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Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2

Annexation Planning and Procedures Act of 2006

3 FOR the purpose of authorizing a county and a municipal corporation to enter into a
4 joint planning agreement under certain circumstances; providing for the process
5 by which a county and a municipal corporation may enter into a joint planning
6 agreement; providing for the contents of a certain joint planning agreement;
7 requiring a county and a municipal corporation to each designate certain
8 representatives that are authorized and competent to discuss certain issues
9 with regard to a certain joint planning agreement; requiring a county and a
10 municipal corporation to create a certain meeting schedule under certain
11 circumstances; requiring certain representatives to negotiate in good faith and
12 share certain information regarding a certain joint planning agreement;
13 requiring a county to provide a written response to a municipal corporation
14 containing the reasons for disagreement over a joint planning agreement under
15 certain circumstances; providing for mediation between a county and a
16 municipal corporation when the parties do not agree on the contents of a certain
17 joint planning agreement; requiring a county and a municipal corporation to
18 enact ordinances to adopt a certain joint planning agreement under certain
19 circumstances; prohibiting a county and a municipal corporation from enacting
20 ordinances to adopt a certain joint planning agreement during a certain time
21 period; requiring a county and a municipal corporation to send a copy of a
22 certain joint planning agreement to the Department of Planning under certain
23 circumstances; requiring a county and a municipal corporation to integrate a
24 certain joint planning agreement into their respective comprehensive master
25 plans under certain circumstances; providing for a time period during which a
26 certain joint planning agreement shall be effective; authorizing a county and a
27 municipal corporation to agree on a process to amend a certain joint planning
28 agreement; prohibiting a municipal corporation that annexes land that is not
29 within a certain growth boundary from placing the land in a zoning
30 classification that permits a land use or density that is substantially different
31 from the land use or density in the current zoning classification during a certain
32 time period under certain circumstances; providing that if certain annexed land
33 is within a certain growth boundary a municipal corporation may place the
34 annexed land in a zoning classification that permits certain land uses or

1 densities under certain circumstances; providing that certain land annexed by a
2 municipal corporation is subject to the county adequate public facilities
3 ordinance under certain circumstances; authorizing certain persons who reside
4 within a certain distance outside an area proposed to be annexed and outside
5 the municipal corporation to petition a certain annexation resolution to a
6 referendum under certain circumstances; altering the ability of a county to
7 petition a certain annexation resolution to a referendum under certain
8 circumstances; altering to whom a referendum is submitted when a county
9 petitions an annexation resolution to a referendum under certain circumstances;
10 requiring a municipal corporation to enter into a certain annexation agreement
11 with certain persons under certain circumstances; providing that a certain
12 county is a party to a certain annexation agreement for certain purposes under
13 certain circumstances; providing for the contents of an annexation agreement;
14 repealing certain provisions relating to a certain outline for the extension of
15 services and public facilities; requiring a municipal corporation to provide a
16 certain annexation plan when enacting a certain annexation resolution under
17 certain circumstances; providing for the contents of a certain annexation plan;
18 providing that the annexation plan shall be open to public review and public
19 hearing; requiring the municipal corporation to provide a certain annexation
20 resolution, annexation agreement, and annexation plan to certain persons
21 within a certain period of time under certain circumstances; requiring a county
22 to pay for the expense of a certain referendum under certain circumstances;
23 requiring a county to amend its water and sewer plan to allow for the extension
24 of municipal water and sewer service to certain annexed land under certain
25 circumstances; providing for the construction of this Act; repealing a certain
26 obsolete provision; and generally relating to joint planning agreements entered
27 into by a county and a municipal corporation and municipal annexations.

28 BY adding to
29 Article 23A - Corporations - Municipal
30 Section 6
31 Annotated Code of Maryland
32 (2005 Replacement Volume)

33 BY repealing and reenacting, with amendments,
34 Article 23A - Corporations - Municipal
35 Section 9(c) and 19
36 Annotated Code of Maryland
37 (2005 Replacement Volume)

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

1

Article 23A - Corporations - Municipal

2 6.

3 (A) (1) A MUNICIPAL CORPORATION MAY SUBMIT A WRITTEN REQUEST TO
4 THE COUNTY IN WHICH IT IS LOCATED TO ENTER INTO A JOINT PLANNING
5 AGREEMENT.

6 (2) THE REQUEST TO ENTER INTO A JOINT PLANNING AGREEMENT
7 SHALL INCLUDE:

8 (I) A DESCRIPTION OF PAST GROWTH PATTERNS OF THE
9 MUNICIPAL CORPORATION;

10 (II) AN ANALYSIS OF THE CAPACITY OF LAND AREAS AVAILABLE
11 FOR DEVELOPMENT WITHIN THE MUNICIPAL CORPORATION, INCLUDING IN-FILL
12 AND REDEVELOPMENT;

13 (III) A DESCRIPTION OF THE RELATIONSHIP OF THE JOINT
14 PLANNING AGREEMENT TO A LONG TERM DEVELOPMENT POLICY FOR PROMOTING
15 AN ORDERLY EXPANSION OF GROWTH AND AN EFFICIENT USE OF LAND AND PUBLIC
16 SERVICES;

17 (IV) AN ANALYSIS OF THE LAND AREA NEEDED TO SATISFY
18 DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG TERM
19 DEVELOPMENT POLICY;

20 (V) A PROPOSAL FOR A GROWTH BOUNDARY BEYOND THE
21 EXISTING BORDERS OF THE MUNICIPAL CORPORATION WITHIN WHICH FUTURE
22 ANNEXATIONS ARE PLANNED;

23 (VI) A DESCRIPTION OF THE MANNER AND TIMING BY WHICH THE
24 NECESSARY PUBLIC SERVICES AND INFRASTRUCTURE WILL BE PROVIDED TO AREAS
25 WITHIN THE PROPOSED GROWTH BOUNDARY, INCLUDING THOSE NECESSARY FOR:

26 1. PUBLIC SCHOOLS, SUFFICIENT TO ACCOMMODATE
27 STUDENT POPULATION CONSISTENT WITH STATE RATED CAPACITY STANDARDS
28 ESTABLISHED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION;

29 2. LIBRARIES;

30 3. PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL
31 RESPONSE;

32 4. WATER AND SEWERAGE FACILITIES;

33 5. STORM WATER MANAGEMENT SYSTEMS, SUFFICIENT TO
34 ASSURE WATER QUALITY BOTH INSIDE AND OUTSIDE OF THE PROPOSED GROWTH
35 BOUNDARY; AND

36 6. RECREATION;

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1 (VII) A PLAN FOR PROTECTING SENSITIVE AREAS, AS DEFINED IN
2 ARTICLE 66B, § 1(J) OF THE CODE, THAT COULD BE IMPACTED BY DEVELOPMENT
3 PLANNED WITHIN THE PROPOSED GROWTH BOUNDARY;

4 (VIII) AN ANALYSIS OF ANY BURDEN ON SERVICES AND
5 INFRASTRUCTURE FOR WHICH THE MUNICIPAL CORPORATION WOULD BE
6 RESPONSIBLE FOR DEVELOPMENT IN AREAS PROXIMATE TO AND OUTSIDE THE
7 PROPOSED GROWTH BOUNDARY; AND

8 (IX) A DESCRIPTION OF THE RELATIONSHIP OF THE LONG TERM
9 DEVELOPMENT POLICY TO A VISION OF THE MUNICIPAL CORPORATION'S FUTURE
10 CHARACTER.

11 (3) THE MUNICIPAL CORPORATION SHALL SEND A COPY OF THE
12 REQUEST TO THE MARYLAND DEPARTMENT OF PLANNING.

13 (B) WITHIN 30 DAYS AFTER THE REQUEST TO ENTER INTO A JOINT PLANNING
14 AGREEMENT IS SUBMITTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS
15 SECTION, THE COUNTY AND THE MUNICIPAL CORPORATION SHALL:

16 (1) EACH DESIGNATE REPRESENTATIVES WHO ARE AUTHORIZED AND
17 COMPETENT TO DISCUSS THE ITEMS LISTED IN SUBSECTION (A)(2) OF THIS SECTION;
18 AND

19 (2) CREATE A MEETING SCHEDULE THAT SCHEDULES AT LEAST 3
20 MEETINGS WITHIN 60 DAYS FOLLOWING THE ESTABLISHMENT OF THE MEETING
21 SCHEDULE, UNLESS THE COUNTY AND THE MUNICIPAL CORPORATION AGREE
22 OTHERWISE.

23 (C) THE REPRESENTATIVES FROM THE COUNTY AND THE MUNICIPAL
24 CORPORATION SHALL NEGOTIATE IN GOOD FAITH AND SHARE INFORMATION
25 NECESSARY TO DISCUSS THE ITEMS LISTED IN SUBSECTION (A)(2) OF THIS SECTION.

26 (D) (1) IF THE COUNTY AND THE MUNICIPAL CORPORATION DO NOT AGREE
27 ON A JOINT PLANNING AGREEMENT WITHIN 120 DAYS AFTER THE REQUEST TO
28 ENTER INTO A JOINT PLANNING AGREEMENT IS SENT, THE MUNICIPAL
29 CORPORATION MAY REQUEST THAT THE COUNTY PROVIDE TO THE MUNICIPAL
30 CORPORATION A WRITTEN RESPONSE CONTAINING THE REASONS FOR
31 DISAGREEMENT.

32 (2) IF A MUNICIPAL CORPORATION REQUESTS A WRITTEN RESPONSE
33 FROM A COUNTY CONTAINING THE REASONS FOR DISAGREEMENT, THE COUNTY
34 SHALL PROVIDE THE WRITTEN RESPONSE WITHIN 14 DAYS AFTER RECEIVING THE
35 REQUEST.

36 (E) (1) IF THE COUNTY AND THE MUNICIPAL CORPORATION DO NOT AGREE
37 ON A JOINT PLANNING AGREEMENT WITHIN 180 DAYS AFTER THE REQUEST TO
38 ENTER INTO A JOINT PLANNING AGREEMENT IS SENT, AND EITHER PARTY DESIRES
39 MEDIATION, THE PARTIES SHALL ENGAGE IN A MEDIATION PROCESS UNDER THE
40 MARYLAND MEDIATION AND CONFLICT RESOLUTION OFFICE.

1 (2) UNLESS THE COUNTY AND THE MUNICIPAL CORPORATION AGREE
2 OTHERWISE, THE COUNTY AND THE MUNICIPAL CORPORATION SHALL SHARE THE
3 COSTS OF THE MEDIATION EQUALLY.

4 (F) THE JOINT PLANNING AGREEMENT SHALL:

5 (1) REFLECT THE CONSIDERATION OF THE FACTORS LISTED IN
6 SUBSECTION (A)(2) OF THIS SECTION; AND

7 (2) INCLUDE A DESCRIPTION AND MAP OF THE GROWTH BOUNDARY FOR
8 THE MUNICIPAL CORPORATION.

9 (G) (1) THE JOINT PLANNING AGREEMENT SHALL BECOME EFFECTIVE ON
10 THE ENACTMENT OF ORDINANCES BY THE COUNTY AND THE MUNICIPAL
11 CORPORATION ADOPTING THE JOINT PLANNING AGREEMENT.

12 (2) A COUNTY OR A MUNICIPAL CORPORATION MAY NOT ENACT AN
13 ORDINANCE ADOPTING A JOINT PLANNING AGREEMENT BETWEEN THE TIME OF A
14 GENERAL ELECTION FOR ALL MEMBERS OF THE GOVERNING BODY OF THE COUNTY
15 OR THE MUNICIPAL CORPORATION AND THE INSTALLATION OF MEMBERS ELECTED
16 AT THE ELECTION.

17 (3) ON ENACTMENT OF THE ORDINANCES BY THE COUNTY AND THE
18 MUNICIPAL CORPORATION ADOPTING THE JOINT PLANNING AGREEMENT, THE
19 COUNTY AND THE MUNICIPAL CORPORATION SHALL:

20 (I) JOINTLY SEND A COPY OF THE JOINT PLANNING AGREEMENT
21 TO THE MARYLAND DEPARTMENT OF PLANNING; AND

22 (II) INTEGRATE THE JOINT PLANNING AGREEMENT INTO THE
23 COMPREHENSIVE MASTER PLANS OF BOTH THE COUNTY AND THE MUNICIPAL
24 CORPORATION THROUGH AMENDMENT OF THOSE PLANS.

25 (4) A JOINT PLANNING AGREEMENT SHALL REMAIN IN EFFECT FOR 10
26 YEARS FROM THE DATE OF ADOPTION OR AS AGREED ON BY THE COUNTY AND THE
27 MUNICIPAL CORPORATION.

28 (H) (1) THE COUNTY AND THE MUNICIPAL CORPORATION MAY AGREE ON A
29 PROCESS TO AMEND A JOINT PLANNING AGREEMENT.

30 (2) IF A COUNTY AND MUNICIPAL CORPORATION AMEND A JOINT
31 PLANNING AGREEMENT, THE COUNTY AND MUNICIPAL CORPORATION SHALL
32 JOINTLY SEND A COPY OF THE AMENDMENT TO THE MARYLAND DEPARTMENT OF
33 PLANNING.

34 9.

35 (c) (1) A municipal corporation which is subject to the provisions of Article
36 XI-E of the Maryland Constitution may not amend its charter or exercise its powers
37 of annexation, incorporation or repeal of charter as to affect or impair in any respect

1 the powers relating to sanitation, including sewer, water and similar facilities, and
2 zoning, of the Washington Suburban Sanitary Commission or of the
3 Maryland-National Capital Park and Planning Commission. Except that where any
4 area is annexed to a municipality authorized to have and having then a planning and
5 zoning authority, the municipality shall have exclusive jurisdiction over planning and
6 zoning and subdivision control within the area annexed; provided nothing in this
7 exception shall be construed or interpreted to grant planning and zoning authority or
8 subdivision control to a municipality not authorized to exercise that authority at the
9 time of such annexation; and further provided, that no municipality annexing land
10 THAT IS NOT WITHIN A GROWTH BOUNDARY ADOPTED BY THE COUNTY AND THE
11 MUNICIPAL CORPORATION IN ACCORDANCE WITH § 6 OF THIS ARTICLE may for a
12 period of [five] TEN years following AN annexation, [place that land in a zoning
13 classification which permits a land use substantially different from the use for the
14 land specified in the current and duly adopted master plan or plans or if there is no
15 adopted or approved master plan, the adopted or approved general plan or plans of
16 the county or agency having planning and zoning jurisdiction over the land prior to its
17 annexation] DEVELOP THE ANNEXED LAND FOR A LAND USE OR AT A DENSITY
18 DIFFERENT FROM THE LAND USE OR DENSITY SPECIFIED IN THE ZONING
19 CLASSIFICATION OF THE COUNTY APPLICABLE AT THE TIME OF THE ANNEXATION
20 without the express approval of the board of county commissioners or county council
21 of the county in which the municipality is located.

22 (2) If the ANNEXED LAND IS WITHIN A GROWTH BOUNDARY ADOPTED
23 BY THE COUNTY AND THE MUNICIPAL CORPORATION IN ACCORDANCE WITH § 6 OF
24 THIS ARTICLE OR IF THE county expressly approves, the municipality, without regard
25 to the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in
26 a zoning classification that permits a land use [substantially] OR DENSITY different
27 from the LAND use [for the land] OR DENSITY specified in the [current and duly
28 adopted master plan or general plan] ZONING CLASSIFICATION of the county or
29 agency having planning and zoning jurisdiction over the land prior to its annexation
30 APPLICABLE AT THE TIME OF THE ANNEXATION.

31 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
32 PARAGRAPH, IF THE ANNEXED LAND IS NOT WITHIN A GROWTH BOUNDARY
33 ADOPTED BY THE COUNTY AND THE MUNICIPAL CORPORATION IN ACCORDANCE
34 WITH § 6 OF THIS ARTICLE THE ANNEXED LAND IS SUBJECT TO ANY ADEQUATE
35 PUBLIC FACILITIES ORDINANCE THAT THE COUNTY MAY HAVE ENACTED PRIOR TO
36 THE ANNEXATION.

37 (II) A COUNTY'S ADEQUATE PUBLIC FACILITIES ORDINANCE MAY
38 NOT APPLY TO LAND ANNEXED TO THE MUNICIPAL CORPORATION IF:

39 1. THE ADEQUATE PUBLIC FACILITIES ORDINANCE IMPOSES
40 MORE STRINGENT STANDARDS BASED SOLELY ON WHETHER PROPERTY IS LOCATED
41 WITHIN A MUNICIPAL CORPORATION; OR

42 2. THE COUNTY AND THE MUNICIPAL CORPORATION ENTER
43 INTO A WRITTEN AGREEMENT STATING THAT THE ADEQUATE PUBLIC FACILITIES

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1 ORDINANCE DOES NOT APPLY TO THE AREA ANNEXED TO THE MUNICIPAL
2 CORPORATION.

3 19.

4 (a) The legislative body, by whatever name known, of every municipal
5 corporation in this State may enlarge its corporate boundaries as provided in this
6 subheading; but this power shall apply only to land:

7 (1) Which is contiguous and adjoining to the existing corporate area; and

8 (2) Which does not create any unincorporated area which is bounded on
9 all sides by real property presently within the corporate limits of the municipality,
10 real property proposed to be within the corporate limits of the municipality as a result
11 of the proposed annexation, or any combination of such properties.

12 (b) [(1)] The proposal for change may be initiated by resolution regularly
13 introduced into the legislative body of the municipal corporation, in accordance with
14 the usual requirements and practices applicable to its legislative enactments, and
15 also in conformity with the several requirements contained in subsections (b) and (c)
16 of § 13 of this subtitle, but only after the legislative body has obtained the consent for
17 the proposal from not less than 25 percent of the persons who reside in the area to be
18 annexed and who are registered as voters in county elections and from the owners of
19 not less than 25 percent of the assessed valuation of the real property located in the
20 area to be annexed. The resolution shall describe by a survey of courses and distances,
21 and may also describe by landmarks and other well-known terms, the exact area
22 proposed to be included in the change, and shall contain complete and detailed
23 provisions as to the conditions and circumstances applicable to the change in
24 boundaries and to the residents and property within the area to be annexed.

25 [(2) (i) The requirements of paragraph (1) for consent of resident voters
26 and property owners do not apply if on or before January 1, 1983 the property to be
27 annexed is:

28 1. Bounded on all sides by real property presently within the
29 corporate limits of the municipality, and the entire area is to be included in the same
30 annexation;

31 2. The size of the area does not exceed 1.5 percent of the
32 present area of the municipal corporation; and

33 3. The number of residents in the area does not exceed 1
34 percent of the population of the municipal corporation.

35 (ii) A resolution of annexation under this paragraph is not subject
36 to the referendum provisions of subsection (f) of this section.

37 (iii) The provisions of this paragraph shall be of no effect and may
38 not be exercised after June 30, 1984.]

1 (c) The proposal for change also may be initiated by a written petition signed
2 by not less than twenty-five per centum (25%) of the persons who reside in the area
3 to be annexed and who are registered as voters in county elections in the precinct or
4 precincts in which the territory to be annexed is located, and by the owners of not less
5 than twenty-five per centum (25%) of the assessed valuation of the real property
6 located in the area to be annexed. Upon the presentation of a petition to the
7 legislative body of the municipal corporation, the presiding officer thereof shall cause
8 to be made a verification of the signatures thereon and shall ascertain that the
9 persons signing the petition represent at least twenty-five per centum (25%) of the
10 persons who reside in the area to be annexed and who are registered as voters in
11 county elections in the precinct or precincts in which the territory to be annexed is
12 located, and the owners of twenty-five per centum (25%) of the assessed valuation of
13 the real property located in the area to be annexed. Upon verifying that the
14 requirements of this subsection have been complied with, the presiding officer of the
15 legislative body shall promptly cause to be introduced therein a resolution proposing
16 the change of boundaries as requested by the petition. The resolution in form and
17 content shall conform to the requirements of this section.

18 (d) After the introduction of the resolution into the legislative body of the
19 municipal corporation, the chief executive and administrative officer of the municipal
20 corporation shall cause a public notice thereof to be published not fewer than four
21 times or, if the total area of the proposed annexation is for 25 acres of land or less, not
22 fewer than two times, at not less than weekly intervals in a newspaper or newspapers
23 of general circulation in the municipal corporation and the area to be annexed, briefly
24 and accurately describing the proposed change and the conditions and circumstances
25 applicable. The public notices shall specify a time and place at which a public hearing
26 will be held by the legislative body on the resolution; the hearing shall be set for not
27 less than 15 days after the fourth publication of the notices or, if the total area of the
28 proposed annexation is for 25 acres of land or less, not less than 15 days after the
29 second publication of the notices, and shall be held either within the boundaries of the
30 municipal corporation or within the area to be annexed. The public hearing may be
31 continued or rescheduled for a subsequent time not to exceed 30 days from the day for
32 which the meeting was originally scheduled, or the day on which the hearing
33 commenced but was not completed. In the event of a continuation or rescheduling, a
34 single public notice shall be given at least seven days prior to the continued or
35 rescheduled date in a newspaper of general circulation in the municipal corporation
36 and in the area whose annexation is to be discussed, briefly and accurately describing
37 the property whose annexation is to be discussed, and specifying the day, time, and
38 place of the public hearing. Immediately upon the first publication of the public
39 notice, a copy of the public notice shall be provided to the governing body of the county
40 and any regional and State planning agencies having jurisdiction within the county.
41 Each of these agencies and jurisdictions shall have the first right to be heard at the
42 scheduled public hearing, after which the hearing shall be open to the general public.

43 (e) Following the public hearing, the legislative body may proceed to enact the
44 resolution, in accordance with the usual requirements and practices applicable to its
45 legislative enactments. The resolution shall not become effective until at least
46 forty-five (45) days following its final enactment.

1 (f) At any time within the 45 day period following the final enactment of the
2 resolution, a number of persons equal to not less than 20 percent of the persons who
3 reside in the area to be annexed and who are registered as voters in county elections
4 in the precinct or precincts in which the territory to be annexed is located may, in
5 writing, petition the chief executive and administrative officer of the municipal
6 corporation for a referendum on the resolution. Upon the presentation of a petition to
7 the officer, he shall cause to be made a verification of the signatures thereon and shall
8 ascertain that the persons signing the petition represent at least 20 percent of the
9 persons who reside in the area to be annexed and who are registered as voters in
10 county elections in the precinct or precincts in which the territory to be annexed is
11 located. Upon verifying that the requirements of this subsection have been complied
12 with, the officer shall by proclamation suspend the effectiveness of the resolution,
13 contingent upon the results of the referendum.

14 (g) At any time within the forty-five (45) day period following the final
15 enactment of the resolution, a number of persons equal to not less than twenty per
16 centum (20%) of the qualified voters of the municipal corporation may, in writing,
17 petition the chief executive and administrative officer of the municipal corporation for
18 a referendum on the resolution. Upon the presentation of a petition to the officer, he
19 shall cause to be made a verification of the signatures thereon and shall ascertain
20 that the persons signing the petition represent at least twenty per centum (20%) of
21 the qualified voters of the municipal corporation. Upon verifying that the
22 requirements of this subsection have been complied with, the officer shall by
23 proclamation suspend the effectiveness of the resolution, contingent upon the results
24 of the referendum.

25 (G-1) (1) EXCEPT FOR AN ANNEXATION BY A MUNICIPAL CORPORATION
26 THAT DOES NOT EXERCISE ZONING AUTHORITY, AT ANY TIME WITHIN 45 DAYS AFTER
27 THE FINAL ENACTMENT OF A RESOLUTION THAT ANNEXES LAND THAT IS NOT
28 WITHIN A GROWTH BOUNDARY ADOPTED BY THE COUNTY AND THE MUNICIPAL
29 CORPORATION IN ACCORDANCE WITH § 6 OF THIS ARTICLE, AND IF THE AREA
30 PROPOSED TO BE ANNEXED IS NOT SUBSTANTIALLY DEVELOPED FOR A LAND USE
31 AND AT A DENSITY AUTHORIZED BY THE ZONING ORDINANCE OF THE COUNTY
32 APPLICABLE AT THE TIME THE ANNEXATION RESOLUTION IS ADOPTED, A NUMBER
33 OF PERSONS EQUAL TO NOT LESS THAN 20% OF THE QUALIFIED VOTERS OF THE
34 COUNTY WHO RESIDE WITHIN 1 MILE OUTSIDE THE BOUNDARIES OF THE AREA TO
35 BE ANNEXED AND OUTSIDE THE MUNICIPAL CORPORATION MAY, IN WRITING,
36 PETITION THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE
37 MUNICIPAL CORPORATION FOR A REFERENDUM ON THE RESOLUTION.

38 (2) ON THE PRESENTATION OF A PETITION TO THE OFFICER, THE
39 OFFICER SHALL VERIFY THE SIGNATURES ON THE PETITION AND ENSURE THAT THE
40 PETITION IS SIGNED BY THE REQUIRED NUMBER OF THE QUALIFIED VOTERS OF THE
41 COUNTY WHO RESIDE WITHIN 1 MILE OUTSIDE THE BOUNDARIES OF THE AREA TO
42 BE ANNEXED AND OUTSIDE THE MUNICIPAL CORPORATION.

43 (3) AFTER VERIFYING THAT THE REQUIREMENTS OF THIS SUBSECTION
44 HAVE BEEN COMPLIED WITH, THE OFFICER SHALL, BY PROCLAMATION, SUSPEND

1 THE EFFECTIVENESS OF THE RESOLUTION, CONTINGENT ON THE RESULTS OF THE
2 REFERENDUM.

3 (h) [At] EXCEPT FOR AN ANNEXATION BY A MUNICIPAL CORPORATION THAT
4 DOES NOT EXERCISE ZONING AUTHORITY, AT any time within the 45-day period
5 following the final enactment of [the] A resolution THAT ANNEXES LAND THAT IS
6 NOT WITHIN A GROWTH BOUNDARY ADOPTED BY A COUNTY AND THE MUNICIPAL
7 CORPORATION IN ACCORDANCE WITH § 6 OF THIS ARTICLE AND IF THE AREA
8 PROPOSED TO BE ANNEXED IS NOT SUBSTANTIALLY DEVELOPED FOR A LAND USE
9 AND AT A DENSITY AUTHORIZED BY THE ZONING ORDINANCE OF THE COUNTY
10 APPLICABLE AT THE TIME THE ANNEXATION RESOLUTION IS ADOPTED, the
11 governing body of the county or counties in which the municipality is located, by at
12 least a two-thirds majority vote, may petition in writing the chief executive and
13 administrative officer of the municipal corporation for a referendum on the
14 resolution. Upon verifying that there has been compliance with the requirements of
15 this subsection, the officer by proclamation shall suspend the effectiveness of the
16 resolution, contingent upon the results of the referendum.

17 (i) The chief executive and administrative officer of the city, town or village
18 shall set a date for the referendum on the ordinance or resolution, which shall be not
19 less than fifteen (15) days and not more than ninety (90) days from the publication of
20 notices therefor. Such notices shall be published twice at not less than weekly
21 intervals in a newspaper or newspapers of general circulation in the municipal
22 corporation and the area to be annexed. The notices shall specify the time and place
23 or places at which the referendum will be held; the place or places shall be within the
24 limits of the area to be annexed for the referendum within that area, and shall be
25 within the limits of the municipal corporation for the referendum in this latter place.

26 (j) [On the date and at the places specified, the resolution proposing a change
27 in the corporate boundaries of the municipal corporation shall be submitted to a
28 referendum election of the qualified voters of the municipal corporation or of the
29 persons who reside in the area to be annexed and who are registered as voters in
30 county elections in the precinct or precincts in which the territory to be annexed is
31 located, or both, depending upon whether a petition for referendum has been
32 presented by the residents of the municipal corporation, or by the residents of the
33 area proposed to be annexed or by both such sets of residents. The petition for
34 referendum presented by the governing body of the county shall be acted upon in the
35 same manner as a petition for referendum presented by the residents of the area
36 proposed to be annexed. The ballots or the voting machines, as the case may be, shall
37 contain a summary of the resolution, with suitable provision for the voter to indicate
38 a choice for or against it.]

39 (1) ON THE DAY AND AT THE PLACES SPECIFIED, THE RESOLUTION
40 PROPOSING A CHANGE IN THE BOUNDARIES OF THE MUNICIPAL CORPORATION
41 SHALL BE SUBMITTED TO A REFERENDUM ELECTION.

42 (2) IF A PETITION FOR REFERENDUM HAS BEEN SUBMITTED BY
43 QUALIFIED VOTERS OF THE MUNICIPAL CORPORATION, THE RESOLUTION
44 PROPOSING A CHANGE IN THE BOUNDARIES OF THE MUNICIPAL CORPORATION

1 SHALL BE SUBMITTED TO A REFERENDUM ELECTION OF THE QUALIFIED VOTERS OF
2 THE MUNICIPAL CORPORATION.

3 (3) IF A PETITION FOR REFERENDUM HAS BEEN SUBMITTED BY
4 PERSONS WHO RESIDE IN THE AREA TO BE ANNEXED, THE RESOLUTION PROPOSING
5 A CHANGE IN THE BOUNDARIES OF THE MUNICIPAL CORPORATION SHALL BE
6 SUBMITTED TO A REFERENDUM ELECTION OF THE PERSONS WHO RESIDE IN THE
7 AREA TO BE ANNEXED WHO ARE REGISTERED AS VOTERS IN COUNTY ELECTIONS IN
8 THE PRECINCT OR PRECINCTS IN WHICH THE AREA TO BE ANNEXED IS LOCATED.

9 (4) IF A PETITION FOR REFERENDUM HAS BEEN SUBMITTED BY
10 QUALIFIED VOTERS OF THE MUNICIPAL CORPORATION AND BY PERSONS WHO
11 RESIDE IN THE AREA TO BE ANNEXED, THE RESOLUTION PROPOSING A CHANGE IN
12 THE BOUNDARIES OF THE MUNICIPAL CORPORATION SHALL BE SUBMITTED TO A
13 REFERENDUM ELECTION OF BOTH THE QUALIFIED VOTERS OF THE MUNICIPAL
14 CORPORATION AND THE PERSONS WHO RESIDE IN THE AREA TO BE ANNEXED WHO
15 ARE REGISTERED AS VOTERS IN COUNTY ELECTIONS IN THE PRECINCT OR
16 PRECINCTS IN WHICH THE AREA TO BE ANNEXED IS LOCATED.

17 (5) IF A PETITION FOR REFERENDUM HAS BEEN SUBMITTED BY
18 PERSONS WHO RESIDE WITHIN 1 MILE OUTSIDE THE BOUNDARIES OF THE AREA TO
19 BE ANNEXED AND OUTSIDE THE MUNICIPAL CORPORATION, THE RESOLUTION
20 PROPOSING A CHANGE IN THE BOUNDARIES OF THE MUNICIPAL CORPORATION
21 SHALL BE SUBMITTED TO A REFERENDUM ELECTION OF THE PERSONS WHO RESIDE
22 WITHIN 1 MILE OUTSIDE THE BOUNDARIES OF THE AREA TO BE ANNEXED AND
23 OUTSIDE THE MUNICIPAL CORPORATION WHO ARE REGISTERED AS VOTERS IN
24 COUNTY ELECTIONS IN THE PRECINCT OR PRECINCTS IN THAT AREA.

25 (6) IF A PETITION FOR REFERENDUM HAS BEEN SUBMITTED BY THE
26 GOVERNING BODY OF THE COUNTY, THE RESOLUTION PROPOSING A CHANGE IN THE
27 BOUNDARIES OF THE MUNICIPAL CORPORATION SHALL BE SUBMITTED TO A
28 REFERENDUM ELECTION OF THE QUALIFIED VOTERS OF THE MUNICIPAL
29 CORPORATION.

30 (7) THE BALLOTS OR THE VOTING MACHINES SHALL CONTAIN A
31 SUMMARY OF THE RESOLUTION WITH SUITABLE PROVISION FOR THE VOTER TO
32 INDICATE A CHOICE FOR OR AGAINST IT.

33 (k) For the purposes of this section, in any instance in which there are fewer
34 than twenty persons living in any area proposed to be annexed who are eligible to sign
35 a petition and to participate in a referendum election under the provisions of this
36 section, any person owning real property in the area proposed to be annexed (the word
37 "person" here including an association, the two or more joint owners of jointly-owned
38 property, a firm or corporation) shall have a right equal to that of a natural person to
39 sign a petition or to participate in a referendum election.

40 (l) If only one petition for a referendum is filed and if a majority of the
41 persons voting on the question in that referendum shall vote in favor of the proposal
42 for change, the change shall become effective as proposed on the fourteenth day

1 following the referendum. If two petitions for referendum are filed, the votes cast for
2 the two referenda shall be tabulated separately, so as to show individually the
3 tabulation of votes cast in the municipal corporation and in the area to be annexed. If
4 in both tabulations, each being reckoned separately, a majority of the persons voting
5 on the question shall vote in favor of the proposal for change, the change shall become
6 effective as proposed on the fourteenth day following the referendum. In the event
7 there are two referenda, unless there is such a favorable majority in both tabulations,
8 reckoned separately, the proposal for change shall be void and of no further effect
9 whatsoever.

10 (m) The provisions of this section shall authorize an increase in the area within
11 any municipal corporation only as to land which is not then within the corporate
12 limits of any other municipal corporation.

13 (n) The resolution to add to the corporate boundaries of a municipal
14 corporation shall provide generally that the persons residing in the area to be
15 annexed, and their property, shall be added to the corporate boundaries, generally
16 subject or not subject, as the case may be, to the provisions of the charter of the
17 municipal corporation; except that for stated periods and under specific conditions
18 provision may be made for special treatment of the residents and property in the area
19 to be annexed, as to rates of municipal taxation and as to municipal services and
20 facilities. No change shall be made in these provisions for special treatment for stated
21 periods and under specific conditions, except by resolution enacted in accordance with
22 the provisions and requirements of this section.

23 (o) (1) [In] EXCEPT FOR AN ANNEXATION BY A MUNICIPAL CORPORATION
24 THAT DOES NOT EXERCISE ZONING AUTHORITY, IN addition to, but not as a part of
25 the resolution, the legislative body of the municipal corporation shall, IF THE AREA
26 PROPOSED TO BE ANNEXED IS NOT SUBSTANTIALLY DEVELOPED FOR A LAND USE
27 AND AT A DENSITY AUTHORIZED BY THE ZONING ORDINANCE OF THE COUNTY
28 APPLICABLE AT THE TIME THE ANNEXATION RESOLUTION IS INTRODUCED:

29 (i) ENTER INTO AN ANNEXATION AGREEMENT WITH THE OWNERS
30 OR DEVELOPERS OF THE AREA PROPOSED TO BE ANNEXED; AND

31 (ii) [provide also a proposed outline for the extension of services
32 and public facilities into] FOR AN ANNEXATION OF LAND NOT WITHIN A GROWTH
33 BOUNDARY ADOPTED BY A COUNTY AND A MUNICIPAL CORPORATION IN
34 ACCORDANCE WITH § 6 OF THIS ARTICLE ADOPT AN ANNEXATION PLAN FOR the area
35 proposed to be annexed.

36 (2) FOR AN ANNEXATION OF LAND WITHIN A GROWTH BOUNDARY
37 ADOPTED BY A COUNTY AND A MUNICIPAL CORPORATION IN ACCORDANCE WITH § 6
38 OF THIS ARTICLE, THE ANNEXATION AGREEMENT SHALL IMPLEMENT AND BE
39 CONSISTENT WITH THE JOINT PLANNING AGREEMENT.

40 (3) FOR AN ANNEXATION OF LAND NOT WITHIN A GROWTH BOUNDARY
41 ADOPTED BY A COUNTY AND A MUNICIPAL CORPORATION IN ACCORDANCE WITH § 6
42 OF THIS ARTICLE, THE ANNEXATION AGREEMENT SHALL:

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1 (I) IMPLEMENT AND BE CONSISTENT WITH THE ANNEXATION
2 PLAN DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION; AND

3 (II) INCLUDE THE COUNTY AS A PARTY TO THE AGREEMENT.

4 (4) UNLESS THE COUNTY AND THE MUNICIPAL CORPORATION AGREE
5 OTHERWISE, A COUNTY'S PARTICIPATION IN AN ANNEXATION AGREEMENT SHALL BE
6 LIMITED TO THE PROVISIONS OF THE ANNEXATION PLAN DESCRIBED IN
7 PARAGRAPHS (6)(VI) AND (VII) OF THIS SUBSECTION.

8 (5) The [outline] ANNEXATION PLAN shall be open to public review and
9 discussion at the public hearing, but amendments to the [outline] PLAN may not be
10 construed in any way as an amendment to the resolution, nor may they serve in any
11 manner to cause a reinitiation of the annexation procedure then in process.

12 (6) THE ANNEXATION PLAN SHALL CONTAIN:

13 (I) A DESCRIPTION OF THE PROPOSED LAND USE AND DENSITY
14 FOR THE AREA TO BE ANNEXED;

15 (II) A DESCRIPTION OF THE CONSISTENCY OF THE PROPOSED LAND
16 USE AND DENSITY OF THE AREA TO BE ANNEXED WITH THE COUNTY'S
17 COMPREHENSIVE MASTER PLAN AND ZONING CLASSIFICATION;

18 (III) AN ANALYSIS OF THE CAPACITY OF LAND AREAS AVAILABLE
19 FOR DEVELOPMENT WITHIN THE MUNICIPAL CORPORATION, INCLUDING IN-FILL
20 AND REDEVELOPMENT;

21 (IV) A DESCRIPTION OF THE RELATIONSHIP OF THE PLAN TO A
22 LONG TERM DEVELOPMENT POLICY FOR PROMOTING AN ORDERLY EXPANSION OF
23 GROWTH AND AN EFFICIENT USE OF LAND AND PUBLIC SERVICES;

24 (V) AN ANALYSIS OF THE LAND AREA NEEDED TO SATISFY
25 DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG TERM
26 DEVELOPMENT POLICY;

27 (VI) A DESCRIPTION OF THE MANNER BY WHICH SENSITIVE AREAS,
28 AS DEFINED IN ARTICLE 66B, § 1(J) OF THE CODE, THAT COULD BE IMPACTED BY
29 DEVELOPMENT PLANNED WITHIN THE AREA TO BE ANNEXED WILL BE PROTECTED;
30 AND

31 (VII) A DESCRIPTION OF THE MANNER BY WHICH THE NECESSARY
32 PUBLIC SERVICES AND INFRASTRUCTURE WILL BE PROVIDED TO THE AREA TO BE
33 ANNEXED, INCLUDING THOSE NECESSARY FOR:

34 1. PUBLIC SCHOOLS, SUFFICIENT TO ACCOMMODATE
35 STUDENT POPULATION CONSISTENT WITH STATE RATED CAPACITY STANDARDS
36 ESTABLISHED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION;

37 2. LIBRARIES;

- 1 3. PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL
2 RESPONSE;
- 3 4. WATER AND SEWERAGE FACILITIES;
- 4 5. STORMWATER MANAGEMENT FACILITIES, SUFFICIENT TO
5 ASSURE WATER QUALITY BOTH INSIDE AND OUTSIDE OF THE BOUNDARIES OF THE
6 MUNICIPAL CORPORATION; AND
- 7 6. RECREATION.

8 (7) A copy of the [outline] ANNEXATION RESOLUTION, ANNEXATION
9 AGREEMENT AND, IF APPLICABLE, THE ANNEXATION PLAN shall be provided to the
10 governing body of the county or counties in which the municipal corporation is
11 located, THE MARYLAND DEPARTMENT OF PLANNING, and any regional and State
12 planning agencies having jurisdictions within the county at least [30] 60 days prior to
13 the holding of the public hearing required by this section. [The outline shall contain
14 a description of the land use pattern proposed for the area to be annexed, which may
15 include any county master plan already in effect for the area. It shall be presented so
16 as to demonstrate the available land for public facilities which may be considered
17 reasonably to be necessitated by the proposed use, such as school sites, water or
18 sewerage treatment facilities, libraries, recreation, fire or police. It shall contain also
19 a statement describing the schedule for extending to the area to be annexed each
20 municipal service performed within the municipality at the time of annexation and a
21 statement as to the general methods by which the municipality anticipates to finance
22 the extension of municipal services into the area to be annexed.]

23 (p) The chief executive and administrative officer of a municipal corporation
24 which has enlarged its corporate boundaries under the provisions of this section shall
25 promptly send the annexation resolution with the new boundaries to the clerk or
26 similar official, to the clerk of the court in the county or counties in which the
27 municipal corporation is located, to the Department of Legislative Services as
28 provided in § 9A of this article, and for those municipalities lying within the regional
29 district, to the Maryland-National Capital Park and Planning Commission. Each
30 such official shall hold the annexation resolution with the new boundaries on record
31 and shall make it available for public inspection during all normal business hours.

32 (r) (1) The mayor and council, by whatever name known, of every municipal
33 corporation is hereby authorized and empowered, by ordinance, resolution or
34 regulation, to make proper provision for conducting, and for tabulating the results of
35 any referendum to be held under the provisions of this section.

36 (2) The mayor and council of the municipal corporation shall pay in full
37 for the expenses of [any such referendum] A REFERENDUM BROUGHT UNDER
38 SUBSECTIONS (F), (G), OR (G-1) OF THIS SECTION.

39 (3) THE COUNTY SHALL PAY IN FULL FOR THE EXPENSES OF A
40 REFERENDUM BROUGHT BY THE COUNTY UNDER SUBSECTION (H) OF THIS SECTION.

1 (s) The powers granted to municipal corporations by Article XI-E of the
2 Constitution, by this article, and by Article 66B of the Code, shall not be deemed to
3 authorize any municipal corporation, either through procedures under this
4 subheading or other changes in its charter, to exercise planning (including
5 subdivision control) and zoning jurisdiction or power within any political subdivision
6 in which such planning and zoning jurisdiction or power, or either, is exercised by any
7 State, regional or county agency or authority. Except that where any area is annexed
8 to a municipality authorized to have and having then a planning and zoning
9 authority, the said municipality shall have exclusive jurisdiction over planning and
10 zoning and subdivision control within the area annexed; provided that nothing in this
11 exception shall be construed or interpreted to grant planning and zoning authority to
12 a municipality not authorized to exercise such authority at the time of such
13 annexation.

14 (T) WHEN A MUNICIPAL CORPORATION ANNEXES LAND INSIDE A GROWTH
15 BOUNDARY ADOPTED BY THE COUNTY AND THE MUNICIPAL CORPORATION IN
16 ACCORDANCE WITH § 6 OF THIS ARTICLE AND PLANS TO EXTEND MUNICIPAL WATER
17 AND SEWER SERVICE TO THE AREA TO BE ANNEXED THROUGH FACILITIES OWNED
18 AND OPERATED BY THE MUNICIPAL CORPORATION, IF THE COUNTY'S WATER AND
19 SEWER PLAN DOES NOT YET ALLOW FOR THE EXTENSION OF WATER AND SEWER
20 SERVICE BY THE MUNICIPAL CORPORATION IN THE AREA ANNEXED, THE COUNTY
21 SHALL AMEND ITS COUNTY WATER AND SEWER PLAN IN ACCORDANCE WITH § 9-503
22 OF THE ENVIRONMENT ARTICLE TO AUTHORIZE THE EXTENSION OF MUNICIPAL
23 WATER AND SEWER SERVICE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
25 construed to apply only prospectively and may not be applied or interpreted to have
26 any effect on or application to any annexation resolution that is enacted on or before
27 the effective date of this Act.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 June 1, 2006.

The Annexation Planning & Procedures Act of 2006
(A Sensible Balance Promoting Planning & Collaboration)

EXISTING LAW:

Annexation Resolution- An annexation envisioning development in the annexed area is typically initiated by the introduction of an annexation resolution for consideration by the governing body of the municipality. After certain procedural requirements the annexation resolution may be adopted and the annexed property is no longer subject to county landuse regulations, but is under the exclusive jurisdiction of the municipal landuse regulations. County zoning regulations or adequate public facilities laws no longer apply to the annexed area.

Services Outline- Commensurate with the annexation resolution a proposed outline for the extension of services & public facilities to the area proposed to be annexed is required. The outline need not reflect consideration of consistency with a long-term development policy or Smart Growth standards required of counties such as existing in-fill or redevelopment capacity.

Five-Year Rule- In the absence of an agreement between county & the municipality, the annexed land may not be rezoned by the municipality to permit a landuse “substantially” different than that specified in the county master plan for five years.

Referendum- The annexation resolution’s effectiveness can be made subject to a referendum. The referendum can be initiated by 20% of the residents of the municipality or the area to be annexed, or the county. If initiated by the municipal residents the referendum is by the municipal residents. If initiated by the residents of the area to be annexed or the county, the referendum is in the area to be annexed. In developer driven annexations, the area to be annexed is typically owned or occupied only by persons with a financial stake in the annexation.

PROPOSED REVISIONS:

Joint Planning Agreement (JPA)- A municipality may initiate deliberations with a county to establish a JPA, which would include a growth boundary in which future annexations are envisioned. A process is dictated to assure good faith deliberations. Mandated JPA considerations include existing Smart Growth standards, infrastructure needs arising from envisioned annexations, environmental impacts, and consistency with a long-term development policy. The JPA must be incorporated into both the county & municipal comprehensive plans.

JPA Annexation Procedural Standards- Annexations within a JPA established growth boundary would not be subject to the five-year rule or the county referendum right. The county would have to confirm its water and sewer plan to accommodate access to municipal water & sewer facilities for development within the growth boundary.

Non-JPA Annexation Procedural Standards- Where there is no JPA established growth boundary county adequate public facilities rules would apply to development in annexed properties. Development would have to be in conformance with county zoning for 10 years. Referendum rights would be extended to citizens residing within one mile of the property to be annexed & the county could initiative a referendum in the municipality. An annexation plan would be required essentially incorporating the standards dictated for JPA deliberations.

Annexation Agreements- Annexation agreements would be required between the municipality & the owners or developers of annexed property. Within a JPA established growth boundary, the agreement must implement the JPA. Outside a JPA established growth boundary, the agreement must implement the annexation plan and include the county as a party insofar as infrastructure & sensitive area impacts.

Developed Areas- Areas subject to annexation by municipalities not having zoning authority or which are already developed in accordance with county zoning are exempted from the proposed revisions.



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BILL NO.: Senate Bill 536

TITLE: Annexation Planning and Procedures Act of 2006

POSITION: **SUPPORT**

DATE: March 1, 2006

COMMITTEE: Senate Education, Health and Environmental Affairs

CONTACT: David S. Bliden

The Maryland Association of Counties (MACo) **SUPPORTS** Senate Bill 536, which proposes needed reform to the existing law by which municipalities may annex property. The reform is necessary to control annexations undertaken to avoid county landuse laws and to provide a mechanism to institutionalize existing collaboration and cooperation between municipalities and counties. The bill is not anti-annexation, but pro-planned and sensible growth, consistent with available infrastructure.

The annexation law is antiquated. It was originally enacted in 1954 with many core provisions not having been subject to any substantive revision for over 30 years. The law does not incorporate Maryland's planning advances, such as those implemented by the 1992 Growth Act or 1997 Smart Growth Act. It is further flawed by not comporting with present development practices and the emergence of new local growth management tools, such as adequate public facilities laws.

In recent years, the flaws in the annexation law have permitted annexations, in too many circumstances, to become the vehicle by which developers partner with municipalities to circumvent county landuse laws, such as adequate public facilities ordinances (APFO's) and zoning regulations. This "end-run" permits development incompatible with county growth plans and projections.

This growing abuse of the annexation law has precipitated significant conflict and citizen concern, reflected in media attention not previously prevalent. It can often lead to burdens that cannot be accommodated by existing or planned county infrastructure for which the municipality is not responsible. This infrastructure includes roads outside the municipal boundaries and schools.

This past interim, the Maryland Department of Planning (MDP) convened an Annexation Workgroup to facilitate dialogue about the changing landscape of annexation practices. The Workgroup issued a report reflecting some of the more egregious annexation practices. For instance, the report noted, “[d]uring the past 2 years annexations on the Eastern Shore in some instances have increased municipal land area from 50 - 200% and in one instance would permit a population increase of 400%. Annexations have occurred in rural areas with limited development pressure and by municipalities with little or no planning staff, nor adequate public services & infrastructure. And, “[m]ost annexations bypass the comprehensive planning process, potentially leading to less public review.” See Report at p. 2 & 3.

The Annexation Workgroup deliberations not only identified problems, but also furthered a discussion of solutions. These deliberations included presentations by MDP staff and resulting discussion of coordinated municipal-county planning for annexations that would be reflected in a Joint Planning Agreement (JPA). This planning envisioned a growth boundary within which planned annexations would occur. The JPA is the focus of SB 536.

SB 536 provides a mechanism for a municipality to initiate negotiations with a county for a JPA. The process is detailed, such as mandated meeting schedule and mediation, to ensure good faith negotiations ensue. An agreed-to JPA must include a growth boundary within which annexations are planned and reflect consideration of components ensuring environmental sensitivity and adherence to Smart Growth and Growth Act principles. See pages 3, lines 6-36, and 4, lines 1-10. These considerations include storm water management, sensitive area protection, in-fill utilization, and provision of infrastructure.

Annexations subject to a JPA and within the growth boundary are subject to less rigorous rules than presently exist. There is no five-year restriction on development within the annexed areas, no county referendum right, and no county APFO application. And, the county must amend its water and sewer plan to accommodate access to municipal facilities serving development within the growth boundary. The JPA ensures infrastructure to accommodate the planned development resulting from the anticipated annexations. Annexation agreements between the developer and municipality are required and must implement the JPA. See page 12, lines 23-30.

The rules for annexations not subject to a JPA are more rigorous, reflecting the lack of a planning foundation for these annexations. These more rigorous standards in the context of the existing standards are detailed below with justifications provided. In many instances, and as noted, existing law, independent analysis, or the comments or practices of municipal officials support the provisions.

1. Ten-Year Zoning Based Rule - Existing law precludes development in the annexed area inconsistent with the county master plan for five years. The time frame is extended to 10 years since five years is meaningless in the context of present development practices and the large scale of development often facilitated by annexations. The restriction is based on zoning, rather than master plan, since zoning and not the master plan provides density and use details. See page 6, lines 10-21. The present master plan standard can permit annexation to secure greater density without violating the existing five-year rule.

Municipal comment indicates the proposed standard is reasonable. During the February 21 hearing before the House Annexation Workgroup Denton's contract planner, Pete Johnson, observed that "...the five year wait is not that big a deal" in the context of present developer practices. And, during the 2005 Interim deliberations of the MDP Annexation Workgroup, one of the three designated MML representatives, a knowledgeable landuse attorney, acknowledged zoning rather than master plan would be the appropriate standard for the five-year rule. See Appendix A to Workgroup Report at page 5, III. A. 1

2. Adequate Public Facilities Ordinances (APFO) – County APFO's will apply in annexed areas. See pages 6, lines 31-43, and 7, lines 1-2. Thirteen counties have APFO laws to ensure development can be accommodated with existing or planned infrastructure. Annexations are used to circumvent these APFO's, permitting municipal development precluded under county law. This practice permitted the development of 8500 housing units in Montgomery County and has authorized pending development in Annapolis. This development was or would be prohibited by the County's APFO.

APFO application is consistent with some existing practices and has statutory precedent. Some responsible municipalities, like Rockville and Bel Air, have municipal APFO's that apply, not just to municipal services, but also county provided services, such as schools. Also, State law already requires school APFO's as a condition for some State funding in municipalities within counties having an APFO. But, the law does not consider other county services impacted by municipal development such as roads and libraries and, upon the payment of an impact fee, exempts development for which an impact fee is collected. Unless commensurate with adequately planned development, impact fees do not adequately fund requisite school construction. State Finance and Procurement Article § 5-7B-04

3. Annexation Agreements - The county is to be a party to the required annexation agreement, but only insofar as infrastructure and sensitive area protection. See pages 12, lines 40-42, and 13, lines 1-7. This participation is necessary to ensure that county infrastructure needs and sensitive area protection policies are accommodated. Existing annexation agreements for large annexations, such as those for Denton and Trappe, accommodate only municipal infrastructure and not county infrastructure needs, such as schools and libraries.

This requirement is consistent with the report of the Annapolis Annexation Workgroup, commissioned by Mayor Ellen Moyer. That report recommends annexation agreements for all annexations and acknowledges that the County for certain annexations “may wish to be a party” to the annexation agreement and that “...most major annexations provide the opportunity for shared interests to be advanced.” “Multi-party negotiations of annexation agreements” are identified as a favorable outcome of the recommended increased City and County cooperation. See page 23.

4. Annexation Plan - The municipality is required to adopt an annexation plan commensurate with the adoption of a resolution to annex land. The plan components essentially mirror the considerations required when a county and municipality deliberate a JPA. See pages 13, lines 12-37, and 14, lines 1-7. It is sensible to require these considerations for all annexations. And, this requirement finds precedent in existing law in at least two instances.

One, a municipality is now required to prepare an annexation outline detailing some infrastructure to be provided by the municipality to service development in the annexed property. That provision of law has not been revised for over 30 years and therefore does not reflect planning advances, such as those reflected in the Growth Act of 1992 and the subsequent 1997 Smart Growth Act. But, even in its antiquated form, it does note consideration of school and library-related infrastructure. Article 23A § (o) (7)

Two, the MDP Workgroup Report noted that Smart Growth Priority Funding Area (PFA) designation standards “..basically already do apply to county growth areas but not to annexations,” with MDP recommending that the “...law should be amended to have municipalities subject to the same development supply and demand analysis for expansions of PFAs that applies to counties.” Appendix A to Workgroup Report at page 4 and Workgroup Report at page 5 # 4

5. Enhanced Referendum Options - A referendum right is granted to citizens residing within one mile of the area to be annexed and the presently authorized county-initiated referendum is held in the municipality, not, as now provided, simply in the annexed area. See pages 9, lines 25-44, and 10, lines 1-2. This provision ensures that affected citizens are not disenfranchised and the county initiated referendum is meaningful.

Citizens not residing in the municipality but proximate to the area to be annexed are disenfranchised since they cannot vote for the municipal officials who make the annexation decision and the county officials for whom they can vote have no meaningful input. These citizens are often adversely affected by annexation driven development and are frustrated by their lack of input in the process.

The county can now only initiate a referendum in the area to be annexed. This referendum provision is meaningless for the developer-driven annexations, which are at issue since the property owners or residents of these areas will profit from the annexation.

SB 536 reasonably exempts from its provisions municipalities without zoning authority or annexations of property already substantially developed consistent with existing county zoning. Annexations under these circumstances raise no issues with infrastructure or planning.

The fundamental flaw with the annexation practices that have precipitated this bill is a failure to adhere to the 1992 Growth Act vision that “[a]dequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.” Article 66B § 1.01 (7). The municipal county deliberation and cooperation SB 536 would facilitate would ensure all development receives full consideration of the infrastructure burdens it will precipitate. Accordingly, MACo urges the Committee to issue a **FAVORABLE** report on SB 536.

