

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 849

(The President)(By Request - Administration)

Education, Health, and Environmental Affairs

Environmental Matters

State Government - Land Acquisitions and Transfers of Property

This Administration bill consolidates State land acquisition and planning functions related to open space, recreation, conservation, and other purposes in the Natural Resources Article, within the Department of Natural Resources (DNR). The bill transfers authority to negotiate State Program Open Space (POS) land acquisitions from the Department of General Services (DGS) to DNR. The bill also transfers responsibility for preparation of the State's Land Preservation, Parks, and Recreation Plan (LPPRP) from the Maryland Department of Planning (MDP) to DNR. DNR is required to adopt implementing regulations. The bill also exempts transfers of property within the Executive Branch of the State government from independent appraisal requirements.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: By consolidating State functions within DNR, total State expenditures are not expected to change significantly in FY 2012 and future years. To the extent consolidation results in unexpected programmatic efficiencies in FY 2012 and future years, special fund expenditures decrease; however, any such savings cannot be reliably estimated at this time. Transportation Trust Fund (TTF) expenditures for appraisals decrease minimally beginning in FY 2012. Revenues are not affected.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill establishes the following requirements for DNR real property acquisitions:

- two independent appraisals must be obtained before any real property is acquired from a private owner, except real property acquired by gift;
- any contract for the acquisition of land must be approved by the Board of Public Works (BPW);
- DNR must provide written notice of a potential land acquisition to the governing body of the county, and municipal corporation if relevant, in which the land is located at least 40 days before BPW may act, and within 30 days after receiving such notice, the governing body may submit written comments to DNR;
- BPW must supervise the expenditure of funds the General Assembly appropriates for DNR land acquisition;
- DNR may dispose of land it owns and manages as consideration for the acquisition of land it does not own if it complies with specified real property procedures in the State Finance and Procurement Article; and
- BPW may exempt DNR land acquisition projects from specified land acquisition requirements in the bill.

The bill also clarifies that (1) DNR land acquisition projects are not growth-related projects that must be located in priority funding areas (PFAs) to receive State funding; and (2) transfers of State Highway Administration property to the Maryland Transportation Authority or another unit in the Maryland Department of Transportation (MDOT) are subject to the general jurisdiction of BPW.

Current Law/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 jurisdictions' 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. Currently, all POS administration funding is allocated to DNR and, under memoranda of understanding with DGS and MDP, DNR pays those agencies for their POS land acquisition and LPPRP preparation functions. DGS has exclusive authority to negotiate the acquisition of land for State POS projects.

To ensure POS funds are focused on meeting the most important preservation and recreational needs, the State and each local jurisdiction must prepare LPPRPs every six years. MDP, in cooperation with DNR, must prepare and revise the State LPPRP. The most recent State LPPRP was released in 2009.

DNR advises the bill will make the State's land acquisition efforts more efficient. Specifically, DNR advises that property sellers will experience a faster response time from the State since acquisition review, appraisals, and negotiation will all be conducted by one agency. DNR further advises that, as a result of the bill, it will be better positioned to (1) respond to changing budget scenarios and variations in priorities; and (2) make purchases and reconcile funding balances more quickly.

State Fiscal Effect: The bill consolidates land acquisition and related planning functions within DNR that are currently shared among DNR, MDP, and DGS. As a result, DNR will likely retain most of the POS administrative funds that it currently allocates to MDP and DGS for land acquisition and LPPRP work. In fiscal 2011, DNR has allocated POS administrative special funds totaling approximately \$665,000 to DGS and \$307,000 to MDP. To effectuate this realignment, DNR will likely assume MDP's responsibility for preparation of the LPPRP and DGS's responsibility for the following functions:

- ordering and reviewing appraisals and conducting title research;
- negotiating land purchase agreements for assigned acquisitions;
- completing property closings;
- preparing and presenting approved acquisitions and real estate-related documents to BPW; and
- processing all land acquisition information.

Accordingly, it is anticipated that some staff would likely shift from MDP and DGS to DNR, but DNR advises that no decisions regarding which positions may be affected have been made to date.

DGS and MDP will likely continue to perform some functions related to POS. For example, DGS may continue to provide design and construction management assistance for DNR projects, and MDP may continue to conduct easement review functions.

The fiscal 2012 budget bill (SB 85/HB 70 of 2011) includes a provision effectuating a \$1.13 million *general fund* reduction contingent upon the enactment of legislation consolidating the State's aquaculture and land preservation functions in accordance with a schedule determined by the Governor. DNR advises that the bill may result in a cost savings, potentially up to \$100,000 in *special funds*, but the amount of any cost savings cannot be reliably determined at this time. Because the bill is not expected to result in a decrease in State *general fund* expenditures, it is not clear how this contingent reduction will be realized.

The bill exempts property that is transferred within the Executive Branch from independent appraisal requirements. While independent appraisals are not currently conducted for such property transfers by most Executive Branch agencies, MDOT advises that it does conduct appraisals for such property transfers. Thus, the bill results in a minimal reduction in TTF expenditures in fiscal 2012 and subsequent years.

Additional Information

Prior Introductions: None.

Cross File: HB 1025 (The Speaker)(By Request - Administration) - Environmental Matters.

Information Source(s): Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Board of Public Works; Department of Natural Resources; Department of General Services; Maryland-National Capital Park and Planning Commission; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2011
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Natural Resources –Land Acquisitions**

BILL NUMBER: SB 849

PREPARED BY: Rich Norling 410-260-8124

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Lands acquired by the State under the Natural Resources Article are purchased from private landowners who are willing sellers. The sellers are almost always individuals rather than small businesses, so the proposed bill will have minimal or no economic impact on Maryland small business.