

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 409

(Delegate McIntosh, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Land Use - Comprehensive Planning and Zoning Cycle

This bill increases the time period of a local government's comprehensive planning and zoning cycle to better coincide with the release of U.S. decennial census data. The bill requires the Maryland Department of Planning (MDP), along with other specified entities, to develop a transition schedule to accommodate the change in the cycle. The bill also requires a local jurisdiction to (1) include specified information in its annual report to the local legislative body at least once within the five-year period after the adoption or review of the local comprehensive plan and (2) incorporate growth tiers adopted pursuant to Chapter 149 of 2012 in the comprehensive plan at a specified time if the tiers are to continue to be considered adopted.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing resources.

Local Effect: The bill may reduce some local governments' administrative burden and/or costs associated with the comprehensive plan review process.

Small Business Effect: None.

Analysis

Bill Summary: The bill increases the time period of a local government's comprehensive planning and zoning cycle to 10 years, instead of 6 years, to better coincide with the release of U.S. decennial census data. The bill also requires that the annual report a planning commission must file with the legislative body of the local jurisdiction contain, at least once within the five-year period after the adoption or review of the local jurisdiction's comprehensive plan, a specified narrative on the

implementation status of the plan. MDP, along with the Maryland Association of Counties and the Maryland Municipal League, must create by December 1, 2015, a schedule to transition local governments from a 6-year cycle to a 10-year cycle that, to the extent practicable, coincides with the release of census data and allows a local jurisdiction access to that data at the beginning of the comprehensive plan review process.

A local jurisdiction that chooses to adopt growth tiers under the Sustainable Growth and Agricultural Preservation Act of 2012 (Chapter 149, SB 236) and, as of the bill's effective date, has not incorporated the growth tiers into the jurisdiction's comprehensive plan, must do so at the time the jurisdiction was scheduled to conduct its six-year comprehensive plan review prior to the bill taking effect. Failure to do so causes the growth tiers to not be considered as adopted.

Current Law: Local jurisdictions are required to enact, adopt, amend, and execute a comprehensive plan in accordance with State law. Certain elements must be included in a comprehensive plan and additional permissive elements may be included. A comprehensive plan also must include or implement specified visions stated in the law. At least once every six years, the planning commission of a local jurisdiction must review the comprehensive plan and, if necessary, revise or amend the plan to include all required elements and the specified visions. A planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if each plan is reviewed and, if necessary, revised or amended at least once every six years.

Corresponding with the comprehensive plan revision process, at least once every six years a local jurisdiction must ensure the implementation of the visions, the development regulations element, and the sensitive areas element through the adoption of applicable zoning laws and planned development, subdivision, and other land use provisions that are consistent with the comprehensive plan.

A local jurisdiction that adopts growth tiers under the Sustainable Growth and Agricultural Preservation Act of 2012 must incorporate the tiers into the jurisdiction's comprehensive plan or an element of the plan when the jurisdiction conducts the six-year review of the plan. Chapter 149 is aimed at limiting nutrient pollution to the Chesapeake Bay and other water resources from septic systems and establishes four growth tiers based on specified land use characteristics, which may be adopted by local jurisdictions. A jurisdiction that does not adopt growth tiers is restricted from authorizing residential major subdivisions served by on-site sewage disposal systems, community sewerage systems, or shared systems.

Background: MDP describes a comprehensive plan as “a document, officially adopted by the local governing body, which spells out the manner in which a municipality,

county, or sub-area of a county must develop.” The local jurisdiction’s zoning, provision of water and sewer facilities, and other actions must be consistent with the plan’s recommendations.

There are 12 “visions” that must be implemented through a jurisdiction’s comprehensive plan, focusing on (1) quality of life and sustainability; (2) public participation; (3) growth areas; (4) community design; (5) infrastructure; (6) transportation; (7) housing; (8) economic development; (9) environmental protection; (10) resource conservation; (11) stewardship; and (12) implementation.

The required and permissive elements of a local comprehensive plan differ for noncharter counties and municipalities and for charter counties. The comprehensive plans of noncharter counties and municipalities must include the following elements:

- a community facilities element;
- an area of critical State concern element;
- a goals and objectives element;
- a land use element;
- a development regulations element;
- a sensitive areas element;
- a transportation element;
- a water resources element;
- a mineral resources element (if applicable);
- a municipal growth element (if applicable); and
- a fisheries element (if applicable).

Comprehensive plans of charter counties must include the following elements:

- a development regulations element;
- a sensitive areas element;
- a transportation element;
- a water resources element; and
- a mineral resources element (if applicable).

MDP supports local government development of comprehensive plans through direct technical assistance, sharing of census and other demographic data, facilitation of State agency consultation at the start of a plan update, and coordination with State agencies in reviewing and commenting on the draft plan.

MDP guidance on the implementation of Chapter 149 of 2012 describes growth tier adoption as a two-step process: (1) initial administrative adoption; and (2) incorporation into the local comprehensive plan. Incorporation of the growth tiers into a jurisdiction's comprehensive plan will help to ensure ongoing consistency between the growth tiers and other aspects of the jurisdiction's planning and zoning, potentially allowing for more effective administration of the growth tiers.

Local Fiscal Effect: A small number of jurisdictions contacted indicate that the bill has little or no fiscal impact. One county, however, indicates that the bill may decrease the county's costs for contractual services to review and update the comprehensive plan due to the change to a 10-year review cycle.

Additional Information

Prior Introductions: None.

Cross File: SB 443 (Senator Dyson) - Education, Health, and Environmental Affairs. As amended, this bill is identical to SB 671 (Senators Conway and Dyson – Education, Health, and Environmental Affairs) as enrolled.

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

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