

SENATE BILL 134

Q1, M1

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CF HB 1091

By: **Senators Edwards, DeGrange, Eckardt, Hershey, Jennings, King, Manno, Mathias, and Miller**

Introduced and read first time: January 28, 2015

Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

Committee Report: Without Recommendation

Senate action: Placed on second reading and amended

Read second time: March 26, 2015

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 collection of certain taxes; repealing certain obsolete provisions of law; defining
2 certain terms; and generally relating to payments to counties for State forests, parks,
3 and wildlife management areas within a county.

4 BY repealing and reenacting, without amendments,
5 Article – Natural Resources
6 Section 5–101(a) and (e), 5–215, and 10–801
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2014 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 5–212 and 5–212.1
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Tax – Property
16 Section 6–102, 7–210, 7–211(c), and 7–501(a) and (b)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2014 Supplement)

19 BY adding to
20 Article – Tax – Property
21 Section 6.5–101 through 6.5–301 to be under the new title “Title 6.5. Open Space
22 Incentive Program”
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2014 Supplement)

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

27 **Article – Natural Resources**

28 5–101.

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

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

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

36 5–212.

1 (a) In this section, "Fund" means the Forest or Park Reserve Fund.

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

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

7 (d) The Department shall administer the Fund.

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

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

12 (f) The Fund consists of:

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

16 (2) Revenue distributed to the Fund from fines collected under § 5-1302 of
17 this title; and

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

19 ~~(g) (1) Subject to paragraph [(3)] (2) of this subsection, the Fund may be used~~
20 ~~only for:~~

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

24 ~~2. Helping to offset the costs to the Forest and Park Service~~
25 ~~for developing and implementing a forest health emergency contingency program under §~~
26 ~~5-307 of this title;~~

27 ~~[(ii) Subject to paragraph (2) of this subsection, payments to counties~~
28 ~~in the amount of:~~

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

~~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 revenue derived from the State forest or park reserve located in that county;] and~~

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

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

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

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

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

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

(g) (1) Subject to [paragraph] PARAGRAPHS (3) AND (4) of this subsection, the Fund may be used only for:

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

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

(ii) Subject to [paragraph] PARAGRAPHS (2) AND (4) of this subsection, payments to counties in the amount of:

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 revenue derived from the State forest or park reserve located in that county; and

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 revenue derived from the State forest or park reserve located in that county; and

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

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

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

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

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

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

10 (4) **A COUNTY MAY NOT RECEIVE A PAYMENT UNDER PARAGRAPH**
11 **(1)(II) OF THIS SUBSECTION IN A FISCAL YEAR IF THE COUNTY RECEIVES A PAYMENT**
12 **FROM THE STATE UNDER § 6.5-201 OF THE TAX – PROPERTY ARTICLE IN THE SAME**
13 **FISCAL YEAR.**

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

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

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

20 5-212.1.

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

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

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

25 1. Raise revenue;

26 2. Function under a separate budget system; and

27 3. Supplement the operation of the facility where it is
28 located.

29 (ii) “Concession operations” includes:

30 1. Food concessions;

- 1 2. Boat rentals;
- 2 3. Gift shops;
- 3 4. Marine sales;
- 4 5. Snack bars; and
- 5 6. Camp stores.

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

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

- 8 (1) The maintenance and operation of concession operations; and
- 9 (2) The functions of State forests and parks.

10 (d) The Department shall administer the Account.

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

13 (2) The Account is a special, nonlapsing account that is not subject to §
14 7-302 of the State Finance and Procurement Article.

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

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

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

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

22 ~~[(iii)] (3) Administrative costs calculated in accordance with §~~
23 ~~1-103(b)(2) of this article.~~

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

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

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

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

9 (g) (1) Except as provided in paragraph (2) of this subsection, the Account
10 shall be used only for:

11 (i) The maintenance and operation of concession operations;

12 (ii) The function of State forests and parks to the extent of the
13 projected balance of the Account from the prior fiscal year; and

14 (iii) Administrative costs calculated in accordance with § 1-103(b)(2)
15 of this article.

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

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

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

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

27 (iii) A COUNTY MAY NOT RECEIVE A PAYMENT UNDER
28 SUBPARAGRAPH (I) OF THIS PARAGRAPH IN A FISCAL YEAR IF THE COUNTY
29 RECEIVES A PAYMENT FROM THE STATE UNDER § 6.5-201 OF THE TAX – PROPERTY
30 ARTICLE IN THE SAME FISCAL YEAR.

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

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

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

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

8 5–215.

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

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

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

19 (2) At the end of each quarter of the fiscal year, the Department shall pay
20 25% of the total revenue collected during the quarter under paragraph (1) of this subsection
21 to the Board of County Commissioners of Garrett County.

22 (3) (i) The Fund is a special, nonlapsing fund that is not subject to §
23 7–302 of the State Finance and Procurement Article.

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

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

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

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

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

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

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

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

9 10-801.

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

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

20 Article – Tax – Property

21 6-102.

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

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

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

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

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

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

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

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

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

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

15 TITLE 6.5. OPEN SPACE INCENTIVE PROGRAM.

16 SUBTITLE 1. GENERAL PROVISIONS.

17 6.5–101.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “FOREST LAND” HAS THE MEANING STATED IN § 5–101 OF THE
21 NATURAL RESOURCES ARTICLE.

22 (3) “STATE FOREST” MEANS FOREST LAND OWNED OR LEASED BY THE
23 STATE.

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

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

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

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

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

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

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

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

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

19 **(I) PROPERTY THAT IS SUBJECT TO PROPERTY TAX UNDER §**
20 **6-102 OF THIS ARTICLE;**

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

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

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

28 **6.5-202.**

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

1 7-211.

2 (c) (1) Except for an interest in federal enclave property as defined in §
3 7-211.3 of this subtitle, an interest of a person in any property of the federal government
4 or the State is not subject to property tax, if the government that owns the property makes
5 negotiated payments in lieu of tax payments.

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

8 7-501.

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

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.