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By: **Senator Middleton**

Introduced and read first time: February 6, 2004

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 4, 2004

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CHAPTER 135

1 AN ACT concerning

2 **State Finance - State Projects or Programs - Funding**

3 FOR the purpose of ~~providing that certain State projects or programs are not subject~~  
4 ~~to certain provisions of law relating to certain State debt authorizations;~~  
5 providing that certain funds provided for the purposes of Program Open Space  
6 shall be provided to the Department of Natural Resources; providing that the  
7 Department shall allocate certain funds to local jurisdictions using a certain  
8 apportionment formula; providing that Program Open Space funds provided by  
9 the Department to local jurisdictions shall be considered encumbered under  
10 certain circumstances for certain purposes; providing that certain provisions  
11 regarding the expiration of certain appropriations or debt authorizations do not  
12 apply to the Ocean Beach Replenishment Fund; providing that certain prior  
13 appropriations and authorizations for State debt allocated for certain purposes  
14 shall be considered encumbered as of a certain date for certain purposes; and  
15 generally relating to the funding of certain State projects or programs.

16 ~~BY repealing and reenacting, without amendments,~~  
17 ~~Article Agriculture~~  
18 ~~Section 2-505(a)~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(1999 Replacement Volume and 2003 Supplement)~~

21 ~~BY repealing and reenacting, with amendments,~~  
22 ~~Article Agriculture~~  
23 ~~Section 2-505(b)~~  
24 ~~Annotated Code of Maryland~~  
25 ~~(1999 Replacement Volume and 2003 Supplement)~~

1 BY repealing and reenacting, with amendments,  
 2 Article - Natural Resources  
 3 Section 5-902, ~~5-9A-01(e), and 5-1505~~ 5-905(a), and 8-1103(a)  
 4 Annotated Code of Maryland  
 5 (2000 Replacement Volume and 2003 Supplement)

6 ~~BY repealing and reenacting, without amendments,~~  
 7 ~~Article - Natural Resources~~  
 8 ~~Section 5-9A-01(b) and 5-1501~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2000 Replacement Volume and 2003 Supplement)~~

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

13 **~~Article - Agriculture~~**

14 ~~2-505.~~

15 ~~(a) The Maryland Agricultural Land Preservation Fund is created and~~  
 16 ~~continued for the purposes specified in this subtitle.~~

17 ~~(b) (1) The Maryland Agricultural Land Preservation Fund shall comprise:~~

18 ~~[(1)] (I) Any money made available to the Fund by general or special~~  
 19 ~~fund appropriations; and~~

20 ~~[(2)] (II) Any money made available to the Fund by grants or transfers~~  
 21 ~~from governmental or private sources.~~

22 ~~(2) ANY PROJECT OR PROGRAM FUNDED UNDER THIS SUBTITLE IS NOT~~  
 23 ~~SUBJECT TO THE PROVISIONS OF §§ 7-305(D)(3) AND 8-128(C) OF THE STATE FINANCE~~  
 24 ~~AND PROCUREMENT ARTICLE.~~

25 **Article - Natural Resources**

26 5-902.

27 (a) The General Assembly declares that there is need for a program to make  
 28 funds available to State agencies and any subdivision to:

29 (1) Expedite acquisition of outdoor recreation and open space areas  
 30 before escalating cost of land prevents its purchase for public use and before potential  
 31 areas are devoted to some other use; and

32 (2) Accelerate development and capital renewal of needed outdoor  
 33 recreation facilities.

1 (b) This program is known as Program Open Space and carries out the  
2 recommendations of the 1968 Legislative Council committee on recreational areas. By  
3 enacting this program, the General Assembly intends to provide funds to the State  
4 and its subdivisions to enable them to acquire land for outdoor public recreation and  
5 open space use and develop the land for public recreation.

6 (c) (1) To effectuate the purposes of this section, the General Assembly has  
7 established a funding program under Chapter 403 of the Acts of the General Assembly  
8 of 1969.

9 (2) ~~ANY PROJECT OR PROGRAM UNDER PROGRAM OPEN SPACE IS NOT~~  
10 ~~SUBJECT TO THE PROVISIONS OF §§ 7-305(D)(3) AND 8-128(C) OF THE STATE FINANCE~~  
11 ~~AND PROCUREMENT ARTICLE. IN ANY FISCAL YEAR IN WHICH FUNDING FOR~~  
12 ~~PROGRAM OPEN SPACE IS PROVIDED THROUGH THE STATE CONSOLIDATED CAPITAL~~  
13 ~~BOND FUNDING PROGRAM OR OTHER BOND ENABLING ACT, THE DEBT ALLOCATIONS~~  
14 ~~SHALL BE PROVIDED TO THE DEPARTMENT OF NATURAL RESOURCES AND THE~~  
15 ~~DEPARTMENT SHALL ALLOCATE FUNDS AMONG LOCAL GOVERNING BODIES~~  
16 ~~ACCORDING TO THE APPORTIONMENT FORMULA DESCRIBED IN § 5-903 OF THIS~~  
17 ~~SUBTITLE.~~

18 5-905.

19 (a) (1) On or before May 1 of each year, the Department shall notify each  
20 local governing body of its allocation of local acquisition and development funds for  
21 the next fiscal year within the limits imposed by the formula developed for the  
22 apportionment of the annual appropriations for Program Open Space.

23 (2) (i) By the first of July each year, a participating local governing  
24 body shall submit an annual program of proposed acquisition and development  
25 projects, together with a list of projects submitted by any municipal corporation to the  
26 local governing body and not included in the local governing body's annual program,  
27 to the Department of Planning for review and to the Department for approval.

28 (ii) A municipal corporation may submit an annual program  
29 through its local governing body.

30 (3) (i) Upon review by the Department of Planning and approval by  
31 the Department and the Board of Public Works, THE ALLOCATED FUNDS SHALL BE  
32 ENCUMBERED FOR THE PURPOSES OF §§ 7-305(D)(3) AND 8-128(C) OF THE STATE  
33 FINANCE AND PROCUREMENT ARTICLE, AND the annual program shall become the  
34 basis for a grant agreement for the total allocation to each of the local governing  
35 bodies.

36 (ii) Prior to approval of a local annual program, or any revision  
37 thereof, the Department shall provide the legislators from the district within which  
38 any part of the local jurisdiction is located the opportunity to review and comment on  
39 the annual program or its revisions.

1           (4)     Any program may be revised by the local governing body and the  
2 revised program, after the Department of Planning reviews and the Department  
3 approves it, shall be substituted for the original program in the grant agreement.

4           (5)     (i)     In accordance with the Department's regulations, upon receipt  
5 of evidence from the local governing body of a county or municipal corporation that  
6 funds have been spent on a project that is approved in the grant agreement, the  
7 Department shall cause the requested amount of funds from the local governing  
8 body's allocation to be reimbursed to the local governing body.

9                     (ii)     Any municipal corporation may submit evidence of  
10 expenditures for approved projects through its local governing body to the  
11 Department.

12 8-1103.

13       (a)     (1)     There is an Ocean Beach Replenishment Fund, consisting of moneys  
14 appropriated for that purpose in the State budget or in any bond enabling act and any  
15 money contributed by local jurisdictions in accordance with this section.

16           (2)     The Fund shall be maintained for the purposes stated in this section,  
17 and unspent portions of any appropriations to the Fund shall remain in the Fund and  
18 may not revert to the General Fund AND ANY PROJECT OR PROGRAM FUNDED UNDER  
19 THIS SUBTITLE IS NOT SUBJECT TO THE PROVISIONS OF §§ 7-305(D)(3) AND 8-128(C)  
20 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

21           (3)     Any interest earned by the State on any funds contributed by local  
22 jurisdictions shall:

23                     (i)     Accrue to the Fund; and

24                     (ii)     Be applied to reduce the annual maintenance payments of the  
25 local jurisdictions.

26 ~~5-9A-01.~~

27       (b)     (1)     ~~A Rural Legacy Program is established to enhance natural resource,~~  
28 ~~agricultural, forestry, and environmental protection as provided in subsection (a) of~~  
29 ~~this section while maintaining the viability of resource based land usage and proper~~  
30 ~~management of tillable and wooded areas through accepted agricultural and~~  
31 ~~silvicultural practices for farm production and timber harvests.~~

32           (2)     ~~The Program provides funds to the local governments and land trusts~~  
33 ~~to purchase interests in real property from willing sellers, including easements,~~  
34 ~~transferable development rights, and fee estates, focused in designated Rural Legacy~~  
35 ~~Areas.~~

36           (3)     ~~The Program shall encourage partnerships among the federal, State,~~  
37 ~~and local governments, and nonprofit land trust organizations and encourage local~~  
38 ~~land conservation initiatives.~~

1           (4)     The Program is administered by a Rural Legacy Board in the  
2 Department of Natural Resources, an advisory committee, and existing State staff.

3           (e)     (1)     The Program is funded:

4           ~~{(1)}~~   (I)     Pursuant to § 13-209 of the Tax – Property Article and §  
5 ~~5-903(a)(2)(iii)~~ of this article; and

6           ~~{(2)}~~   (II)    By the proceeds from the sale of general obligation bonds as  
7 provided in § 5-9A-09 of this subtitle.

8           (2)     ~~ANY PROJECT OR PROGRAM UNDER THE RURAL LEGACY PROGRAM IS~~  
9 ~~NOT SUBJECT TO THE PROVISIONS OF §§ 7-305(D)(3) AND 8-128(C) OF THE STATE~~  
10 ~~FINANCE AND PROCUREMENT ARTICLE.~~

11 ~~5-1501.~~

12     ~~There is a Heritage Conservation Fund in the Department.~~

13 ~~5-1505.~~

14     (A)     ~~Appropriations for the Heritage Conservation Fund may be provided from:~~

15           (1)     ~~Special bond authorization;~~

16           (2)     ~~General funds of the State; and~~

17           (3)     ~~Other sources.~~

18     (B)     ~~ANY PROJECT OR PROGRAM FUNDED UNDER THIS SUBTITLE IS NOT~~  
19 ~~SUBJECT TO THE PROVISIONS OF §§ 7-305(D)(3) AND 8-128(C) OF THE STATE FINANCE~~  
20 ~~AND PROCUREMENT ARTICLE.~~

21     SECTION 2. AND BE IT FURTHER ENACTED, That all prior capital  
22 appropriations and all prior authorizations of State debt, if any, allocated for Program  
23 Open Space under § 5-905 of the Natural Resources Article, that are unexpended as  
24 of June 1, 2004, shall be deemed encumbered for the purposes of §§ 7-305(d)(3) and  
25 8-128(c) of the State Finance and Procurement Article as of the date of approval of  
26 the annual program submitted by each local governing body under § 5-905 of the  
27 Natural Resources Article.

28     ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect June 1, 2004.

