

HOUSE BILL 1091

Q1, M1

5lr2358
CF SB 134

By: **Delegates Beitzel, Buckel, McKay, Metzgar, Otto, and B. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Open Space Incentive Program – Payments to Counties**

3 FOR the purpose of repealing certain provisions that provide counties with a certain
4 percentage of revenues derived from a State forest or park reserve within a county;
5 repealing certain provisions that provide counties with a certain percentage of
6 revenues derived from concession operations within a State forest or park; requiring
7 certain payments to counties for State forests, parks, and wildlife management areas
8 that are exempt from the property tax; providing for the amount of the payments;
9 providing for a biennial adjustment to the amount of the payments; establishing the
10 manner of determining which land is considered in determining the amount of the
11 payment; clarifying how to apportion the land in a State forest, park, or wildlife
12 management area that is contained in multiple counties; clarifying when land shall
13 be included in the total number of acres for a county in a fiscal year; excluding certain
14 lands from being included in the total number of acres in a county; requiring the
15 Secretary of Natural Resources to certify certain information to the Governor and
16 the Secretary of Budget and Management on or before a certain date; requiring the
17 Governor to include certain amounts to be paid to each county in the annual budget
18 bill; requiring the State to pay to each county a certain percentage of a certain
19 payment on or before certain dates; clarifying that the provisions of this Act may not
20 be construed to prohibit the application of or collection of certain taxes; repealing
21 certain obsolete provisions of law; defining certain terms; and generally relating to
22 payments to counties for State forests, parks, and wildlife management areas within
23 a county.

24 BY repealing and reenacting, without amendments,
25 Article – Natural Resources
26 Section 5–101(a) and (e), 5–215, and 10–801
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2014 Supplement)

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Natural Resources
2 Section 5–212 and 5–212.1
3 Annotated Code of Maryland
4 (2012 Replacement Volume and 2014 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article – Tax – Property
7 Section 6–102, 7–210, 7–211(c), and 7–501(a) and (b)
8 Annotated Code of Maryland
9 (2012 Replacement Volume and 2014 Supplement)

10 BY adding to
11 Article – Tax – Property
12 Section 6.5–101 through 6.5–301 to be under the new title “Title 6.5. Open Space
13 Incentive Program”
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2014 Supplement)

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

18 **Article – Natural Resources**

19 5–101.

20 (a) In this title the following words have the meanings indicated.

21 (e) (1) “Forest land” means a biological community dominated by trees and
22 other woody plants that are capable of producing timber or other wood products with a
23 stocking of at least 100 trees per acre with at least 50% of those trees having a 2–inch or
24 greater diameter at 4.5 feet above the ground.

25 (2) “Forest land” includes forested areas that have been cut but not
26 converted to other land uses.

27 5–212.

28 (a) In this section, “Fund” means the Forest or Park Reserve Fund.

29 (b) There is a Forest or Park Reserve Fund in the Department.

30 (c) The purpose of the Fund is to enable the Department to purchase and manage
31 in the name of the State lands suitable for forest culture, reserves, watershed protection,
32 State parks, scenic preserves, historic monuments, parkways, and State recreational
33 reserves.

34 (d) The Department shall administer the Fund.

1 (e) (1) The Treasurer shall hold the Fund separately and the Comptroller shall
2 account for the Fund.

3 (2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
4 the State Finance and Procurement Article.

5 (f) The Fund consists of:

6 (1) Except as provided in § 5–307(f)(4) of this title, any money obtained
7 from the State forest reserves, State parks, scenic reserves, parkways, historic monuments,
8 and recreation areas;

9 (2) Revenue distributed to the Fund from fines collected under § 5–1302 of
10 this title; and

11 (3) Revenue received by the Fund under § 5–207(b) of this subtitle.

12 (g) (1) Subject to paragraph [(3)] **(2)** of this subsection, the Fund may be used
13 only for:

14 (i) 1. Purchasing and managing in the name of the State lands
15 suitable for forest culture, reserves, watershed protection, State parks, scenic preserves,
16 historic monuments, parkways, and State recreational reserves; and

17 2. Helping to offset the costs to the Forest and Park Service
18 for developing and implementing a forest health emergency contingency program under §
19 5–307 of this title;

20 [(ii) Subject to paragraph (2) of this subsection, payments to counties
21 in the amount of:

22 1. If the State forest or park reserve comprises less than 10%
23 of the total land area of the county, a sum equal to 15% of the revenue derived from the
24 State forest or park reserve located in that county; and

25 2. If the State forest or park reserve comprises 10% or more
26 of the total land area of the county, a sum equal to 25% of the revenue derived from the
27 State forest or park reserve located in that county;] and

28 [(iii) **(II)** Administrative costs calculated in accordance with §
29 1–103(b)(2) of this article.

30 (2) [For fiscal years 2012 and 2013 only, the payments under paragraph
31 (1)(i) of this subsection shall be based only on the revenue derived from sales of timber.

1 (3)] From revenues described in subsection (f) of this section that are
2 attributable to Maryland Park Service operations, the Governor shall include in the State
3 budget an appropriation for the Maryland Park Service equal to:

4 (i) At least 60% of the revenues, for fiscal year 2016;

5 (ii) At least 80% of the revenues, for fiscal year 2017; and

6 (iii) 100% of the revenues, for fiscal year 2018 and each fiscal year
7 thereafter.

8 (h) (1) The Treasurer shall invest the money of the Fund in the same manner
9 as other State money may be invested.

10 (2) Any investment earnings of the Fund shall be credited to the General
11 Fund of the State.

12 (i) Expenditures from the Fund may be made only in accordance with the State
13 budget.

14 5–212.1.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Account” means the Forest and Park Concession Account.

17 (3) (i) “Concession operations” means activities within a State forest or
18 park that:

19 1. Raise revenue;

20 2. Function under a separate budget system; and

21 3. Supplement the operation of the facility where it is
22 located.

23 (ii) “Concession operations” includes:

24 1. Food concessions;

25 2. Boat rentals;

26 3. Gift shops;

27 4. Marine sales;

28 5. Snack bars; and

6. Camp stores.

(b) There is a Forest and Park Concession Account in the Department.

(c) The purpose of the Account is to finance:

(1) The maintenance and operation of concession operations; and

(2) The functions of State forests and parks.

(d) The Department shall administer the Account.

(e) (1) The Treasurer shall hold the Account separately and the Comptroller shall reconcile the Account.

(2) The Account is a special, nonlapsing account that is not subject to § 7-302 of the State Finance and Procurement Article.

(f) The Account consists of any money derived from concession operations in State forests and parks.

(g) [(1) Except as provided in paragraph (2) of this subsection, the Account] **THE ACCOUNT** shall be used only for:

[(i)] **(1)** The maintenance and operation of concession operations;

[(ii)] **(2)** The function of State forests and parks to the extent of the projected balance of the Account from the prior fiscal year; and

[(iii)] **(3)** Administrative costs calculated in accordance with § 1-103(b)(2) of this article.

[(2) (i) Subject to subparagraph (ii) of this paragraph, each county in which any State forest or park is located shall be paid annually out of the Account:

1. If the State forest or park reserve comprises less than 10% of the total land area of the county, a sum equal to 15% of the net revenue derived from concession operations within a State forest or park located in that county; or

2. If the State forest or park reserve comprises 10% or more of the total land area of the county, a sum equal to 25% of the net revenue derived from concession operations within a State forest or park located in that county.

(ii) For fiscal years 2012 and 2013 only, the payments under subparagraph (i) of this subsection may not be made.]

1 (h) (1) The Treasurer shall invest the money of the Account in the same
2 manner as other State money may be invested.

3 (2) Any investment earnings of the Account shall be credited to the General
4 Fund of the State.

5 (i) (1) Expenditures from the Account may be made only in accordance with
6 the State budget.

7 (2) The budget submitted by the Governor to the General Assembly shall
8 include the revenues and expenditures of the Account in the same detail as other special
9 fund accounts administered by the Department.

10 5–215.

11 (a) In this section, “Fund” means the Deep Creek Lake Recreation Maintenance
12 and Management Fund.

13 (b) There is a Deep Creek Lake Recreation Maintenance and Management Fund
14 in the Department for the maintenance and management of the land, recreational facilities,
15 and services that are related to Deep Creek Lake in Garrett County.

16 (c) (1) Except as provided in paragraphs (2) and (4) of this subsection, the
17 Department shall pay all fees collected for boat launching at Deep Creek Lake State Park,
18 all funds collected from lake and buffer use permits, contracts, grants, and gifts as a result
19 of the Deep Creek Lake management program, and any investment earnings of the Fund,
20 into the Fund.

21 (2) At the end of each quarter of the fiscal year, the Department shall pay
22 25% of the total revenue collected during the quarter under paragraph (1) of this subsection
23 to the Board of County Commissioners of Garrett County.

24 (3) (i) The Fund is a special, nonlapsing fund that is not subject to §
25 7–302 of the State Finance and Procurement Article.

26 (ii) Any investment earnings of the Fund may not be transferred or
27 revert to the General Fund of the State, but shall remain in the Fund.

28 (4) Moneys in the Fund may be used for administrative costs calculated in
29 accordance with § 1–103(b)(2) of this article.

30 (d) Unless there is an agreement between the Secretary and the Deep Creek Lake
31 Policy and Review Board as to a proposed change, the fee for issuance and processing of
32 any permit covered under subsection (c) of this section may not be changed.

1 (e) (1) Before the Department and the Deep Creek Lake Policy and Review
2 Board may change any fee for the issuance and processing of any permit covered under
3 subsection (c) of this section, the Secretary shall hold a public hearing in Garrett County.

4 (2) Notice of the public hearing shall be published in two newspapers of
5 general circulation in Garrett County at least 30 days before the hearing.

6 (3) The notice shall include the proposed change in the fee and the reason
7 for the fee.

8 (f) (1) A person may apply to the Department for a lake and buffer use permit.

9 (2) A person who is aggrieved by a decision of the Department to issue or
10 deny a lake and buffer use permit may seek judicial review of the decision in accordance
11 with Title 10, Subtitle 2 of the State Government Article.

12 10-801.

13 (a) The Department may acquire, by purchase, lease, condemnation, or gift, title
14 or control of any area of land or water in the State suitable to protect, propagate, or manage
15 wildlife or for hunting purposes. The area of land or water shall be known as a wildlife
16 management area. Any area of land or water greater than 100 acres may be acquired in
17 Garrett County or Allegany County only with the approval of that county. This requirement
18 does not apply to any areas which have previously been authorized for acquisition by the
19 General Assembly.

20 (b) The Department may purchase or erect any structure necessary for wildlife
21 management and may purchase or lease any area of land or water excluding the ownership
22 of and the right to drill any mineral, oil, or gas.

23 Article – Tax – Property

24 6-102.

25 (a) Except as otherwise provided in this section, a leasehold or other limited
26 interest in property is not subject to property tax.

27 (b) An interest of a life tenant or the owner of any other freehold estate in property
28 is subject to property tax as though the person in possession or the user of the property
29 were the owner of the property.

30 (c) An interest of the mortgagor, pledgor, or conditional sale buyer in personal
31 property is subject to property tax as though the person in possession or the user of the
32 personal property were the owner of the personal property.

33 (d) The following interests in real property are subject to property tax as though
34 the person in possession or the user of the property were the owner of the property:

1 (1) an interest of a tenant under a 99-year lease, whether or not the lease
2 is renewable;

3 (2) an interest of a tenant under a lease for less than 99 years, if the lease
4 is perpetually renewable; and

5 (3) an interest of a mortgagor or grantor under a deed of trust.

6 (e) Unless exempted under § 7-211, § 7-211.1, § 7-244, or § 7-501 of this article,
7 the interest or privilege of a person in property that is owned by the federal government,
8 the State, a county, a municipal corporation, or an agency or instrumentality of the federal
9 government, the State, a county, or a municipal corporation is subject to property tax as
10 though the lessee or the user of the property were the owner of the property, if the property
11 is leased or otherwise made available to that person:

12 (1) by the federal government, the State, a county, a municipal corporation,
13 or an agency or instrumentality of the federal government, the State, a county, or a
14 municipal corporation; and

15 (2) with the privilege to use the property in connection with a business that
16 is conducted for profit.

17 **TITLE 6.5. OPEN SPACE INCENTIVE PROGRAM.**

18 **SUBTITLE 1. GENERAL PROVISIONS.**

19 **6.5-101.**

20 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

22 (2) **“FOREST LAND” HAS THE MEANING STATED IN § 5-101 OF THE**
23 **NATURAL RESOURCES ARTICLE.**

24 (3) **“STATE FOREST” MEANS FOREST LAND OWNED OR LEASED BY THE**
25 **STATE.**

26 (4) **“STATE PARK” MEANS A PARK OWNED BY THE STATE THAT IS**
27 **PROMOTED, ADMINISTERED, OR MANAGED BY THE DEPARTMENT OF NATURAL**
28 **RESOURCES.**

29 (5) (I) **“UNIT OF OPEN SPACE” MEANS 10,000 ACRES OF LAND**
30 **WITHIN A COUNTY WHICH CONSISTS OF STATE FORESTS, STATE PARKS, OR**
31 **WILDLIFE MANAGEMENT AREAS.**

1 (II) A “UNIT OF OPEN SPACE” MAY BE LESS THAN 10,000 ACRES
2 AS PROVIDED UNDER § 6.5–201 OF THIS TITLE.

3 (6) “WILDLIFE MANAGEMENT AREA” MEANS LAND ACQUIRED AND
4 USED BY THE STATE IN ACCORDANCE WITH TITLE 10, SUBTITLE 8 OF THE NATURAL
5 RESOURCES ARTICLE.

6 **6.5–102.**

7 THIS TITLE APPLIES TO STATE FORESTS, STATE PARKS, AND WILDLIFE
8 MANAGEMENT AREAS THAT ARE EXEMPT FROM THE PROPERTY TAX UNDER §
9 7–210 OF THIS ARTICLE.

10 **SUBTITLE 2. PAYMENTS TO COUNTIES.**

11 **6.5–201.**

12 (A) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, BEGINNING IN
13 FISCAL YEAR 2017 AND EACH FISCAL YEAR THEREAFTER, THE STATE SHALL PAY TO
14 EACH COUNTY \$250,000 FOR EACH UNIT OF OPEN SPACE IN THE COUNTY.

15 (2) THE PAYMENTS REQUIRED UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION SHALL BE BASED ON THE NUMBER OF UNITS OF OPEN SPACE IN A
17 COUNTY IN THE PRECEDING FISCAL YEAR.

18 (3) (I) IN THIS PARAGRAPH, “CONSUMER PRICE INDEX” MEANS
19 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED MONTHLY
20 BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR THAT
21 IS THE U.S. CITY AVERAGE OF ALL ITEMS IN A BASKET OF CONSUMER GOODS AND
22 SERVICES.

23 (II) BEGINNING WITH PAYMENTS MADE IN FISCAL YEAR 2018,
24 AND EVERY TWO YEARS THEREAFTER, THE AMOUNT THE STATE IS REQUIRED TO PAY
25 FOR EACH UNIT OF OPEN SPACE SHALL BE ADJUSTED TO REFLECT THE CHANGE IN
26 THE CONSUMER PRICE INDEX FROM JULY 1 OF THE SECOND PRECEDING FISCAL
27 YEAR THROUGH JUNE 30 OF THE PRECEDING FISCAL YEAR.

28 (B) THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY SHALL BE
29 DETERMINED BY:

1 **(1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE TOTAL**
2 **NUMBER OF ACRES IN A COUNTY THAT ARE INCLUDED IN A STATE FOREST, STATE**
3 **PARK, OR WILDLIFE MANAGEMENT AREA;**

4 **(2) ROUNDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (1)**
5 **OF THIS SUBSECTION UP TO THE NEAREST WHOLE ACRE;**

6 **(3) DIVIDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (2)**
7 **OF THIS SUBSECTION BY 10,000; AND**

8 **(4) ROUNDING THE NUMBER DETERMINED UNDER ITEM (3) OF THIS**
9 **SUBSECTION UP TO THE NEAREST WHOLE NUMBER.**

10 **(C) IF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT AREA IS**
11 **CONTAINED WITHIN THE BOUNDARIES OF MORE THAN ONE COUNTY, THE NUMBER**
12 **OF ACRES ATTRIBUTABLE TO THAT STATE FOREST, STATE PARK, OR WILDLIFE**
13 **MANAGEMENT AREA SHALL BE ALLOCATED TO EACH COUNTY BASED ON THE**
14 **PERCENTAGE CONTAINED WITHIN EACH COUNTY.**

15 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
16 **LAND THAT IS PART OF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT**
17 **AREA AT ANY TIME DURING A FISCAL YEAR SHALL BE INCLUDED WHEN**
18 **DETERMINING THE TOTAL NUMBER OF ACRES UNDER SUBSECTION (B) OF THIS**
19 **SECTION.**

20 **(2) THE FOLLOWING MAY NOT BE INCLUDED WHEN DETERMINING**
21 **THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY:**

22 **(I) PROPERTY THAT IS SUBJECT TO PROPERTY TAX UNDER §**
23 **6-102 OF THIS ARTICLE;**

24 **(II) PROPERTY THAT IS EXEMPT FROM PROPERTY TAX IN**
25 **ACCORDANCE WITH § 7-501 OF THIS ARTICLE;**

26 **(III) STATE PROPERTY FOR WHICH A PAYMENT IN LIEU OF TAX**
27 **AGREEMENT IS IN EFFECT UNDER § 7-211(C) OR § 7-501 OF THIS ARTICLE; OR**

28 **(IV) THE PORTION OF DEEP CREEK LAKE STATE PARK THAT IS**
29 **ATTRIBUTABLE TO PAYMENTS REQUIRED UNDER § 5-215 OF THE NATURAL**
30 **RESOURCES ARTICLE.**

31 **6.5-202.**

1 **(A) (1) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE SECRETARY OF**
2 **NATURAL RESOURCES SHALL CERTIFY TO THE GOVERNOR AND THE SECRETARY OF**
3 **BUDGET AND MANAGEMENT:**

4 **(I) THE TOTAL NUMBER OF UNITS OF OPEN SPACE IN EACH**
5 **COUNTY, AS DETERMINED UNDER § 6.5-201 OF THIS SUBTITLE; AND**

6 **(II) THE TOTAL AMOUNT TO BE PAID BY THE STATE TO EACH**
7 **COUNTY AS DETERMINED UNDER § 6.5-201 OF THIS SUBTITLE.**

8 **(2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL**
9 **THE TOTAL AMOUNT TO BE PAID TO EACH COUNTY AS CERTIFIED UNDER**
10 **PARAGRAPH (1) OF THIS SUBSECTION.**

11 **(B) ON OR BEFORE OCTOBER 1, JANUARY 1, APRIL 1, AND JUNE 1 OF EACH**
12 **FISCAL YEAR, THE STATE SHALL PAY 25% OF THE AMOUNT CERTIFIED UNDER**
13 **SUBSECTION (A) OF THIS SECTION TO EACH COUNTY.**

14 **SUBTITLE 3. MISCELLANEOUS.**

15 **6.5-301.**

16 **(A) IN THIS SECTION, “LOCAL TAX” MEANS A TAX IMPOSED BY A COUNTY OR**
17 **MUNICIPALITY.**

18 **(B) THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT THE APPLICATION**
19 **OF OR COLLECTION OF A LOCAL TAX ON THE EXTRACTION OF NATURAL RESOURCES.**

20 **7-210.**

21 **(a) Except as otherwise provided in § 6-102 of this article and except as otherwise**
22 **provided under this section, government-owned property is not subject to property tax, if**
23 **the property:**

24 **(1) is devoted to a governmental use or purpose; and**

25 **(2) is owned by:**

26 **(i) the federal government;**

27 **(ii) the State;**

28 **(iii) a county or a municipal corporation; or**

1 (iv) an agency or instrumentality of the federal government, the
2 State, a county, or of a municipal corporation.

3 (b) The exemption provided for the property owned by an agency or
4 instrumentality in subsection (a)(2)(iv) of this section applies only to the extent that a law
5 exempts the property.

6 7–211.

7 (c) (1) Except for an interest in federal enclave property as defined in §
8 7–211.3 of this subtitle, an interest of a person in any property of the federal government
9 or the State is not subject to property tax, if the government that owns the property makes
10 negotiated payments in lieu of tax payments.

11 (2) Land owned by the federal government that is the location for federal
12 enclave property as defined in § 7–211.3 of this subtitle is not subject to property tax.

13 7–501.

14 (a) The governing body of Allegany County, Anne Arundel County, Montgomery
15 County, or Washington County or the governing body of a municipal corporation in those
16 counties may authorize, by law, an exemption from county or municipal corporation
17 property tax for the property that is described in § 6–102(e) of this article.

18 (b) Except for an interest in federal enclave property as defined in § 7–211.3 of
19 this title, in all counties except Worcester County, the governing body of the county or of a
20 municipal corporation in those counties or the Mayor and City Council of Baltimore City
21 may authorize, by law, an exemption from county or municipal corporation property tax for
22 the property described in § 6–102(e) of this article and provide for a negotiated payment in
23 lieu of the tax.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2015.