



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):

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

3 Chapter 21. Complete Community Enterprise District.

4 § 2101. Declaration of Policy.

5 It is the policy of this State to:

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

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

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

12 § 2102. Definitions.

13 As used in this chapter:

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

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

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

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

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

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

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

30 § 2103. District designation.

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

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

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

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

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

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

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

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

49 The Department shall publish this study on its website at least 10 business days prior to any hearing required under
50 §§ 2662, 4962, or 6962 of Title 9 or § 312 of Title 22.

51 § 2104. District requirements.

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

53 (1) Be contiguous.

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

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

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

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

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

62 § 2105. District policies.

63 Once a District has been created, the Department shall:

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

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

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

71 (4) Establish an engineering design goal of free flowing eighty-fifth percentile motor vehicle traffic speeds of
72 25 miles per hour or less for all streets and roads that are not limited access in the District.

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

76 § 2106. Authority, role, and responsibility of municipalities and counties.

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

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

81 § 2662. Highway capacity.

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

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

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

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

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

98 (2)a. The County Council, through its local planning agency, shall establish an agreement with the
99 Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and
100 2104 of Title 2.

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

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

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

108 § 4962. Highway capacity.

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

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

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

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

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

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

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

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

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

134 § 6962. Highway capacity.

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

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

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

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

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

151 (2)a. The County Council, through its designated planning agency, shall establish an agreement with the
152 Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and
153 2104 of Title 2.

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

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

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

161 § 312. Complete Community Enterprise Districts.

162 For any or all of the purposes provided in § 301 of this title, the legislative body of a municipality may amend its
163 zoning regulations for parcels of land as part of a Complete Community Enterprise District established in §§ 2103 and 2104
164 of Title 2. However, no such regulations shall become effective until after a public hearing in relation thereto, at which
165 parties in interest and citizens shall have an opportunity to be heard. At least 60 days' notice of the time and place of such
166 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