

HOUSE BILL 74

L6, P1
HB 252/13 – ENV

(PRE-FILED)

4lr0368

By: **Delegate Smigiel**

Requested: August 1, 2013

Introduced and read first time: January 8, 2014

Assigned to: Environmental Matters

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 of Planning consult
20 with and consider recommendations submitted by certain political subdivisions
21 before making a certain designation; repealing the authority of the Secretary of
22 Planning to adopt certain regulations; repealing a requirement that the
23 Department furnish to certain political subdivisions the full text of certain
24 proposed designations; repealing a requirement that the Department give
25 certain political subdivisions a certain period of time to review and comment on
26 a certain proposed designation; repealing a requirement that the Department
27 publish certain designations and certain written comments; repealing a
28 provision that prohibits the Plan from being used in a certain manner; repealing
29 a provision that clarifies that the Plan does not supersede certain State or local
30 laws or regulations, affect a certain delegation of planning or zoning powers, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

7 BY repealing and reenacting, with amendments,
 8 Article – Environment
 9 Section 14–508(a)
 10 Annotated Code of Maryland
 11 (2007 Replacement Volume and 2013 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – State Finance and Procurement
 14 Section 5–307(b), 5–402, 5–507, and 5–706(4)
 15 Annotated Code of Maryland
 16 (2009 Replacement Volume and 2013 Supplement)

17 BY repealing
 18 Article – State Finance and Procurement
 19 Section 5–601 through 5–606 and the part “Part I. Definition; General
 20 Provisions”; 5–608 through 5–615 and the part “Part II. Contents of
 21 Plan”, and the subtitle “Subtitle 6. State Development Plan”
 22 Annotated Code of Maryland
 23 (2009 Replacement Volume and 2013 Supplement)

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

26 **Article – Environment**

27 14–508.

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

36 (1) Conforms with and meets all applicable air, water, noise, and solid
 37 waste laws of the State as determined and certified in writing by the appropriate State
 38 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; **AND**

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**

28 [[2) cooperate with and assist units of the federal government in the
29 execution of their planning functions, to harmonize their planning activities with the
30 State Development Plan; and]

1 ~~[(3)]~~ **(2)** cooperate with, confer with, and, on request, provide
2 information to:

3 (i) units of the federal government; and

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

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

8 ~~[(e)]~~ The Department shall cooperate with and assist regional and private
9 planning agencies in the execution of their planning functions, to harmonize their
10 planning activities with the State Development Plan.]

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

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

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

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

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

26 ~~[(h)]~~ **(G)** The Department shall:

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

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

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

- 3 (1) transportation components of local plans;
- 4 (2) aspects of local land use regulation affecting transportation; and
- 5 (3) local transportation improvements.

6 5-507.

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

- 10 (1) the objectives of the State Development Plan; and
- 11 (2)] the function of State, regional, and local planning.

12 **[Subtitle 6. State Development Plan.]**

13 **[Part I. Definition; General Provisions.]**

14 **[5-601.**

15 In this subtitle, "Plan" means the State Development Plan.]

16 **[5-602.**

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

20 (b) The Department shall prepare the Plan to promote the general welfare
21 and prosperity of the people of the State through the coordinated development of the
22 State.

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

25 **[5-603.**

26 In the preparation and revision of the Plan or any part of it, the Department
27 shall:

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

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

4 (i) governmental units;

5 (ii) regional planning commissions;

6 (iii) public or private educational institutions;

7 (iv) public or private research organizations;

8 (v) civic groups; and

9 (vi) interested persons.]

10 [5-604.

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

13 [5-605.

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

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

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

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

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

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

25 [5-606.

26 (a) The Plan may not be used to deny:

27 (1) a State-issued permit; or

1 (2) State funding:

2 (i) mandated by statute or regulation; or

3 (ii) provided for in the State operating budget or capital budget.

4 (b) The Plan does not:

5 (1) supersede any State statute or regulation;

6 (2) supersede any local ordinance or regulation;

7 (3) affect the delegation of planning and zoning powers granted by the
8 State to local jurisdictions under Division II, Title 9, Subtitles 2 or 3, Title 10, or Title
9 11 of the Local Government Article and Division I of the Land Use Article; or

10 (4) overturn or prevent a decision of a local jurisdiction to fund a
11 project.

12 (c) The Plan may not require a local government to change or alter a local
13 ordinance, regulation, or comprehensive plan.]

14 [Part II. Contents of Plan.]

15 [5-608.

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

18 [5-609.

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

21 [5-610.

22 The Plan shall contain a review and analysis of:

23 (1) all federal grants, loans, or services available to the State;

24 (2) all State grants to local governments; and

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

1 [5-611.

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

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

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

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

11 (e) The Department shall:

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

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

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

20 [5-612.

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

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

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

27 (3) water and sewerage facilities;

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

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

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

1 [5-613.

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

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

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

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

11 [5-614.

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

15 [5-615.

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

18 5-706.

19 The Commission shall:

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2014.