

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 1091 (Delegate Beitzel, *et al.*)
 Environment and Transportation

Open Space Incentive Program - Payments to Counties

This bill establishes an Open Space Incentive Program to make annual payments to counties, beginning in fiscal 2017, based on the amount of land in each county that consists of State forests, State parks, and wildlife management areas. Existing payments to counties of a portion of revenues generated from State forests and parks are eliminated.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Special fund expenditures decrease by \$2.4 million annually beginning in FY 2016, due to the elimination of existing revenue-sharing payments to counties. General fund expenditures increase by \$15.0 million annually beginning in FY 2017 due to payments under the Open Space Incentive Program, subject to adjustments based on the Consumer Price Index (CPI) every two years beginning in FY 2018. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2017.**

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	15,000,000	15,150,000	15,150,000	15,301,500
SF Expenditure	(2,418,600)	(2,418,600)	(2,418,600)	(2,418,600)	(2,418,600)
Net Effect	\$2,418,600	(\$12,581,400)	(\$12,731,400)	(\$12,731,400)	(\$12,882,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government revenues decrease by \$2.4 million in FY 2016 and increase by a net amount of \$12.6 million in FY 2017 and future years, subject to adjustments based on the CPI.

Small Business Effect: None.

Analysis

Bill Summary: Under the Open Space Incentive Program, beginning in fiscal 2017, the State pays each county \$250,000 annually for each “unit of open space” in the county. A “unit of open space” is 10,000 acres of land within a county which consists of State forests, State parks, or wildlife management areas. The payments are based on the number of units of open space in a county in the preceding fiscal year, rounding up to the nearest whole unit of open space. Any portions of those lands that counties are able to generate revenue from, through property taxes, payments in lieu of taxes, or, in Garrett County, Deep Creek Lake State Park revenue-sharing, are not included in the determination of a county’s number of units of open space. The Governor must include in the annual budget bill the total amount to be paid to each county as certified by the Secretary of Natural Resources, and the payments are made to the counties in quarterly installments. Beginning in fiscal 2018, and every two years thereafter, the \$250,000 per unit of open space payment is adjusted based on the CPI. The program may not be construed to prohibit the application or collection of a local tax on the extraction of natural resources.

Current Law/Background:

Revenue-sharing – Forest and Park Revenues

Counties in which State forests and parks comprise less than 10% of the total land area of the county receive 15% of the revenue derived from the State forests and parks in the county, including net revenue from concession operations. Counties in which State forests and parks comprise 10% or more of the total land area of the county receive 25% of the revenue derived from the State forests and parks, including net revenue from concession operations. The remaining revenue derived from State forests and parks is used primarily to fund the Department of Natural Resources’ (DNR) Forest Service and Maryland Park Service.

In fiscal 2010 through 2013, this revenue-sharing was reduced significantly through budget reconciliation legislation (Chapter 487 of 2009 and Chapter 397 of 2011), which limited the revenue-sharing to revenue derived from timber sales (see **Exhibit 1**). The proposed Budget Reconciliation and Financing Act of 2015 (Senate Bill 57/House Bill 72) limits the revenue-sharing to revenue derived from timber sales and net revenue from concession operations in fiscal 2015 and 2016. The Governor’s proposed fiscal 2016 budget includes an associated \$2.5 million general fund reduction for the Maryland Park Service contingent

on the enactment of legislation eliminating existing Maryland Park Service revenue-sharing payments to counties.

Exhibit 1
Total Revenue-sharing Payments to Counties
Fiscal 2009-2014
(\$ in Millions)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Payments to Counties	\$2.0	\$0.3	\$0.2	\$0.2	\$0.2	\$2.4

Source: Department of Natural Resources

Applicability of Property Tax to State Land

Government-owned property devoted to a governmental use or purpose is generally not subject to property tax. The interest or privilege of a person to whom government-owned property is leased or otherwise made available to use in connection with a for-profit business, however, is subject to property tax as though the lessee or user were the owner of the property, unless the federal or State government owns the property and makes negotiated payments in lieu of tax. Most counties and municipalities have specified authority to authorize an exemption for such interests in government-owned property and to provide for a negotiated payment in lieu of tax. The bill excludes from the calculation of “units of open space” any such State-owned property from which counties receive property tax or payments in lieu of tax or for which counties have authorized property tax exemptions.

State Forests, State Parks, and Wildlife Management Areas

DNR’s State Park System covers 137,827 acres, DNR’s State Forest System covers 215,607 acres, and wildlife management areas cover 119,868 acres. Wildlife management areas are areas acquired by DNR to protect, propagate, or manage wildlife, or for hunting purposes.

State Expenditures: Special fund expenditures decrease by \$2.4 million annually beginning in fiscal 2016, due to the elimination of existing revenue-sharing payments to counties. General fund expenditures increase by \$15.0 million annually beginning in fiscal 2017 due to payments under the Open Space Incentive Program, subject to

adjustments based on the CPI every two years beginning in fiscal 2018. This estimate, which is based on information provided by DNR, assumes that:

- State forest and park revenues remain at the fiscal 2014 level through fiscal 2020; and
- payments to counties under the Open Space Incentive Program increase by 1% every two years beginning in fiscal 2018 due to the required increases based on the CPI.

It should be noted that the estimate only accounts for State forests, State parks, and wildlife management area lands that are owned by DNR. Based on the definitions in the bill of “State forest,” forest land owned or leased by the State but not controlled by DNR also would be included in the calculation of “units of open space,” upon which payments under the program are based.

As noted above, the Governor’s proposed fiscal 2016 budget includes a \$2.5 million general fund reduction for the Maryland Park Service contingent on the enactment of legislation eliminating existing Maryland Park Service revenue-sharing payments to counties. If this bill triggers that contingent reduction, it is assumed that the savings in special fund expenditures in fiscal 2016 due to the elimination of the revenue-sharing payments to counties is used for activities that would otherwise have been paid for with general funds.

Local Revenues: Local government revenues decrease by \$2.4 million in fiscal 2016 but increase by a net amount of \$12.6 million in fiscal 2017 and future years, subject to adjustments based on the CPI every two years beginning in fiscal 2018. **Exhibit 2** shows, by county, the fiscal 2014 existing revenue-sharing payments that the bill eliminates and the proposed Open Space Incentive Program payments for fiscal 2017.

Exhibit 2
Existing and Proposed Payments to Counties

<u>County</u>	<u>Existing Revenue-sharing Payments</u>	<u>Units of Open Space*</u>	<u>Proposed OSIP Payments in FY 2017</u>
Allegany	\$230,454	7	\$1,750,000
Anne Arundel	277,463	1	250,000
Baltimore City	0	0	0
Baltimore	176,922	3	750,000
Calvert	4,788	1	250,000
Caroline	59,193	1	250,000
Carroll	17,351	1	250,000
Cecil	82,891	2	500,000
Charles	19,663	3	750,000
Dorchester	8,281	5	1,250,000
Frederick	123,399	2	500,000
Garrett	334,490	9	2,250,000
Harford	126,937	1	250,000
Howard	78,712	1	250,000
Kent	0	1	250,000
Montgomery	94,796	2	500,000
Prince George's	13,418	1	250,000
Queen Anne's	13,021	1	250,000
St. Mary's	116,971	1	250,000
Somerset	50,621	5	1,250,000
Talbot	0	1	250,000
Washington	116,546	3	750,000
Wicomico	5,028	3	750,000
Worcester	467,691	5	1,250,000
Total	\$2,418,636	60	\$15,000,000

*Based on State forest, State park, and wildlife management area acreages provided by DNR.

OSIP: Open Space Incentive Program

Source: Department of Natural Resources; Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: SB 134 (Senator Edwards, *et al.*) - Budget and Taxation and Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources; Department of Budget and Management; State Department of Assessments and Taxation; Allegany, Dorchester, Frederick, Garrett, Howard, Montgomery, Queen Anne's, Washington, and Worcester counties; Baltimore City; Maryland Association of Counties; Department of Legislative Services

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md/lgc

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