

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 421

(Senators Edwards and Middleton)

Education, Health, and Environmental Affairs

Environmental Matters

**Program Open Space - Attainment of Acquisition Goals - Increased Allocation for
Local Government**

This bill increases the maximum percentage (from 75% to 100%) of Program Open Space (POS) funds that a local government may spend on development projects after certification by the Department of Natural Resources (DNR) and the Maryland Department of Planning (MDP) that it has attained its acreage acquisition goals. However, a local government that qualifies must use 25% of the funds only for land acquisition, repair or renovation of existing recreational facilities or structures, or capital renewal. The bill also deletes a five-year limit on the period of time during which the POS funds may be used for such projects.

The bill takes effect June 1, 2011, and terminates May 31, 2014.

Fiscal Summary

State Effect: None. Total POS funding is not affected.

Local Effect: While the bill does not increase the total amount of funding allocated to local governments under POS, it provides certain local governments with greater flexibility in the use of their POS allocation.

Small Business Effect: Minimal.

Analysis

Current Law: One-half of any local governing body's annual apportionment of POS funds must be used for acquisition or development projects; up to 20% of these funds may be used for capital renewal. If DNR and MDP certify that acquisition goals set forth

in the current, approved local Land Preservation and Recreation Plan (LPRP) have been met and that the acreage attainment equals or exceeds the minimum recommended acreage goals developed for that jurisdiction under the Maryland LPRP, a local governing body may use up to 75% of its future annual apportionment for development projects for five years after attainment. If so, up to 20% of the funds authorized for use for development projects may be used for capital renewal.

Background: POS, established in 1969 and administered by DNR, provides funds for State and local conservation acquisitions and development of public outdoor recreational sites, facilities, and open space. 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 jurisdiction share is used primarily for the acquisition and development of high-impact recreational sites and facilities. As of January 6, 2011, the State share had preserved 309,234 acres and the local share had preserved 44,454 acres. While bond funds were provided most recently, POS is principally funded through special funds derived from the State's transfer tax, which imposes a 0.5% tax on all real property recorded in the State.

In its most recent LPRP, the State recommended a local recreational goal of 30 acres of recreation land per 1,000 persons. Each local governing body, in its own LPRP, may set a goal that differs from the State recommended goal. However, the higher of the two goals is used in determining whether a local governing body has met its acreage goal. The local recreation acreage goal is designed to encourage counties and municipalities to acquire sufficient land to meet the current and future active recreational and open space needs of their residents.

Additional Comments: Similar legislation was enacted in 2008 (Chapter 163), which terminated on May 31, 2010, and 2001 (Chapter 658), which terminated on September 30, 2006. DNR reports that, pursuant to Chapter 163 of 2008, 11 counties (Allegany, Carroll, Dorchester, Garrett, Kent, Queen Anne's, Somerset, Talbot, Washington, Wicomico, and Worcester) requested and received permission to use 100% of their POS funding for recreation development projects. DNR notes that even counties that were given such permission still continued to acquire land when needed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Worcester counties, Baltimore City, Department of Natural Resources, Maryland Department of Planning, Department of Legislative Services

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ncs/lgc Revised - Senate Third Reader - March 22, 2011
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