

Department of Legislative Services  
 Maryland General Assembly  
 2006 Session

FISCAL AND POLICY NOTE

House Bill 1640 (Delegate Bozman, *et al.*)  
 Environmental Matters

Maryland Growth Management Act of 2006

This bill requires local jurisdictions exercising planning and zoning authority to develop growth boundaries and include them in their local comprehensive plans. The bill establishes a process to address disagreements regarding proposed growth boundaries; the Maryland Department of Planning (MDP) would serve as an arbitrator. Before a local jurisdiction may approve development of land outside established growth boundaries, the local jurisdiction must submit the plan to MDP for approval. The bill authorizes a county and a municipal corporation to enter into a joint planning agreement (JPA) to coordinate future growth both inside and outside established growth boundaries.

Fiscal Summary

**State Effect:** General fund expenditure increase of \$160,600 in FY 2007 for MDP to review JPAs, growth boundaries, and development plans and to handle arbitrations. Future year expenditures reflect annualization, inflation, and ongoing operating expenses.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	160,600	211,000	222,900	235,500	249,100
Net Effect	(\$160,600)	(\$211,000)	(\$222,900)	(\$235,500)	(\$249,100)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local expenditures related to planning and arbitrations could increase; any such increase would vary by jurisdiction. Depending on future land use decisions, local revenues and county expenditures for public facilities and infrastructure could be affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Minimal direct impact on small businesses.

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## Analysis

### Bill Summary:

#### *Growth Boundaries*

A local planning commission must make and approve growth boundaries for the local jurisdiction which the commission must recommend to the local legislative body for adoption as part of the local comprehensive plan. A county must establish growth boundaries around existing or planned unincorporated population centers. A municipal corporation must establish growth boundaries around the boundaries of the municipal corporation. When determining growth boundaries, the planning commission must consider the following criteria:

- past growth patterns of the local jurisdiction;
- the capacity of land areas available for development within the local jurisdiction, including in-fill and redevelopment;
- the land area needed to satisfy demand for development at densities consistent with the long-term development policy;
- public services and infrastructure needed to support new development;
- anticipated financing mechanisms to support necessary public services and infrastructure;
- the burden on services and infrastructure for which the local jurisdiction would be responsible for development in areas proximate to and outside a growth boundary;
- the protection of sensitive areas;
- population growth projections; and
- the relationship of the long-term development policy to a vision of the local jurisdiction's future character.

A county may challenge the proposed growth boundaries of a municipal corporation that lies within the county's boundaries. Likewise, a municipal corporation in a county may challenge the proposed growth boundaries set by that county. If a county or municipal corporation challenges the establishment of the growth boundaries, they must meet and confer with each other. To the extent disagreements remained unresolved, the parties must submit to MDP for binding arbitration.

## *Joint Planning Agreement*

A JPA must include:

- an analysis of the capacity of land areas available for development within the municipal corporation and county, including in-fill and redevelopment;
- a description of the relationship of the JPA to a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services;
- an analysis of the land area needed to satisfy demand for development at densities consistent with the long-term development policy;
- a description of the growth boundaries;
- a description of the manner and timing by which the necessary public services and infrastructure will be provided to areas within any growth boundaries;
- a plan for protecting sensitive areas that could be impacted by development planned within a growth boundary; and
- an analysis of any burden on services and infrastructure for which the county or municipal corporation would be responsible for development in areas proximate to and outside a growth boundary.

A JPA must become effective on the enactment of ordinances by the county and the municipal corporation adopting the JPA. Upon enactment, the county and the municipal corporation must send a copy of the JPA to MDP and integrate the JPA into their comprehensive master plans by amending those plans. The bill establishes provisions governing the term of the JPA and the process to amend a JPA.

## *Development Outside Growth Boundaries*

The bill requires MDP to approve a development plan before a local jurisdiction may approve development of land outside established growth boundaries. MDP must notify the local jurisdiction of its determination within 90 days after receiving the plan. MDP must consider the criteria for the establishment of growth boundaries when determining whether to approve such development.

**Background/Current Law:** In 1997, the General Assembly enacted Governor Glendening's Smart Growth and Neighborhood Revitalization legislative package in an effort to reduce the impact of urban sprawl on the environment and encourage growth in existing communities. The initiative, which was designed to protect Maryland's green spaces and to preserve the State's rural areas, aims to manage growth by restricting State funding to designated priority funding areas (PFAs). The Smart Growth legislation

established certain areas as PFAs and allowed counties to designate additional areas if they meet minimum criteria. **Exhibit 1** lists the areas initially established as PFAs and areas eligible for county designation.

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**Exhibit 1**  
**Smart Growth – Priority Funding Areas**

**Areas Initially Established by Law**

**Areas Eligible for County Designation**

Municipalities

Areas with industrial zoning

Baltimore City

Areas with employment as the principal use which are served by, or planned for, a sewer system

Areas inside the Baltimore and Washington beltways

Existing communities within county-designated growth areas which are served by a water or sewer system and which have an average density of 2 or more units per acre

Neighborhoods designated for revitalization by the Department of Housing and Community Development

Rural villages

Enterprise and Empowerment Zones

Other areas within county-designated growth areas that, among other things, have a permitted density of 3.5 or more units per acre for new residential development

Certified Heritage Areas within county-designated growth areas

Source: Maryland Department of Planning

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The Eastern Shore of Maryland has experienced several large and controversial annexations over the past two years. Some municipalities have grown by 50% to over 200% in land area via annexation. According to MDP, such annexations will obviously lead to significant increases in population over various timeframes (over 400% in at least one instance). In addition, several annexations of note were in rural areas with limited development pressure. The lack of infrastructure and other public services has also been an issue with some annexations. There has been concern that annexations are sometimes used to avoid county adequate public facility ordinances.

Annexations in Maryland have not traditionally been the growth issue that they are in many other states. Historically, annexations have mostly occurred per smart growth principles. Maryland, unlike many states, has a significant amount of its urban and suburban land outside of municipalities. Counties in the central part of the State, which is also the most populated region, are more likely to be the purveyors of key urban services (*e.g.*, central water and sewer service) than are municipalities. This contrasts with much of the growth on Maryland's Eastern Shore where municipalities tend to be the providers of central water and sewer service.

Most annexations bypass the comprehensive planning process. Annexations essentially serve as future growth areas for municipalities. Local governments (counties and municipalities) are required by State planning laws to plan for future growth. However, municipalities are not required to include future annexation areas in their comprehensive plans and, according to MDP, most do not.

Comprehensive plans are to address land use, infrastructure, environmental, community and other issues as they relate to the location, size, and type of future development. Most comprehensive plan updates take well over a year before there is a draft plan. In addition, there is a significant public review and comment process that must occur before a plan is legally adopted. This process adds more time to the comprehensive planning process. Annexations, by contrast, can occur at a much faster pace. This can lead to less public review and planning for annexations and their associated development.

**State Expenditures:** General fund expenditures could increase by an estimated \$160,572 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring two planners to review JPAs, growth boundaries, and proposed development outside growth boundaries. It also includes the cost of hiring one attorney to handle arbitrations. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$153,462
Equipment/Operating Expenses	<u>7,110</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$160,572</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

**Local Fiscal Effect:** The Maryland Municipal League (MML) advises that larger municipalities could likely meet the bill's planning requirements with existing staff. The

smaller municipalities, however, may need to contract out this work, resulting in an increase in expenditures. The Maryland Association of Counties (MACo) advises that, because counties already establish growth boundaries through the designation of PFAs, the bill should not result in a significant increase in planning expenditures for most counties. Expenditures for both counties and municipalities could increase as a result of the bill's arbitration provisions, although any such increase cannot be reliably estimated at this time. As an example of the bill's potential impact, Somerset County reports that costs to implement the bill could total \$75,000 annually.

MACo advises that, in general, unplanned development puts a strain on county public facilities and infrastructure, such as schools and roads. Even though this bill establishes a more elaborate planning process, MACo advises that county expenditures for public facilities and infrastructure could increase or decrease, depending on the final land use decisions made under the bill, which cannot be predicted.

Both MML and MACo report the potential for an impact on local revenues from future taxes and fees depending on the final land use decisions made under the bill. MDP advises that the bill is unlikely to result in a decrease in development; rather, the bill would establish a more elaborate planning process by which counties and municipalities could work together to plan for future growth.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 1013 (Senator Pinsky, *et al.*) – Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of Planning, Department of Natural Resources, Maryland Department of the Environment, Maryland Association of Counties, Maryland Municipal League, Prince George's County, Somerset County, Department of Legislative Services

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