



BILL NO.: House Bill 1201

TITLE: Department of Planning – State Development Plan – Use and Conflicts of Law

POSITION: **SUPPORT**

DATE: March 8, 2012

COMMITTEE: Environmental Matters

CONTACT: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** House Bill 1201. The bill would clarify the scope and limits of the State Development Plan (aka PlanMaryland), in accordance with statements made by the Plan’s creators.

HB 1201 provides that the Plan may not be used to establish a new cause for the State denial of projects, permits, or approvals, or deny mandated funding. The bill also provides that if there is a conflict between the Plan and a local government concerning the identification of growth, preservation, or other planning areas in the Plan, the Maryland Department of Planning (MDP) and the local government shall meet in good faith and seek to resolve the conflict. If the conflict is not resolved, then the comprehensive plan, zoning laws, and local land use ordinances shall govern.

MDP has been working with MACo on amendments to the bill and MACo is comfortable with the amendments. A rewrite of the bill that would incorporate the amendments is included along with this testimony.

From its earliest official correspondence regarding PlanMaryland, MACo has been “cautiously supportive” of the Plan.¹ However, MACo has also expressed concern about the Plan’s potential scope and breadth. Both Governor Martin O’Malley and Secretary of Planning Richard Hall have stated publicly that the Plan is about coordinating State resources and funding. However, MACo believes the final version of the Plan could eventually be expanded to become a litmus test for State permits and approvals. Hence, MACo supports statutory language that more clearly defines the stated purpose of the Plan.

MACo is also concerned over the State’s ability to designate planning areas in the Plan. Under the current law for Priority Funding Areas (PFAs), the PFAs are selected by the local governments according to criteria established in statute. MDP has no approval authority over a

¹ MACo letter to MDP Secretary Richard Hall, August 9, 2010.

local government's PFA selections, but may comment on the selections and if the difference in opinion over the PFA is broad enough, the State may withhold discretionary spending. MACo proposes that the basic PFA system be used for the designation of PlanMaryland planning areas.

HB 1201 does not repeal or alter the major provisions of the Plan. Instead, the bill better defines the Plan's scope and role, providing county governments with a level of comfort that is lacking with the current version of the Plan. Accordingly, MACo recommends the Committee issue a **FAVORABLE** report on HB 1201.

AN ACT concerning

Department of Planning – State Development Plan – Use and Conflicts of Law

FOR the purpose of prohibiting the State Development Plan from being used to deny state-issued permits or certain funding; providing that the Plan does not supersede certain statutes, ordinances, and regulations or affect certain delegated powers; providing that the Plan does not overturn certain local funding decisions; prohibiting the Plan from requiring a local government to change or alter certain ordinances, regulations, or comprehensive plans; and generally relating to restrictions on the use of, and conflicts that may arise regarding, the State Development Plan.

BY adding to

Article – State Finance and Procurement
Section 5–606
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 18 MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

5–606.

(A) THE PLAN MAY NOT BE USED TO DENY:

(1) A STATE-ISSUED PERMIT; OR

(2) STATE FUNDING MANDATED BY:

(I) STATUTE OR REGULATION; OR

(II) THE ANNUAL STATE OPERATING OR CAPITAL BUDGET.

(B) THE PLAN DOES NOT:

(1) SUPERSEDE ANY STATE STATUTE OR REGULATION;

(2) SUPERSEDE ANY LOCAL ORDINANCE OR REGULATION;

(3) AFFECT THE DELEGATION OF PLANNING AND ZONING POWERS GRANTED BY THE STATE TO LOCAL JURISDICTIONS UNDER ARTICLES 23A, 25A, 25B AND 66B OF THE CODE; OR

(4) OVERTURN OR PREVENT A DECISION OF A LOCAL JURISDICTION TO FUND A PROJECT.

(C) THE PLAN MAY NOT REQUIRE A LOCAL GOVERNMENT TO CHANGE OR ALTER A LOCAL ORDINANCE, REGULATION, OR COMPREHENSIVE PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June1, 2012.