoning powers, or  
 2 overturn or prevent certain decisions of a local jurisdiction; repealing a  
 3 provision that prohibits the Plan from requiring a local government to change or  
 4 alter a local ordinance, regulation, or comprehensive plan; repealing a certain  
 5 definition; making certain conforming changes; correcting certain  
 6 cross-references; and generally relating to the repeal of certain provisions  
 7 relating to the State Development Plan.

8 BY repealing and reenacting, with amendments,  
 9 Article – Environment  
 10 Section 14–508(a)  
 11 Annotated Code of Maryland  
 12 (2007 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, with amendments,  
 14 Article – State Finance and Procurement  
 15 Section 5–307(b), 5–402, 5–507, and 5–706(4)  
 16 Annotated Code of Maryland  
 17 (2009 Replacement Volume and 2012 Supplement)

18 BY repealing  
 19 Article – State Finance and Procurement  
 20 Section 5–601 through 5–606 and the part “Part I. Definitions; General  
 21 Provisions”; and 5–608 through 5–615 and the part “Part II. Contents of  
 22 Plan”; and the subtitle “Subtitle 6. State Development Plan”  
 23 Annotated Code of Maryland  
 24 (2009 Replacement Volume and 2012 Supplement)

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

27 **Article – Environment**

28 14–508.

29 (a) Within 90 days following the completion of the public hearing under §  
 30 14–507 of this subtitle, and after receiving the advisory comments and  
 31 recommendations of the Secretaries of Natural Resources, Business and Economic  
 32 Development, and Transportation and the Director of Planning, the Secretary shall  
 33 decide whether to grant, grant conditionally, or deny the permit. The Secretary’s  
 34 decision shall be in writing and based upon the economic and environmental  
 35 statement, the public hearing record, and a determination that the applicant has  
 36 shown satisfactorily that the facility:

37 (1) Conforms with and meets all applicable air, water, noise, and solid  
 38 waste laws of the State as determined and certified in writing by the appropriate State  
 39 unit with jurisdiction over these laws;

1 (2) Conforms with adopted or approved county or local land use  
2 planning and the official county or local comprehensive zoning map;

3 (3) [Conforms with the State development plan, if such plan has been  
4 lawfully approved and adopted;

5 (4) Would have no material adverse effect upon the natural  
6 environment of the area, its scenic or natural beauty, rare or irreplaceable natural  
7 resources, or unique historic sites;

8 [(5)] (4) Would not be so located or constructed as to have a material  
9 adverse effect upon the public health, safety, or welfare;

10 [(6)] (5) Would not be a potential or immediate undue burden on the  
11 water supply of the site or region;

12 [(7)] (6) Would not materially contribute to an extant level of undue  
13 environmental degradation or resource exhaustion;

14 [(8)] (7) Conforms with any coastal zone management program  
15 developed by the State of Maryland pursuant to the federal Coastal Zone Management  
16 Act of 1972;

17 [(9)] (8) Would have no material adverse effect upon critical areas  
18 identified and designated pursuant to [§ 5–611 of the State Finance and Procurement  
19 Article and] Title 1, Subtitle 4 or Title 3 of the Land Use Article;

20 [(10)] (9) Would not impose, directly or indirectly, a substantial  
21 burden on existing State, regional, or county public facilities beyond their respective  
22 capacities, or that new public facilities, if necessary, either:

23 (i) Would not be completed in time to serve the facility; or

24 (ii) Would be inadequate to serve the facility without causing  
25 overloading of the public facilities; and

26 [(11)] (10) Evidences fewer undesirable environmental, economic,  
27 fiscal, and cultural consequences in its specific or general proposed location than other  
28 specific or general locations.

## 29 Article – State Finance and Procurement

30 5–307.

31 (b) The annual report shall include:

1           (1) [a summary and description of the nature of every section of the  
2 State Development Plan that has been:

3                   (i) added, deleted, or revised since the last annual report; and

4                   (ii) filed by the Governor under § 5–605 of this title;

5           (2)] a summary of each important study wholly or partly completed by  
6 the Department since the last annual report; and

7           **[(3) (2)]** summaries of the work of the Department and of the State  
8 Economic Growth, Resource Protection, and Planning Commission.

9 5–402.

10           (a) The Department shall:

11                   (1) harmonize its planning activities with the planning activities of  
12 other units of the State government;

13                   (2) coordinate the plans and programs of all units of the State  
14 government;

15                   **[(3)]** cooperate with and assist other units of the State government in  
16 the execution of their planning functions, to harmonize their planning activities with  
17 the State Development Plan;] and

18                   **[(4) (3)]** promote the State’s Economic Growth, Resource Protection,  
19 and Planning Policy set forth in Subtitle 7A of this title.

20           (b) The Department shall[:

21                   (1)] harmonize its planning activities with the planning activities of  
22 local governments[; and

23                   (2) cooperate with and assist local governments in the execution of  
24 their planning functions, to harmonize their planning activities with the State  
25 Development Plan].

26           (c) The Department shall:

27                   (1) coordinate State programs with the federal government; **AND**

1           **[(2)]** cooperate with and assist units of the federal government in the  
2 execution of their planning functions, to harmonize their planning activities with the  
3 State Development Plan; and]

4           **[(3)] (2)** cooperate with, confer with, and, on request, provide  
5 information to:

6                   (i) units of the federal government; and

7                   (ii) local or regional agencies that are created under federal  
8 programs or that receive federal support.

9           (d) As far as possible, the Department shall cooperate with and confer with  
10 planning agencies of other states or of regional groupings of states.

11           **[(e)]** The Department shall cooperate with and assist regional and private  
12 planning agencies in the execution of their planning functions, to harmonize their  
13 planning activities with the State Development Plan.]

14           **[(f)] (E)** The Department shall exercise authority as the lead agency in  
15 coordinating the State's land preservation efforts and focus its planning efforts on  
16 targeted land preservation.

17           **[(g)] (F)** The Department shall plan for the efficient use of inactive railroad  
18 corridors by:

19                   (1) examining all opportunities, both present and future, for  
20 acquisition or use of inactive railroad corridors;

21                   (2) coordinating and working with the Departments of Natural  
22 Resources, Transportation, Business and Economic Development, and the State  
23 Railroad Administration and other agencies to determine the suitability and feasibility  
24 of acquiring or using inactive railroad corridors for recreational trails, public utilities,  
25 or future transportation purposes; and

26                   (3) taking part in United States Interstate Commerce Commission  
27 proceedings regarding the abandonment or the discontinuance of use of railroad  
28 corridors on behalf of the State.

29           **[(h)] (G)** The Department shall:

30                   (1) review transportation plans and programs prepared by the  
31 Department of Transportation and regional planning agencies and make  
32 recommendations regarding the relationship between transportation and planned land  
33 use; and

1           (2) evaluate proposed transportation improvements and policies to  
2 assure consistency between transportation investments and the State Economic  
3 Growth, Resource Protection, and Planning Policy.

4           **[(i)] (H)** The Department may provide advice to local governments  
5 regarding the impact on growth and development of:

6           (1) transportation components of local plans;

7           (2) aspects of local land use regulation affecting transportation; and

8           (3) local transportation improvements.

9 5–507.

10           The Department shall provide information to State and local officials and to the  
11 public to stimulate public interest and participation in the orderly, integrated  
12 development of the State and to foster public awareness and understanding of[:

13           (1) the objectives of the State Development Plan; and

14           (2)] the function of State, regional, and local planning.

15                                   [Subtitle 6. State Development Plan.]

16                                   [Part I. Definitions; General Provisions.]

17 [5–601.

18           In this subtitle, “Plan” means the State Development Plan.]

19 [5–602.

20           (a) The Department shall prepare and from time to time revise a plan or  
21 plans for development of the State. The plan or plans collectively shall be known as  
22 the State Development Plan.

23           (b) The Department shall prepare the Plan to promote the general welfare  
24 and prosperity of the people of the State through the coordinated development of the  
25 State.

26           (c) The Department shall base the Plan on studies of governmental,  
27 economic, physical, and social conditions and trends.]

28 [5–603.

1           In the preparation and revision of the Plan or any part of it, the Department  
2 shall:

3                   (1)    seek comments from and consult with the local governments of the  
4 areas that are affected by the Plan; and

5                   (2)    seek the cooperation and advice of appropriate:

6                           (i)    governmental units;

7                           (ii)   regional planning commissions;

8                           (iii)   public or private educational institutions;

9                           (iv)   public or private research organizations;

10                          (v)    civic groups; and

11                          (vi)   interested persons.]

12   [5-604.

13           The Plan shall embody the policy recommendations of the Department  
14 regarding the economic and physical development of the State.]

15   [5-605.

16           (a)    On completion, the Secretary shall send to the Governor the Plan, any  
17 substantial part of the Plan, or any revision to the Plan.

18           (b)    The Governor shall file with the Secretary of State the Plan, part of the  
19 Plan, or revision to the Plan, together with any comments made by the Governor, and,  
20 in that event:

21                   (1)    the Department shall make copies of the material filed available  
22 for general distribution or sale; and

23                   (2)    the Governor shall send copies of the material filed:

24                           (i)    to the head of each unit of the State government; and

25                           (ii)   subject to § 2-1246 of the State Government Article, to the  
26 General Assembly.]

27   [5-606.

- 1 (a) The Plan may not be used to deny:
- 2 (1) a State-issued permit; or
- 3 (2) State funding:
- 4 (i) mandated by statute or regulation; or
- 5 (ii) provided for in the State operating budget or capital budget.
- 6 (b) The Plan does not:
- 7 (1) supersede any State statute or regulation;
- 8 (2) supersede any local ordinance or regulation;
- 9 (3) affect the delegation of planning and zoning powers granted by the  
10 State to local jurisdictions under Articles 23A, 25A, and 25B of the Code and Division I  
11 of the Land Use Article; or
- 12 (4) overturn or prevent a decision of a local jurisdiction to fund a  
13 project.
- 14 (c) The Plan may not require a local government to change or alter a local  
15 ordinance, regulation, or comprehensive plan.]

16 [Part II. Contents of Plan.]

17 [5-608.

18 The Plan shall contain a statement of the objectives, standards, and principles  
19 sought to be expressed in the Plan.]

20 [5-609.

21 The Plan shall contain a comprehensive analysis and evaluation of the capital  
22 plans and programs of each unit of the State government.]

23 [5-610.

24 The Plan shall contain a review and analysis of:

- 25 (1) all federal grants, loans, or services available to the State;
- 26 (2) all State grants to local governments; and



1           (3) the impact of any existing or proposed federal program on the  
2 State.]

3 [5-611.

4           (a) The Plan shall identify all areas designated by the Department as areas  
5 of critical State concern.

6           (b) Each county shall recommend to the Department those areas in the  
7 county that should be designated as areas of critical State concern.

8           (c) Before designating an area as an area of critical State concern, the  
9 Secretary shall consult with and consider any recommendations submitted by affected  
10 political subdivisions.

11           (d) The Secretary may adopt regulations for the political subdivisions to use  
12 in recommending areas to be designated as areas of critical State concern.

13           (e) The Department shall:

14               (1) furnish to the governing body of each affected political subdivision  
15 the full text of each proposed designation of an area as an area of critical State  
16 concern;

17               (2) give each political subdivision affected by a proposed designation  
18 at least 45 days to review and comment on the proposed designation; and

19               (3) publish its designation of areas of critical State concern, together  
20 with all written comments received from political subdivisions regarding the areas  
21 designated.]

22 [5-612.

23           The Plan shall contain recommendations for the most desirable general pattern  
24 of land use in the State. The recommendations shall be based on the best available  
25 information concerning:

26               (1) environmental and natural factors, including climate, soil and  
27 underground conditions, topography, and water sources and bodies of water;

28               (2) present and prospective economic bases of the State;

29               (3) water and sewerage facilities;

30               (4) trends of industrial, population, or other developments;

31               (5) habits and standards of life of the people of the State; and

1 (6) the relation of land use in the State to land use in adjoining areas.]

2 [5-613.

3 The Plan shall contain recommendations concerning the need for and the  
4 proposed general location of major public works and private facilities, including  
5 utilities, flood control works, water reservoirs, pollution control facilities, and military  
6 or defense installations, that are of State, as opposed to purely local or regional,  
7 concern because of:

8 (1) their function, size, extent, or legal status;

9 (2) the fact that their authorization, location, or construction is legally  
10 under the jurisdiction of a unit of the State government; or

11 (3) any other reason that makes inclusion in the Plan appropriate.]

12 [5-614.

13 The Plan shall recommend a major circulation pattern for the State, including  
14 major transportation routes and major terminals that should be used for movement  
15 within the State or for movement from and to adjoining areas.]

16 [5-615.

17 The Plan shall contain the recommendations of the Secretary concerning any  
18 current or impending problem that may affect the State as a whole.]

19 5-706.

20 The Commission shall:

21 (4) advise on the content and preparation of the [State development  
22 plan,] State transportation plan[,] and State housing plan and the implementation of  
23 these plans, including the relationship of these plans with local land use plans;

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2013.