

SENATE BILL 849

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11r0164
CF HB 1025

By: **The President (By Request – Administration)**

Introduced and read first time: February 14, 2011

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Land Acquisitions**

3 FOR the purpose of requiring the Department of Natural Resources to negotiate land
4 acquisitions under certain circumstances; requiring the Department to obtain a
5 certain number of independent appraisals of a property before certain
6 acquisitions; requiring certain land acquisition contracts to be approved and
7 executed by the Board of Public Works; requiring the Department to give
8 written notice of potential land acquisitions to certain governmental bodies
9 under certain circumstances; authorizing certain governmental bodies to submit
10 written comments to the Department in a certain timeframe; requiring the
11 Board of Public Works to supervise certain expenditures for certain land
12 acquisitions; authorizing the Department to dispose of certain land under
13 certain circumstances; authorizing the Board of Public Works to exempt certain
14 projects from certain requirements; requiring the Department to adopt certain
15 regulations, including regulations developed in consultation with the
16 Department of General Services; making technical corrections; requiring the
17 Department of Natural Resources to prepare and revise a certain plan in
18 consultation with the Department of Planning; exempting certain land
19 acquisitions by the Department from certain land acquisition requirements;
20 altering a certain definition to include certain land acquisitions by the
21 Department; exempting certain property transfers from certain appraisal
22 requirements; authorizing the Department to submit certain property
23 appraisals to the Board of Public Works; and generally relating to land
24 acquisition and planning functions performed by the Department of Natural
25 Resources.

26 BY adding to

27 Article – Natural Resources

28 Section 1–109

29 Annotated Code of Maryland

30 (2005 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Natural Resources
 3 Section 5–903(e), 5–904(d), 5–906(b), and 5–1222
 4 Annotated Code of Maryland
 5 (2005 Replacement Volume and 2010 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article – Natural Resources
 8 Section 5–906(a)
 9 Annotated Code of Maryland
 10 (2005 Replacement Volume and 2010 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article – State Finance and Procurement
 13 Section 4–412, 5–7B–01(c)(1), 10–304, and 10–305(b)
 14 Annotated Code of Maryland
 15 (2009 Replacement Volume and 2010 Supplement)

16 BY repealing and reenacting, without amendments,
 17 Article – State Finance and Procurement
 18 Section 10–305(a)
 19 Annotated Code of Maryland
 20 (2009 Replacement Volume and 2010 Supplement)

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

23 **Article – Natural Resources**

24 **1–109.**

25 **(A) (1) THE DEPARTMENT SHALL NEGOTIATE THE ACQUISITION OF**
 26 **REAL PROPERTY FOR OPEN SPACE, RECREATION, CONSERVATION, AND OTHER**
 27 **PURPOSES UNDER THIS ARTICLE.**

28 **(2) THE DEPARTMENT SHALL MAKE EACH ACQUISITION UNDER**
 29 **THIS SUBSECTION IN THE NAME OF THE STATE TO THE USE OF THE**
 30 **DEPARTMENT.**

31 **(B) EXCEPT FOR REAL PROPERTY THAT IS ACQUIRED BY GIFT, BEFORE**
 32 **ANY REAL PROPERTY IS ACQUIRED FROM A PRIVATE OWNER, THE DEPARTMENT**
 33 **SHALL OBTAIN TWO INDEPENDENT APPRAISALS OF THE PROPERTY.**

1 **(C) (1) A CONTRACT FOR THE ACQUISITION OF LAND UNDER THIS**
2 **SECTION SHALL BE APPROVED AND EXECUTED BY THE BOARD OF PUBLIC**
3 **WORKS.**

4 **(2) AT LEAST 40 DAYS BEFORE THE BOARD OF PUBLIC WORKS**
5 **MAY ACT ON A LAND ACQUISITION UNDER THIS SECTION, THE DEPARTMENT**
6 **SHALL GIVE WRITTEN NOTICE OF A POTENTIAL ACQUISITION OF LAND:**

7 **(I) TO THE GOVERNING BODY OF THE COUNTY IN WHICH**
8 **THE LAND IS LOCATED; AND**

9 **(II) IF THE LAND IS LOCATED WITHIN A MUNICIPAL**
10 **CORPORATION, TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.**

11 **(3) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER THIS**
12 **SUBSECTION, THE GOVERNING BODY MAY SUBMIT WRITTEN COMMENTS TO THE**
13 **DEPARTMENT.**

14 **(D) THE BOARD OF PUBLIC WORKS SHALL SUPERVISE THE**
15 **EXPENDITURE OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES**
16 **FOR THE ACQUISITION OF LAND UNDER THIS SECTION.**

17 **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
18 **DEPARTMENT MAY DISPOSE OF LAND OWNED AND MANAGED BY THE**
19 **DEPARTMENT AS CONSIDERATION FOR THE ACQUISITION OF LAND NOT OWNED**
20 **BY THE DEPARTMENT.**

21 **(2) IN IMPLEMENTING THIS SUBSECTION, THE DEPARTMENT**
22 **SHALL COMPLY WITH THE PROCEDURES ESTABLISHED UNDER TITLE 5,**
23 **SUBTITLE 3 AND TITLE 10, SUBTITLE 3 OF THE STATE FINANCE AND**
24 **PROCUREMENT ARTICLE.**

25 **(F) THE BOARD OF PUBLIC WORKS MAY EXEMPT PROJECTS UNDER**
26 **THIS SECTION FROM THE PROVISIONS OF THIS SECTION.**

27 **(G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
28 **IMPLEMENT THIS SECTION.**

29 **(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**
30 **SUBSECTION SHALL INCLUDE A SYSTEM FOR APPRAISAL REVIEW DEVELOPED**
31 **BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL**
32 **SERVICES.**

1 (e) (1) The Department may, with the approval of the Board of Public
2 Works, use acquisition funds to make matching or refundable grants to land trusts for
3 the acquisition of interests or rights in real property for recreational or open space
4 purposes.

5 (2) [Notwithstanding the provisions of §§ 4–411 through 4–414 of the
6 State Finance and Procurement Article, subject] **SUBJECT** to the availability of funds
7 and in accordance with other provisions of this article regarding open space and
8 wildland areas, the Department may enter into agreements with a land trust for the
9 State to acquire title to or an interest or right in property owned by the land trust or
10 property on which the land trust holds an option or a contract to purchase.

11 (3) An agreement under this subsection shall be subject to approval by
12 the Board of Public Works under [§ 4–415 of the State Finance and Procurement
13 Article] **§ 1–107(C) OF THIS ARTICLE.**

14 5–904.

15 (d) (1) [Notwithstanding § 4–412 of the State Finance and Procurement
16 Article, the] **THE** Department and the Maryland Environmental Trust, with the
17 approval of the Board of Public Works, may:

18 (i) Use State project funds under Program Open Space to
19 contribute towards, or reimburse the Department of Transportation for, a portion of
20 the costs of acquiring any fee titles, restrictive covenants, or conservation easements
21 for which the Department of Transportation spends federal funds for transportation
22 enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

23 (ii) Acquire the fee titles, restrictive covenants, or conservation
24 easements from the Department of Transportation or any of its agents.

25 (2) State project funds under Program Open Space may be used to
26 contribute toward, or reimburse the Department of Transportation for, a portion of the
27 costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only
28 for acquisitions that are contained in the most current consolidated transportation
29 plan of the State.

30 5–906.

31 (a) Each local project shall conform to a comprehensive plan the local
32 governing body approves and have the approval of official planning agencies having
33 jurisdiction, including comprehensive planning agencies.

34 (b) Every acquisition and development project funded by the State in whole
35 or in part shall meet needs identified in the Maryland Land Preservation and
36 Recreation Plan prepared and revised every 6 years by the Department IN

1 **CONSULTATION WITH THE DEPARTMENT** of Planning [in cooperation with the
 2 Department]. The document shall identify and recommend for State acquisition efforts
 3 those resource areas facing the most intense or immediate development pressure.
 4 These resource areas shall be designated as targeted areas. The document and any
 5 changes to it shall be distributed to every local governing body.

6 5-1222.

7 [Notwithstanding the provisions of §§ 4-411 through 4-414 of the State Finance
 8 and Procurement Article, subject] **SUBJECT** to the availability of funds and in
 9 accordance with other provisions of this article regarding open space and wildland
 10 areas, the Secretary may enter into agreements with the Nature Conservancy for the
 11 State to acquire title to or an interest in property owned by the Nature Conservancy or
 12 property on which the Nature Conservancy holds an option or a contract to purchase.

13 **Article – State Finance and Procurement**

14 4-412.

15 (a) Except as otherwise provided in this section, the Division exclusively
 16 shall negotiate the acquisition of land[:

17 (1) for any public improvement[; and

18 (2) for any State project funded under the State share of Program
 19 Open Space].

20 (b) The Division shall make each State acquisition in the name of:

21 (1) the unit of the State government; or

22 (2) the principal department of the State government to which the
 23 unit belongs.

24 (c) The Division is not responsible for acquiring land for a local project.

25 (d) (1) The Division is not responsible for developing any acquired land.

26 (2) Development of any land acquired under Program Open Space is
 27 the responsibility of the unit of the State government.

28 **(E) THE PROVISIONS OF THIS SECTION AND §§ 4-413 THROUGH 4-416**
 29 **OF THIS SUBTITLE DO NOT APPLY TO LAND ACQUIRED BY THE DEPARTMENT OF**
 30 **NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
 31 **RESOURCES ARTICLE.**

32 5-7B-01.

1 (c) (1) “Growth-related project” means only the items set forth below:

2 (i) any major capital project as defined in § 2-103.1(a)(4) of the
3 Transportation Article, except existing transportation facilities projects as defined in §
4 4-101(i) of the Transportation Article, project planning as defined in § 8-610(i) of the
5 Transportation Article, or initial project planning as defined in § 8-610(e) of the
6 Transportation Article;

7 (ii) funding by the Department of Housing and Community
8 Development for:

9 1. construction or purchase of newly constructed single
10 family homes or purchase of loans for newly constructed single family homes under
11 Title 4, Subtitle 2, Subtitle 3, or Subtitle 8 of the Housing and Community
12 Development Article;

13 2. acquisition or construction of newly constructed
14 multifamily rental housing under Title 4, Subtitle 2, Subtitle 4, or Subtitle 15 of the
15 Housing and Community Development Article; or

16 3. State-funded neighborhood revitalization projects
17 under Title 6 of the Housing and Community Development Article;

18 (iii) funding by the Department of Business and Economic
19 Development under any of the following:

20 1. the Maryland Industrial Development Financing
21 Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

22 2. the Maryland Small Business Development Financing
23 Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

24 3. the former Maryland Energy Financing Act,
25 authorized under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the
26 Maryland Industrial Development Financing Authority;

27 4. the Economic Development Opportunities Program
28 Fund, authorized under § 7-314 of this article;

29 5. the former Maryland Competitive Advantage
30 Financing Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code;
31 and

32 6. the Maryland Economic Development Assistance
33 Authority and Fund, authorized under Title 5, Subtitle 3 of the Economic Development
34 Article;

1 (iv) funding by the Department of the Environment, for any
2 project under:

3 1. §§ 9–1601 through 9–1605 (Water Quality Revolving
4 Loan Fund) of the Environment Article except for funding nonpoint source pollution
5 projects;

6 2. §§ 9–420 through 9–426 (Water Supply Financial
7 Assistance Program) of the Environment Article; and

8 3. the supplemental assistance program authorized
9 under Title 9, Subtitle 3, Part VI of the Environment Article; and

10 (v) except as provided in paragraph (2) of this subsection,
11 procurement or funding of projects by the Department of General Services for:

12 1. leases of property by the State governed by §§ 4–318
13 through 4–321 of this article; and

14 2. land acquisition governed by §§ 4–411 through 4–416
15 of this article; AND

16 (VI) PROCUREMENT OR FUNDING OF PROJECTS BY THE
17 DEPARTMENT OF NATURAL RESOURCES FOR LAND ACQUISITION UNDER §
18 1–109 OF THE NATURAL RESOURCES ARTICLE.

19 10–304.

20 (a) This section does not apply to:

21 (1) property that is pledged to secure the payment of principal of or
22 interest on revenue bonds; or

23 (2) real property that is owned or controlled by the State Highway
24 Administration.

25 (b) (1) The Board may transfer any property, and all rights of physical
26 custody and control over the property, from a unit of the Executive Branch of the State
27 government to another unit of the Executive Branch of the State government.
28 **TRANSFERS UNDER THIS SUBSECTION ARE EXEMPT FROM THE APPRAISAL**
29 **REQUIREMENTS UNDER § 10–305(B)(2)(I) OF THIS TITLE.**

30 (2) Any property transferred under this subsection is subject to the
31 continuing general jurisdiction of the Board.

32 10–305.

1 (a) Subject to subsection (b) of this section, any real or personal property of
2 the State or a unit of the State government may be sold, leased, transferred,
3 exchanged, granted, or otherwise disposed of:

4 (1) to any person, to the United States or any of its units, or to any
5 unit of the State government, for a consideration the Board decides is adequate; or

6 (2) to any county or municipal corporation in the State subject to any
7 conditions the Board imposes.

8 (b) (1) (i) Except as provided under subparagraph (ii) of this
9 paragraph, this subsection applies to the sale, transfer, grant, or exchange of:

10 1. real property identified under § 5–310(c)(1) of this
11 article; and

12 2. State–owned real or personal property, funded in
13 accordance with an appropriation act of the General Assembly, that has an appraised
14 value over \$100,000.

15 (ii) This subsection does not apply to the following dispositions
16 of property identified in subparagraph (i) of this paragraph:

17 1. leasing the property; or

18 2. the sale, transfer, grant, or exchange of a corrective or
19 access easement on the property.

20 (2) The Board may not approve the sale, transfer, exchange, or grant
21 of property until:

22 (i) the Department of General Services **OR THE DEPARTMENT**
23 **OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
24 **RESOURCES ARTICLE** has submitted to the Board two independent appraisals of the
25 property that:

26 1. with regard to real property, consider the value of any
27 restrictive covenant that may be placed on the property; and

28 2. may not be publicly disclosed if the property is to be
29 sold at auction;

30 (ii) the following information has been submitted, by electronic
31 mail or facsimile and by certified mail, to the Senate Budget and Taxation Committee,
32 the House Appropriations Committee, and, for property that meets both criteria of
33 paragraph (1)(i) of this subsection, the Legislative Policy Committee:

- 1 1. a description of the property; and
- 2 2. if applicable, any justification for not selling,
3 transferring, exchanging, or granting the property in a manner that generates the
4 highest return for the State;
- 5 (iii) 45 days have elapsed since:
- 6 1. the information required by item (ii) of this paragraph
7 was received by the appropriate committees; and
- 8 2. the Board declared the property surplus; and
- 9 (iv) except for property sold under paragraph (4) of this
10 subsection, for property that meets both criteria under paragraph (1)(i) of this
11 subsection and for which the Board intends to approve a fee simple sale, transfer,
12 exchange, or grant, the General Assembly has approved the proposed disposition as
13 provided under paragraph (3) of this subsection.
- 14 (3) (i) Within 45 days after receiving the information submitted
15 under paragraph (2) of this subsection, the Legislative Policy Committee shall:
- 16 1. review the information and the public record created
17 by the Department of Planning for the property; and
- 18 2. A. approve the proposed disposition of the surplus
19 property and refer the property back to the Board for final disposition; or
- 20 B. refer the proposed disposition of the property to the
21 full General Assembly and notify the Board of the referral.
- 22 (ii) If the Legislative Policy Committee fails to take any action
23 under subparagraph (i)2 of this paragraph within the specified time period, the
24 proposed disposition shall be deemed approved by the Committee.
- 25 (iii) 1. If the proposed disposition of the surplus property is
26 referred by the Legislative Policy Committee to the full General Assembly, the
27 proposed disposition may not be approved by the Board unless it is approved by the
28 passage of legislation during the next legislative session of the General Assembly.
- 29 2. In any legislation passed in accordance with
30 subparagraph 1 of this subparagraph, the General Assembly may approve the
31 proposed disposition with or without conditions.
- 32 (4) If the Board has declared the property surplus, the Board shall sell
33 the property to the federal government, a local government, or a unit of federal or local
34 government for \$1.00, if:

1 (i) the government or unit has indicated its interest in
2 acquiring the land; and

3 (ii) a restrictive covenant is placed on the deed of transfer, in
4 accordance with § 5-906(e)(7) and (8) of the Natural Resources Article, that requires
5 the property to be maintained in a use that is consistent with its use at the time of
6 transfer.

7 (5) Any revenues derived from the sale, transfer, exchange, or grant of
8 property identified under paragraph (1)(i)1 of this subsection shall be deposited in the
9 Advance Option and Purchase Fund under § 5-904(b) of the Natural Resources
10 Article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2011.