

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1352

(Delegate Stein, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Forest Conservation Fund - Contribution Rates - Priority Funding Areas

This bill alters the rates for contributions to the State Forest Conservation Fund and local forest conservation funds by establishing higher rates for projects located outside priority funding areas (PFAs). Project applicants paying into the State Forest Conservation Fund must pay (1) 30 cents per square foot of the area of required planting for a project inside a PFA; and (2) 36 cents per square foot of the area of required planting for a project outside a PFA. After September 30, 2014, project applicants paying into the State Forest Conservation Fund must pay (1) at a rate adjusted for inflation for a project inside a PFA; and (2) at a rate that is 20% higher for a project outside a PFA. When applicants are paying into a local forest conservation fund, the rates must be (1) at least the same as the State Forest Conservation Fund for a project inside a PFA; and (2) at a rate that is 20% higher for a project outside a PFA. Local jurisdictions with contribution rates higher than the minimum State contribution rate may use a rate for projects (1) inside a PFA that is 20% lower than the rate for projects outside a PFA, but must still meet at least the State contribution rates; and (2) outside a PFA that is 20% higher than the rate for projects inside a PFA.

Fiscal Summary

State Effect: Department of Natural Resources (DNR) special fund revenues increase in FY 2011 and future years to the extent individuals must make larger contributions to the State Forest Conservation Fund. Expenditures are not affected.

Local Effect: Local revenues increase in local jurisdictions with local forest conservation funds to the extent projects occur outside PFAs and individuals must make larger contributions to local forest conservation funds.

Small Business Effect: Meaningful. Small businesses are affected by the bill to the extent they submit applications for projects located outside a PFA and must make a larger contribution to the State Forest Conservation Fund or a local forest conservation fund.

Analysis

Current Law/Background:

Forest Conservation Act

Enacted in 1991, the Forest Conservation Act provides a set of minimum standards that developers must follow when designing a new project that affects forest land. Local governments are responsible for making sure these standards are met, but they may choose to implement even more stringent criteria. If there is no local agency in place to review development plans, DNR does so. In general, the Act calls for a minimum amount of forest cover on development sites based upon the site's zoning.

DNR administers the State Forest Conservation Fund to facilitate the afforestation or reforestation requirements when an applicant cannot reasonably accomplish these requirements on- or off-site. In addition, a local approval authority may establish and administer a local forest conservation fund to apply in that local jurisdiction instead of the State fund. A State or local forest conservation fund consists of payments made by an applicant in lieu of performance of afforestation or reforestation requirements and penalties collected for noncompliance with specified forestry requirements. If an applicant demonstrates to the satisfaction of the appropriate State or local approval authority that the requirements for planting on- or off-site cannot be reasonably accomplished, the applicant must currently pay to the appropriate fund 30 cents per square foot of the area of required planting. After September 30, 2014, applicants must pay at a rate adjusted for inflation as determined by DNR annually in regulations. The rates for local forest conversation funds must be the same as the rates established for the State Forest Conservation Fund.

Violators at the State and local level are assessed a penalty of 30 cents per square foot of the area found to be in noncompliance and are liable for a civil penalty of up to \$1,000 per day the violation continues.

Priority Funding Areas Act

The Smart Growth and Neighborhood Conservation Act of 1997 (Priority Funding Areas Act) sought to strengthen the State's efforts to control sprawl, enhance land use, and control pollution. This Act capitalized on the influence of State expenditures on

economic growth and development by directing State spending to PFAs. The broad purpose of PFAs is to focus State spending to make the most efficient and effective use of existing infrastructure; preserve existing neighborhoods; and preserve Maryland's fields, farms, and open spaces. The Act established certain areas as PFAs and allowed counties to designate additional areas if they meet minimum criteria. **Exhibit 1** lists the areas initially established as PFAs and areas eligible for county designation.

Exhibit 1
Smart Growth – Priority Funding Areas

<u>Areas Initially Established by Law</u>	<u>Areas Eligible for County Designation</u>
Municipalities	Areas with industrial zoning
Baltimore City	Areas with employment as the principal use which are served by, or planned for, a sewer system
Areas inside the Baltimore and Washington beltways	Existing communities within county-designated growth areas which are served by a water or sewer system and which have an average density of 2 or more units per acre
Neighborhoods designated for revitalization by the Department of Housing and Community Development	Rural villages
Enterprise and empowerment zones	Other areas within county-designated growth areas that, among other things, have a permitted density of 3.5 or more units per acre for new residential development
Certified Heritage Areas within county-designated growth areas	

Source: Maryland Department of Planning

State Revenues: The number of projects that affect forest land and the annual amount of State Forest Conservation Fund fee-in-lieu revenue in the State vary from year to year. While the number of development proposals has decreased recently, as the economy improves, more projects are expected. State Forest Conservation Fund fee-in-lieu

collections totaled approximately \$650 in fiscal 2009, \$14,400 in fiscal 2008, \$34,900 in fiscal 2007, \$59,000 in fiscal 2006, and \$19,000 in fiscal 2005.

Since the bill increases the fee-in-lieu rate in specified circumstances, State Forest Conservation Fund revenues are expected to increase in fiscal 2011 and subsequent years. The magnitude of the change cannot be reliably estimated; however, it is not expected to be significant. Whenever possible, DNR seeks to have a project applicant plant trees instead of making a fee-in-lieu contribution.

Local Revenues: Local forest conservation fund fee-in-lieu collections totaled approximately \$2.1 million in fiscal 2008, \$2.3 million in fiscal 2007, \$2.6 million in fiscal 2006, and \$2.8 million in fiscal 2005. In fiscal 2001, when the economy was performing poorly, local forest conservation fund collections totaled \$533,340.

Since the bill increases the fee-in-lieu rate in specified circumstances, local forest conservation fund revenues are expected to increase in fiscal 2011 and subsequent years. The magnitude of the change cannot be reliability estimated; however, it may be potentially significant.

Additional Information

Prior Introductions: None.

Cross File: SB 914 (Senator Harrington, *et al.*) - Education, Health, and Environmental Affairs.

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

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