



2017 LEGISLATIVE CONSIDERATIONS

FREDERICK COUNTY GOVERNMENT

November 17, 2016



County Executive Jan H. Gardner



FREDERICK COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

Jan H. Gardner
County Executive

W. Paul Dial, Chief Administrative Officer

TO: Frederick County Delegation

FROM: Jan H. Gardner, County Executive

DATE: November 17, 2016

SUBJECT: 2017 Frederick County Legislative Package

ISSUE:

The 2017 Frederick County Legislative Package for the 2017 General Assembly session.

BACKGROUND:

Under Charter government, it is the County Executive's role to advance the state legislative priorities of the County. Executive Gardner's goal is to submit a single Frederick County Legislative Package for the upcoming General Assembly Session that represents the County's priorities and reflects the outcome of a public outreach process. The County Executive developed the process and calendar of activities with the input of County Council leadership including Council President Bud Otis, Council Vice-President M. C. Keegan-Ayer, Council Chief of Staff Ragen Cherney, as well as County Attorney John Mathias and other county staff.

Potential legislative ideas were solicited from the general public, county agencies, the County Council, and municipal leaders. The County Executive contacted 75 civic organizations to request their suggestions for legislative initiatives. Because the County Executive values public participation and an open process, the County Executive hosted a town hall style meeting on October 6, 2016, to receive public comment on proposed legislative initiatives and to hear additional suggestions.

The outcome of this open and transparent process produced both legislation and position statements, which our delegation can now advance on behalf of the County in the upcoming General Assembly session. This demonstrates that all levels of government are effectively working together to address the concerns and issues for the citizens of Frederick County.

ANALYSIS:

Attached for your information is the proposed Legislative Package for the 2017 General Assembly session, which includes two (2) new proposed bills and twelve (12) position statements.

Re: 2017 Frederick County Legislative Package
November 17, 2016

The County's Legislative Package includes two (2) new proposed bills:

- 1) Hotel Tax Exemption for Emergency Shelter**
- 2) Maryland Public Ethics Law**

The County's Legislative Package includes twelve (12) position statements:

Two (2) initiatives from the County Executive

- a. Reinstate State Highway User Revenue (SHUR) Funding**
- b. School Construction and Renovation Funding**

Five (5) initiatives from the Public

- a. Hydraulic Fracking in the State of Maryland**
- b. Rape Survivor Family Protection Act**
- c. Agriculture and Farming Initiatives**
- d. Paratransit Funding**
- e. Apprenticeship Programs and Workforce Training**

Five (5) initiatives from the County Council

- a. Biosafety Laboratory Registry**
- b. "Shift" of School Construction Funds**
- c. Foreclosure Registry Penalties**
- d. Vehicle Emissions Inspection Program Revisions**
- e. Drug Awareness and Youth Diversion**

The Frederick County Liquor Board has also separately submitted legislative proposals.

Proposed Legislation

1. *Hotel Tax Exemption for Emergency Shelter Purchased by Human Service Agencies.* The County requests legislation to give Frederick County the authority to exempt government and human service agencies from paying the Frederick County hotel tax rate when the primary use of the facility is housing overnight guests who are in need of emergency shelter.
2. *Changes to the Maryland Public Ethics Law – Local Government Provisions.* The County requests revisions to the Maryland Public Ethics Law initiated and recommended by the League of Women Voters and concerned citizens of Frederick County.

Hotel Tax Exemption for Emergency Shelter Purchased by Human Service Agencies

The Religious Coalition and Student Homelessness Initiative Partnership (SHIP) and other human services providers pay for rooms for emergency sheltering for families at local hotels. Last year alone, human service agencies in Frederick County spent over \$70,000 on hotel stays for families who otherwise may have been sleeping outdoors or in vehicles. This legislation was suggested by SHIP.

The purpose of this legislation is to give Frederick County the authority to provide for exemptions so that government and human service agencies could be made exempt from paying the Frederick County hotel tax rate when the primary use of the facility is housing overnight guests who are in need of emergency shelter. The fiscal note is estimated to be \$3,500 annually.

As an alternative, the County Executive may pursue a modification of the Memorandum of Understanding (MOU) between the County and the Tourism Council of Frederick County to effectively provide this exemption. Under the existing Tourism Reinvestment in Promotion & Product Program (TRIPP) group overnight incentive program, nonprofits are eligible for a \$10 rebate per room booked. As the guidelines exist today, that would include the rooms booked for emergency shelter. If a modification to the MOU is agreed upon, this legislation would not be necessary.

(House Bill _____)

AN ACT concerning

Frederick County – Hotel Rental Tax - Exemptions

FOR the purpose of

BY adding to

Article – Local Government
Section 20-404(e)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

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

Article – Local Government

§ 20-404. Limitations and exemptions

(e) Frederick County. –

(1) In Frederick County, the hotel rental tax does not apply to a hotel with:

[(1)](i) 10 or fewer sleeping rooms in its main building; and

[(2)](ii) not more than 20 additional sleeping rooms in auxiliary structures on the hotel's property.

(2) FREDERICK COUNTY MAY PROVIDE FOR ADDITIONAL EXEMPTIONS FROM THE TAX.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

Re: 2017 Frederick County Legislative Package
November 17, 2016

Changes to the Maryland Public Ethics Law – Local Government Provisions

The purpose of this legislation is to restore fairness and trust in local government. Our citizens expect high standards by those who are elected to public office, and these recommended changes will be in the best interest of the public good.

The League of Women Voters of Frederick County and concerned citizens of Frederick County suggested adding the Planning Commission. This bill also eliminates the affidavit section which has no practical legal purpose.

(House Bill _____)

AN ACT concerning

Frederick County – Public Ethics

FOR the purpose of

BY adding to

Article – General Provisions
Sections 5-857(k), 5-858 and 5-860
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

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

Article – General Provisions

§ 5-857. Definitions

(f) Candidate. -- "Candidate" means:

(1) a candidate for County Executive or County Council who becomes an elected official;

(2) A MEMBER OF THE PLANNING COMMISSION WHO IS A CANDIDATE FOR COUNTY EXECUTIVE OR COUNTY COUNCIL.

(g) Contribution. -- "Contribution" means a payment or transfer of money or property worth at least \$ 100, calculated cumulatively during the pendency of the application, to a candidate or a treasurer or political committee of a candidate.

(h) Governing body. -- "Governing body" means the governing body of Frederick County.

(i) Partnership. -- "Partnership" includes:

(1) a general partnership;

(2) a joint venture;

(3) a limited liability limited partnership;

(4) a limited liability partnership; or

(5) a limited partnership.

(j) Party of record. -- "Party of record" means a person that participated in a proceeding on an application before the governing body by appearing at a public hearing or filing a statement in an official record.

(k) Pendency of the application. -- "Pendency of the application" means the time between the acceptance by the County [Department of Planning and Zoning] of a filing of an application and the earlier of:

- (1) 2 years after the acceptance of the application; or
- (2) the expiration of 30 days after:
 - (i) the governing body has taken final action on the application; or
 - (ii) the application is withdrawn.

(l) Political committee. -- "Political committee" means a committee specifically created to promote the candidacy of a member of the governing body OR PLANNING COMMISSION who is running for an elective office.

(m) Treasurer. -- "Treasurer" has the meaning stated in § 1-101 of the Election Law Article.

§ 5-858. Prohibited actions

(a) Contributions. -- An applicant may not make a contribution to a member of the governing body OR THE PLANNING COMMISSION during the pendency of the application.

(b) Voting. -- Except as provided in subsection (c) of this section, after an application has been filed, a member of the governing body OR THE PLANNING COMMISSION may not vote or participate in any way in the proceedings on the application if the member or the treasurer or political committee of the member received a contribution from the applicant during the pendency of the application.

(c) Comprehensive zoning or rezoning proceedings. -- A member of the governing body OR THE PLANNING COMMISSION may participate in a comprehensive zoning or rezoning proceeding.

§ 5-860. [Affidavit.

At any time before final action on an application, a party of record may file with the Chief Administrative Officer an affidavit including competent evidence of:

- (1) a contribution by an applicant covered under § 5-858 of this subtitle; or

Re: 2017 Frederick County Legislative Package
November 17, 2016

(2) an ex parte communication covered under §5-859 of this subtitle.] Reserved.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

Frederick County Position Statements

The County's Legislative Package includes twelve (12) position statements:

Two (2) initiatives from the County Executive

- a.** Reinstatement of State Highway User Revenue (SHUR) Funding
- b.** School Construction and Renovation Funding

Five (5) initiatives from the Public

- a.** Hydraulic Fracking in the State of Maryland
- b.** Rape Survivor Family Protection Act
- c.** Agriculture and Farming Initiatives
- d.** Paratransit Funding
- e.** Apprenticeship Programs and Workforce Training

Five (5) initiatives from the County Council

- a.** Biosafety Laboratory Registry
- b.** "Shift" of School Construction Funds
- c.** Foreclosure Registry Penalties
- d.** Vehicle Emissions Inspection Program Revisions
- e.** Drug Awareness and Youth Diversion



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Reinstate State Highway User Revenue
(SHUR) Funding

County Position: SUPPORT

The Frederick County Executive and the County Council urge the Frederick County Delegation to reinstate the local share State Highway User Revenue (SHUR) funding or the gas tax to Frederick County.

Frederick County Government and municipal leaders strongly support legislation to reinstate State Highway User Revenue (SHUR) funding or the local share of the gas tax to Frederick County at a level equivalent to those that existed prior to the recession. SHUR funds are used to augment County road maintenance and improvement programs, including annual operations and capital improvements. Without SHUR funds, the scope of these programs and improvement projects must be reduced or deferred. While the level of revenue collected by the State has remained more or less steady, the amount of revenue passed on to the counties and municipalities has been drastically reduced in recent years. For example, the level of funding received by Frederick County reached its peak in 2007, when SHUR funding was approximately \$13.8 million. Since that time, annual funding allocations have been severely reduced, in some cases by up to 96% from one year to the next. This fiscal year, we expect to receive approximately \$1.6 million.

We respectfully request to reinstate SHUR funding in Frederick County at a level equivalent to those that existed prior to the recession.



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

School Construction and
Renovation Funding

County Position: SUPPORT

The Frederick County Executive and County Council request the Frederick County Delegation's support for an increase in state funding for school construction and renovation funding.

School construction is the top legislative priority for Frederick County. All children deserve a seat inside an adequate school building. Adequate school facilities are fundamental to ensuring a high quality education and keeping the promise of public education in the state of Maryland. School construction projects are at risk due to rising costs of school construction.

The state's commitment to school construction capital funding should increase in recognition of increases in school construction costs. Since the state's formula was established in 2004, there have been significant mandated changes in educational programs and state design guidelines which impact the size of schools. For example, design requirements for health suites, full-size gymnasiums in elementary schools, achieving new environmental and energy standards, and satisfying needs for technology have all added to the overall square footage of a school and created the need for larger schools.

While schools have gotten larger, and overall school construction costs have increased, the state statutory formulas and funding goals have not shifted to keep pace with the changes. In fact, since the formula was established by the Thornton legislation, school construction costs have more than doubled, while the state's annual commitment for new school construction has stayed fairly constant at about \$250 million per year state-wide. In addition, other expenses, such as architectural and engineering fees, the cost of moveable equipment and furniture, and required off-site improvements should be considered for possible inclusions in the State's funding structure.

We respectfully request the Frederick County Delegation's strong advocacy and support for an increase in state funding for school construction and renovation. The demand for new school space and the modernization of existing schools will continue to exceed available monies.



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Hydraulic Fracking in the
State of Maryland

County Position: SUPPORT

In response to significant public input, the Frederick County Executive and the County Council request the Frederick County Delegation's consideration and support for a ban on hydraulic fracking in the State of Maryland.

County officials have received a petition with approximately 1,200 signature, over 500 emails, and numerous phone calls from Frederick County residents seeking a ban on fracking in Frederick County and statewide.

The state currently does not permit hydraulic fracking in Maryland. The current ban remains in place until October 1, 2017. The Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR), in consultation with an advisory commission, undertook a study for natural gas from the Marcellus Shale in Western Maryland. The MDE developed regulations regarding hydraulic fracking which are currently under review. While these regulations are not limited to or specific to Marcellus Shale, the MDE only anticipates areas of gas production (hydraulic fracking) in the Marcellus Shale in Allegany and Garrett Counties. If you refer to MDE's map of potential areas for Marcellus Shale exploration in Maryland, you can readily see that this area does not include Frederick County. The map can be found at the following link:

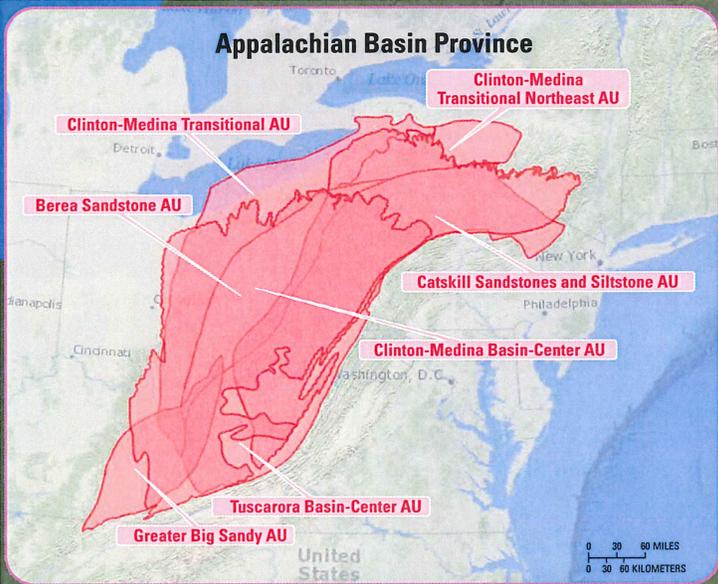
<http://www.mde.state.md.us/programs/Land/mining/Non%20Coal%20Mining/Documents/www.mde.state.md.us/assets/document/Marcellus%20Shapefile%20near%20surface.pdf>.

There is a "finger" or strip of Culpepper Shale and Gettysburg Shale that runs through the center of Frederick County but this is not a type of shale that is targeted for gas extraction. The U. S. Geological Survey indicates that these shale deposits have not been assessed by the government or the energy industry since these shale deposits lack "tight gas" that is subject to fracking. Fracking in Frederick County appears to not be likely or viable.

Frederick County citizens have expressed concerns about the environmental impacts and risks associated with hydraulic fracking in the State of Maryland including impacts on air, water, seismicity, climate and public health. Protecting ground water and surface water is of utmost importance.

We respectfully request the Frederick County Delegation's strong advocacy and support to ban hydraulic fracking in the State of Maryland.

Appalachian Basin Province



Abstract

This report presents a digital map of tight-gas resource assessments in the United States as part of the U.S. Geological Survey's (USGS) National Assessment of Oil and Gas Project. Using a geology-based assessment methodology, the USGS quantitatively estimated potential volumes of undiscovered, technically recoverable natural gas resources within tight-gas assessment units (AUs). This is the second digital map product in a series of USGS unconventional oil and gas resource maps. The map can be printed in hardcopy form or downloaded in a Geographic Information System (GIS) data package, including an ArcGIS ArcMap document (.mxd), geodatabase (.gdb), and published map file (.pmf). In addition, the publication access table contains hyperlinks to current USGS tight-gas assessment publications and web pages.

Access to Report

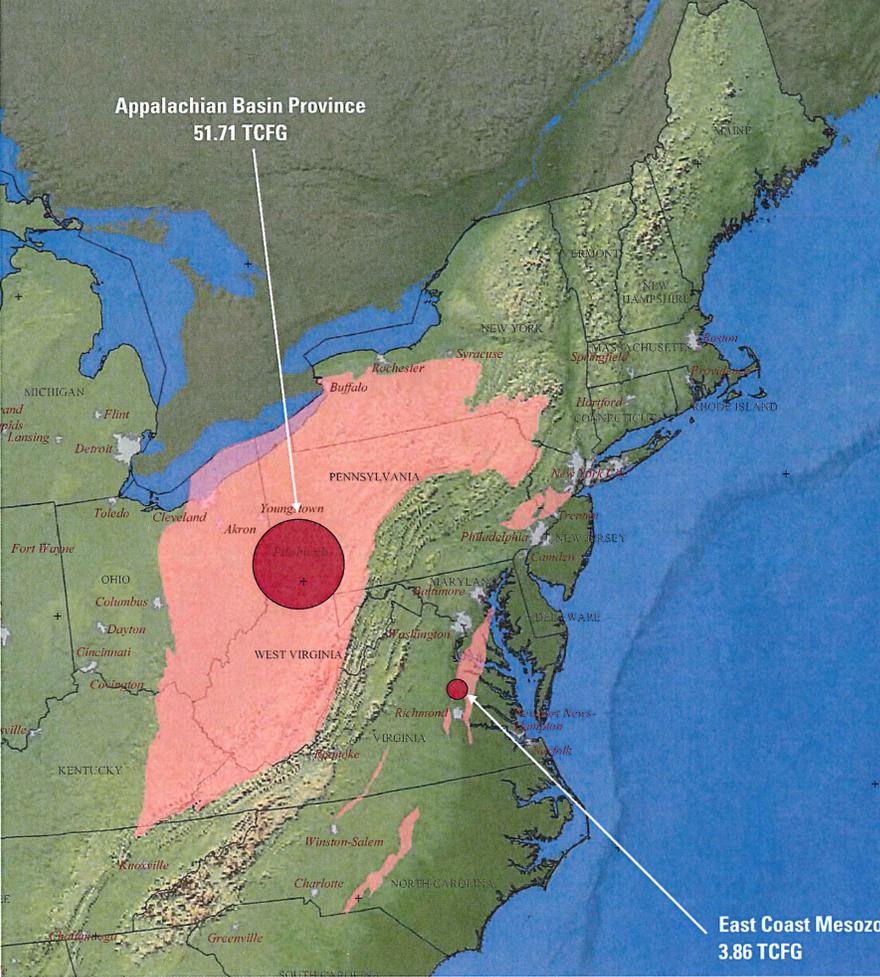
This entire publication is available online at the USGS web site: <http://pubs.usgs.gov/dds/069/dds-069-hh/> and on CD-ROM by contacting: eteamdisks@usgs.gov.

Access to Assessment Results

Comprehensive geologic studies, supporting data, and reports on the methodology used in assessing undiscovered oil and gas resources in the United States are available at the USGS Central Energy Resources Science Center website: <http://energy.usgs.gov/OilGas/AssessmentsData/NationalOilGasAssessment.aspx>

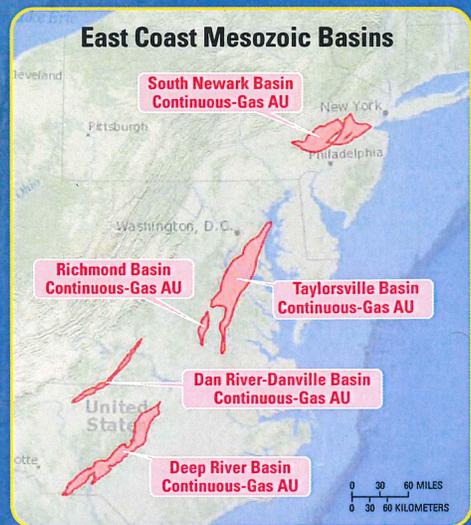
Project Chief: Christopher J. Schenk

Appalachian Basin Province
51.71 TCFG



East Coast Mesozoic Basins
3.86 TCFG

East Coast Mesozoic Basins

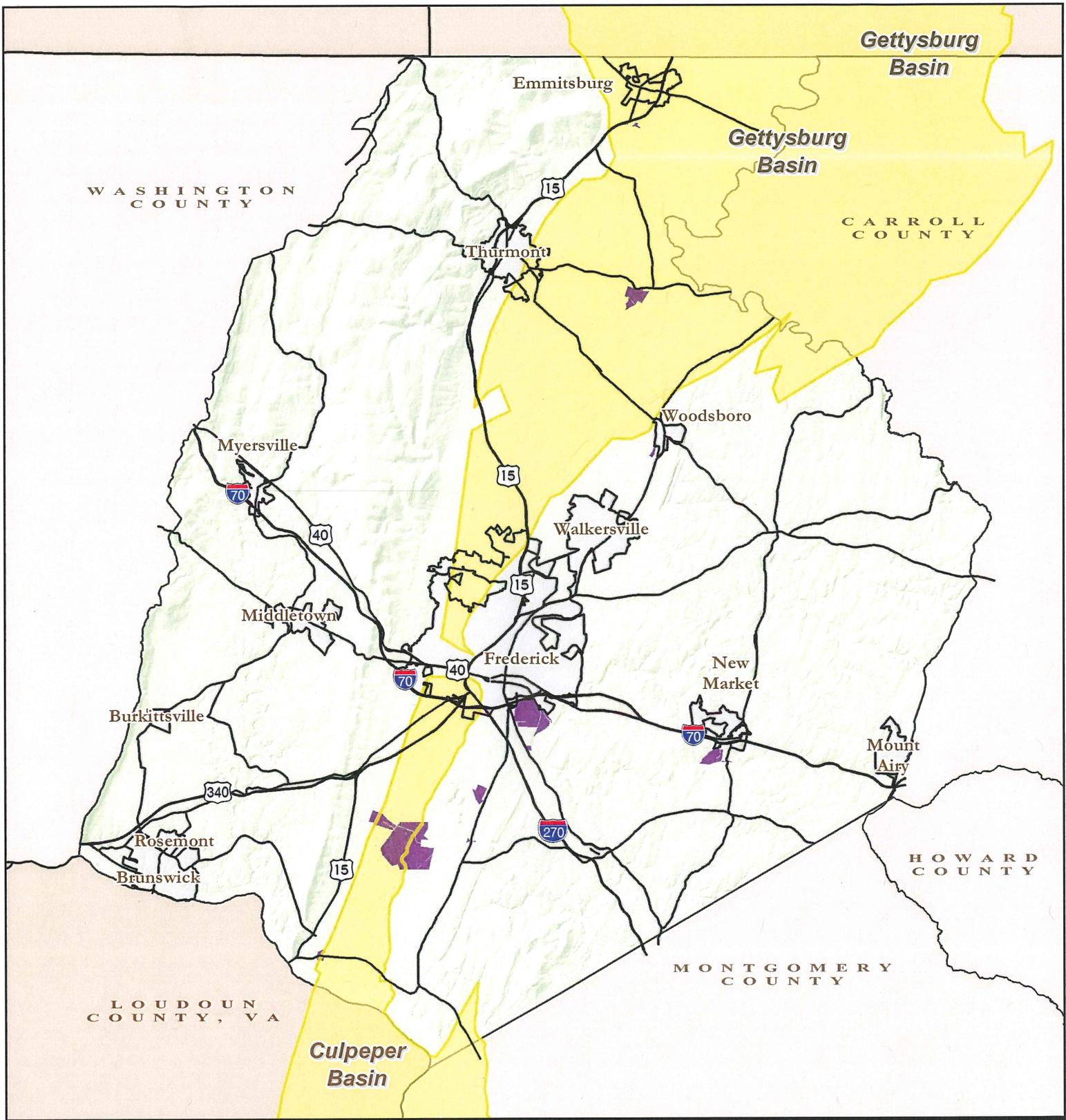


Explanation

Mean tight-gas resource estimates (TCFG)—Undiscovered, technically recoverable. TCFG, trillions of cubic feet of gas.



1



Mesozoic Basins

Frederick County, Maryland

- Mesozoic Basins
- Municipalities
- GI - General Industrial Zoning District



Projection: NAD 1983 State Plane Maryland FIPS 1900 Feet

While efforts have been made to ensure the accuracy of this map, Frederick County accepts no liability or responsibility for errors, omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. This map is for illustration purposes only and should not be used for surveying, engineering, or site-specific analysis. Mesozoic Basins provided by the U.S. Geological Survey. 00337



October 06, 2016
Frederick County GIS



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Rape Survivor Family Protection Act

County Position: SUPPORT

The Frederick County Executive and County Council support the Commission For Women's request for the Frederick County Delegation to support the passage of the *Rape Survivor Family Protection Act* in the upcoming General Assembly session.

This legislation requires a court, under specified circumstances, to terminate the parental rights of an individual convicted of, or found to have, committed an act of nonconsensual sexual conduct against the other parent that resulted in the conception of a child; prohibiting the court from terminating parental rights under specified circumstances; specifying that a termination of parental rights under the Act terminates completely a parent's right to custody of, guardianship of, and inheritance from, the child. *Note: During the 2016 General Assembly the proposed legislation (HB646/SB593) "Passed" in the House, but failed to advance out of the Judicial Proceedings Committee in the Senate.*

We respectfully request the Frederick County Delegation's strong advocacy and support for this legislation in the upcoming General Assembly session.



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Agriculture and Farming Initiatives

County Position: SUPPORT

The Frederick County Executive and County Council support the request of the Frederick County Farm Bureau for the Frederick County Delegation's advocacy of the agriculture and farming legislative initiatives.

1. Support for white tail deer, bear, and geese control programs (i.e., starting to see more deer and bear in the southern and eastern part of the County).
2. Support to increase funding to the Maryland Department of Agriculture to supplement dairy farmers' income when milk prices fall.
3. Support the integration of agricultural education programs in the public school system.
4. Support change in regulation for milk trucks to exceed weight restrictions (i.e., 80,000 lbs.).
5. Support funding of the Maryland Department of Agriculture's cover crop program and controlling roadside noxious weeds.
6. Support proposed changes to nutrient management regulations.

We respectfully request the Frederick County Delegation's strong advocacy and support for this funding and regulation in the upcoming General Assembly session.



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Paratransit Funding

County Position: SUPPORT

The Frederick County Executive and the County Council wish to provide our support for the increased state funding for Paratransit Services in Frederick County. We support the Frederick Transportation Services Advisory Council (TSAC) request to seek state support for additional funding for these services.

Frederick County is experiencing a significant demographic increase in our senior population, defined as people over the age of 65. This age cohort is expected to grow in Frederick County at a rate twice as fast as the State of Maryland and twice as fast as the nation. Along with this increase in the senior population comes an increase in demand for Paratransit services to take low-income seniors and people with disabilities to medical appointments.

The need for dialysis treatment is increasing and with it the need for transportation to this life-saving treatment. In 2013, the Maryland Transit Administration and the Department of Health and Mental Hygiene conducted a study at the request of the Maryland General Assembly, which confirmed the need to address the inadequate funding for dialysis transportation. A copy of the study can be accessed at:

http://taminc.org/Portals/35/FinalReport_StudyofParatransitServicesforDialysis.pdf.

The Transportation Association of Maryland (TAM) is working with the Maryland Department of Transportation in an attempt to build a partnership with the billion-dollar-a-year companies that provide dialysis treatment, but that outcome is unknown.

We respectfully seek the Frederick County Delegation's support and advocacy for an increase in state funding to deliver Paratransit transportation service in Frederick County.



JAN H. GARDNER
Frederick County
Executive

POSITION STATEMENT

Apprenticeship Programs and
Workforce Training

County Position: SUPPORT

The Frederick County Executive and County Council support the request of the Frederick County Workforce Development Board for legislation to provide apprenticeship programs and workforce training.

The purpose of this legislation is to provide funding and investment in apprenticeship programs, internship programs, and industry-driven workforce training. Some examples include the Youth Apprenticeship Pilot Program and EARN (Employment Advancement Right Now - an industry-led training initiative).

We respectfully seek the Frederick County Delegation's support and advocacy for an increase in state funding to apprentice programs and workforce training in Frederick County.



**County Council
Frederick County**

POSITION STATEMENT

Biosafety Laboratory Registry

County Position: SUPPORT

The Frederick County Council and County Executive provide our support for the creation of a Biosafety Laboratory Safety Registry.

This request comes from the Containment Laboratory Community Advisory Committee (CLCAC). Their proposal would create a Biosafety Laboratory Safety Registry within the Department of Health and Mental Hygiene (DHMH). The intent of creating a registry is to demonstrate through data collection that there has been a proliferation of these types of labs and that oversight is warranted to protect public health. Frederick County does not have authority to create such a registry.

We respectfully request the Frederick County Delegation's support for the creation of a Biosafety Laboratory Safety Registry in the upcoming legislative session.



**County Council
Frederick County**

POSITION STATEMENT

“Shift” of School Construction Funds

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to investigate options for the “shifting” of school construction funds between local school projects.

School construction costs have experienced a significant increase as a result of market conditions and new state laws and regulations. The Frederick County Council is interested in a pilot program to allow more flexibility to shift funds between projects.

We respectfully request the Frederick County Delegation’s support for legislation to investigate possibilities for the “shifting” of school construction funds between local school projects.



**County Council
Frederick County**

POSITION STATEMENT

Foreclosure Registry Penalties

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to require lending institutions to take earlier responsibility for properties in foreclosure.

The purpose of this legislative initiative would require lending institutions to take earlier responsibility for properties in foreclosure. The proposal would require secured parties to register when they first file a foreclosure action. It also allows local governments to impose a \$1,000 penalty if secured parties fail to register and expands the ability of local governments to take care of nuisances on foreclosed properties and adding those costs to the tax bill.

We respectfully request the Frederick County Delegation's advocacy and support for legislation to require lending institutions to take earlier responsibility for properties in foreclosure.



**County Council
Frederick County**

POSITION STATEMENT

Vehicle Emissions Inspection
Program Revisions

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to require revisions to the vehicle emissions inspection program.

We respectfully request the Frederick County Delegation's strong advocacy and support for legislation to require used cars sold in Maryland by a commercial entity to have passed a vehicle emissions test prior to a car being sold or transferred.



**County Council
Frederick County**

POSITION STATEMENT

Drug Awareness and Youth Diversion

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to obtain state resources to strengthen drug awareness and youth diversion programs in Frederick County.

Additional resources are needed for children and youth rehabilitation and treatment programs and providing for diversion programs outside of the traditional criminal justice system for at risk youth offenders.

We respectfully request the Frederick County Delegation's strong advocacy and support to obtain state resources to strengthen drug awareness and youth diversion programs in Frederick County.

Legislative Calendar 2016 - 2017

Date	Activity
Wednesday, August 3, 2016	Seek legislative ideas by letter to 75 organizations
Tuesday, September 6, 2016	Overview of proposed legislative process/request legislative ideas and proposals from the County Council
Thursday, September 8, 2016	Ask for input and legislative specifics from municipal leaders - Mayors/Burgesses meeting
Tuesday, September 20, 2016	Present and review proposed legislative initiatives with Council for review and input
Thursday, October 6, 2016	County Executive to host a Town Hall meeting on proposed 2017 Legislative Package – County Council invited to attend
Tuesday, November 1, 2016	Present final package at County Council workshop for review and input
First week of November	Finalize 2017 Legislative Package
Thursday, November 17, 2016 (12:00 p.m.)	Meeting with Frederick County Delegation - Winchester Hall
Saturday, December 3, 2016 (10:00 a.m.)	Delegation Public Hearing - Winchester Hall
Wednesday, January 11, 2017 (12:00 p.m.)	Maryland General Assembly session will reconvene