SPONSOR: Sen. McDowell & Sen. Bonini & Rep. Osienski & Rep. Keeley
Sens. Blevins, Cloutier, Ennis, Hall-Long, Henry, Lopez, Poore, Sokola, Townsend; Reps. Baumbach, Brady, Briggs King, Heffernan, Longhurst, Mitchell, Mulrooney, Ramone, B. Short, D. Short

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 2

FOR

SENATE BILL NO. 130

AN ACT TO AMEND TITLE 2, TITLE 9 AND TITLE 22 OF THE DELAWARE CODE RELATING TO TRANSPORTATION AND LAND USE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Part II, Title 2 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 21. Complete Community Enterprise District.

§ 2101. Declaration of Policy.

It is the policy of this State to:

(1) Encourage development that maximizes the economic value to the citizens and the government of the State of both existing and new transportation infrastructure.

(2) Strategically deploy transportation funds in ways that meet the mobility needs of the people of the State at the lowest total economic cost to the people and government of the State.

(3) Encourage transportation solutions that enable the formation of new households in the State that have less than one vehicle per adult worker.

§ 2102. Definitions.

As used in this chapter:

(1) "Complete Community Enterprise District" or "District" means an area of a municipality or county, or both, that meets the criteria set forth in §§ 2103 and 2104 of this title.

(2) "Department" means the Department of Transportation.

(3) "Farebox recovery ratio" means the fraction of a transit system's operating expenses which are met by the fares paid by passengers.

(4) "Isoperimetric quotient" means the ratio of the area of the District to the area of a circle with the same perimeter as the District. It is a measure of how compact a particular defined District is.

(5) "Level of service" means a qualitative measure describing operational conditions within a traffic stream based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience.

(6) "Parcel of land" means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established and which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(7) "Project" means any State funded capital-related improvement or addition to the State's transportation infrastructure, including transit systems, facilities, stations and equipment, sidewalks, multi-use paths, protected bicycle lanes, and bicycle boulevards.

§ 2103. District designation.

(a) Any municipality, county, or municipality-county partnership may enter into an agreement with the Department to create a Complete Community Enterprise District.

(b)(1) A municipality, county, or municipality-county partnership and the Department must agree on the boundaries of the District and must create a master development plan for the District that must subsequently be reviewed through the preliminary land use services process under Chapter 92 of Title 29 and adopted into the municipality's, county's, or municipality-county partnership's comprehensive plan.

(2) The master development plan required by paragraph (b)(1) of this section must include enhanced mass transit routes in the District upon its creation.

(3) The master development plan required by paragraph (b)(1) of this section may include the following:

a. A mix of parcels of land zoned for residential, commercial, light industrial, or institutional uses.

b. A guide for the specific design of the physical form, public spaces, and amenities of the District so that transit, walking, and cycling are safe and comfortable modes of travel for all the residents of the District.

c. An agreement on level of service requirements specific to the District.

(c) Once a master development plan has been created, the Department shall conduct a transportation planning study to evaluate existing and proposed future conditions in and around the District boundaries agreed to under this section. The study shall determine the effects of creating the District and identify the projects needed within the District to implement the policies defined in § 2105 of this title and the projects needed outside the District to meet the highway capacity and quality of service standards of the Department and the county or municipality in which the District is located.

The Department shall publish this study on its website at least 10 business days prior to any hearing required under §§ 2662, 4962, or 6962 of Title 9 or § 312 of Title 22.

§ 2104. District requirements.

A Complete Community Enterprise District must meet all of the following requirements:

(1) Be contiguous.

(2) Be more than one square mile but less than nine square miles in area.

(3) Be a compact shape with an isoperimetric quotient of at least 0.7.

(4) Be zoned and otherwise regulated such that the District may be developed at a density that is high enough to enable frequent transit service to the residents of the District.

(5) Exempt all development on all parcels of land included in the District from any municipal or county requirements for the provision of off-street parking.

(6) Contain more total area zoned for residential use than is zoned for commercial or other uses. No parcel of land included in the District may be zoned commercial regional.

§ 2105. District policies.

Once a District has been created, the Department shall:

(1) Develop transit capital improvement projects with the goal of increasing transit ridership in the District that would result in a greater farebox recovery ratio.

(2) Identify the most significant barriers to more trips via walking and cycling in the District and develop capital improvement projects to overcome those barriers.

(3) Assign Department capital improvement projects within a District the highest weight for multi-modal mobility, flexibility/access, as well as the weight equivalent to projects in Transportation Improvement Districts through the Department's project prioritization process under § 8419 of Title 29.

(4) Establish an engineering design goal of free flowing eighty-fifth percentile motor vehicle traffic speeds of 25 miles per hour or less for all streets and roads that are not limited access in the District.

(5) Refrain from developing any projects that expand road capacity in the District unless the Department can demonstrate that such projects will have no negative effect on transit access, pedestrian safety, or on the percentage of trips that can be made by bicycle under low traffic stress conditions.

§ 2106. Authority, role, and responsibility of municipalities and counties.

Nothing in this chapter may be construed to deny to a municipality or county its final decision making authority over proposed land use planning actions.

Section 2. Amend § 2662, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2662. Highway capacity.

The County Council shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request") without first complying with ~~the following procedures:~~ either the procedures contained in paragraphs (1)a. through (1)d. of this section or the procedures contained in paragraphs (2)a. through (2)c. of this section:

(1)a. As soon as possible, but in any event no later than June 30, 1988, the County Council, through its designated planning agency, shall establish an agreement with the ~~Delaware~~ Department of Transportation ~~(DelDOT)~~ to provide a procedure for analysis by ~~DelDOT~~ the Department of Transportation of the effects on traffic of each rezoning application.

~~(2)~~b. Each ~~such~~ agreement under paragraph (1)a. of this section shall be approved by a resolution or ordinance, consistent with County procedures, and shall establish traffic level of service suitable to the County and ~~DelDOT~~ the Department of Transportation.

~~(3)~~c. The purpose of the agreement under paragraph (1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County.

~~(4)~~d. The agreement under paragraph (1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning ~~reclassification~~ reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2)a. The County Council, through its local planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

Section 3. Amend § 4962, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4962. Highway capacity.

The county government shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request") without first complying with ~~the following procedures:~~ either the procedures contained in paragraphs (1)a. through (1)d. of this section or the procedures contained in paragraphs (2)a. through (2)c. of this section:

(1)a. As soon as possible, but in any event no later than June 30, 1988, the county government, through its designated planning agency, shall establish an agreement with the ~~Delaware~~ Department of Transportation ~~(DelDOT)~~ to provide a procedure for analysis by ~~DelDOT~~ the Department of Transportation of the effects on traffic of each rezoning application.

~~(2)~~b. Each ~~such~~ agreement under paragraph (1)a. of this section shall be approved by a resolution or ordinance, consistent with county procedures, and shall establish traffic level of service suitable to the County and ~~DelDOT~~ the Department of Transportation.

~~(3)~~c. The purpose of the agreement under paragraph (1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County.

~~(4)~~d. The agreement under paragraph (1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning ~~reclassification~~ reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2)a. The Levy Court, through its local planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

Section 4. Amend § 6962, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6962. Highway capacity.

The county government shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request") without first complying with ~~the following procedures:~~ either the procedures contained in paragraphs (1)a. through (1)d. of this section or the procedures contained in paragraphs (2)a. through (2)c. of this section:

(1)a. As soon as possible, but in any event no later than June 30, 1988, the county government, through its designated planning agency, shall establish an agreement with the ~~Delaware~~ Department of Transportation ~~(DelDOT)~~ to provide a procedure for analysis by ~~DelDOT~~ the Department of Transportation of the effects on traffic of each rezoning application.

~~(2)~~b. Each ~~such~~ agreement under paragraph (1)a. of this section shall be approved by a resolution or ordinance, consistent with county procedures, and shall establish traffic level of service suitable to the County and ~~DelDOT~~ the Department of Transportation.

~~(3)~~c. The purpose of the agreement under paragraph (1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County.

~~(4)~~d. The agreement under paragraph (1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning ~~reclassification~~ reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2)a. The County Council, through its designated planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

Section 5. Amend Chapter 3, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 312. Complete Community Enterprise Districts.

For any or all of the purposes provided in § 301 of this title, the legislative body of a municipality may amend its zoning regulations for parcels of land as part of a Complete Community Enterprise District established in §§ 2103 and 2104 of Title 2. However, no such regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 60 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality.

SYNOPSIS

This Act defines criteria for a local government to enter into an agreement with the Department of Transportation ("Department") to create transit-oriented development districts, called Complete Community Enterprise Districts ("District"), for the purposes of promoting economic development. A District may be designated in downtown or urban core areas, traditional towns or villages, or regional activity centers. A District is characterized by its mix of land uses, efficient use of public infrastructure, efficient use of public services, and multiple modes of public transportation combined with environmentally friendly private transportation.

This Substitute includes the changes made by Senate Substitute No. 1 to Senate Bill No. 130 and clarifies the Act by doing all of the following:

(1) Adding a two-thirds supermajority vote requirement as Section 5 of the Act is an implicit amendment to municipal charters.

(2) Defining "level of service".

(3) Providing that the master development plan required by the Act must include enhanced mass transit routes in the District upon its creation.

(4) Requiring that the Department conduct and publish transportation planning studies following the creation of a master development plan.

(5) Providing that the Act is not intended to deny to a municipality or county its final decision making authority over proposed land use planning actions.

(6) Requiring that counties and municipalities provide for a public hearing and public comment when the creation of a District requires changes to zoning classifications or regulations.

(7) Making technical corrections to conform language from Senate Substitute No. 1 to Senate Bill No. 130 and from existing law to the guidelines of the *Delaware Legislative Drafting Manual*. This includes correcting references to Delaware's Department of Transportation in existing law to conform them to standard usage.

Author: Senator McDowell