

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 172 (Delegates Morhaim and Kach)
Environmental Matters

Program Open Space - Conversion of Land - Easements

This bill provides that placing an easement on land acquired or developed under a State grant from Program Open Space (POS) does not constitute a conversion restricted under current law.

Fiscal Summary

State Effect: The bill would not materially affect State operations or finances.

Local Effect: While the bill could make it easier for local jurisdictions to place an easement on land acquired or developed under a State POS grant, it would not significantly affect local finances.

Small Business Effect: None.

Analysis

Current Law/Background: POS, established in 1969, provides funds for State and local acquisition and development of public outdoor recreational sites, facilities, and open space. Generally, funding for POS is equally divided between the State and local governments. The State share focuses on the acquisition of land for natural resource conservation with the inclusion of low-impact recreational activities where appropriate. The local share is used primarily for the acquisition and development of high-impact recreational sites and facilities, with land conservation as a positive but notably secondary goal.

Land acquired or developed under a State grant from POS may not be converted from outdoor public recreational or open space use to any other use without written approval of the Secretary of Natural Resources, the Secretary of Budget and Management, and the Secretary of Planning. Any conversion may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreational or open space value. In addition, the appraised monetary value of the land proposed for acquisition must be equal to or greater than the appraised monetary value of the land to be converted under the proposed new use of the converted land. The State is directed to consider these funds in excess of the encumbered POS funds to the local jurisdiction.

According to Department of Natural Resources (DNR), when POS provides a grant for a local acquisition with the acquisition cost based upon an unrestricted use of the land, it is understood that the land will be available for either recreational or open space use in perpetuity. DNR advises that there is no need nor is it advisable for a local government, subsequent to the receipt of POS grant assistance, to encumber that land with an easement that restricts the recreational use of the land. According to DNR, doing so could hinder the ability of the local government to meet the recreational demands of the public.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Agriculture, Department of Legislative Services

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