

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 862

(Senator Kasemeyer)

Budget and Taxation

Appropriations

Maryland Park Service - Operations Revenue - Mandated Appropriation

This bill ratifies and amends existing provisions which require the Governor to include in the State budget an appropriation for the Maryland Park Service (MPS) – from revenues in the Forest or Park Reserve Fund that are attributable to MPS operations – equal to (1) at least 60% of the revenues, for fiscal 2016; (2) at least 80% of the revenues, for fiscal 2017; and (3) 100% of the revenues, for fiscal 2018 and each fiscal year thereafter. The bill amends the provisions by requiring the percentages to be applied to the revenues in the Forest or Park Reserve Fund that are attributable to MPS operations less any amount of those revenues that are allocated for specified administrative costs.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: General fund expenditures may increase by up to \$2.2 million in FY 2017 and by up to \$4.5 million in FY 2018 and future years reflecting replacement of Forest or Park Reserve Fund revenues used in other parts of the Department of Natural Resources' (DNR) budget that are directed to MPS, under the bill, to meet the mandated funding percentages. **This bill establishes a mandated appropriation beginning in FY 2017.**

Local Effect: Although unclear, it is assumed that payments to counties of a portion of Forest or Park Reserve Fund revenues attributable to MPS operations continue, as discussed below. Thus, the bill is not anticipated to materially affect local operations or finances.

Small Business Effect: None.

Analysis

Current Law/Background:

Maryland Park Service – Chapter 464 Funding Provisions

The provisions the bill ratifies and amends were enacted under the Budget Reconciliation and Financing Act (BRFA) of 2014 (Chapter 464). The Office of the Attorney General advised in a May 14, 2014 letter to the Governor regarding the constitutionality and legal sufficiency of Senate Bill 172 of 2014 (enacted as Chapter 464) that the MPS funding provisions are likely unconstitutional because they violate the one-subject rule. Article III, § 29 of the Maryland Constitution states that “every Law enacted by the General Assembly shall embrace but one subject.” The Attorney General’s Office indicated that the MPS provisions, as a funding mandate, are inconsistent with the single subject of the BRFA of 2014, which is to help bring the State’s budget into balance during a time of fiscal crisis.

Because the MPS funding provisions likely violate the one-subject rule, the Attorney General’s office recommended that the provisions be treated as an expression of intent only and not binding on the Governor. The Attorney General’s Office also noted in the letter that, with respect to provisions identified in the letter as likely unconstitutional, it did not suggest that there would be any constitutional obstacle to the General Assembly pursuing the same legislative goals through stand-alone legislation.

Forest or Park Reserve Fund – Statutory Provisions

The Forest or Park Reserve Fund primarily consists of revenue obtained from State forest reserves, State parks, scenic reserves, parkways, historic monuments, and recreation areas. The fund uses include:

- 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;
- 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, 15% of the revenue derived from the State forest or park reserve located in the county and (2) if the State forest or park reserve comprises 10% or more of the total land area of the county, 25% of the revenue derived from the State forest or park reserve located in the county; and
- administrative costs directly relating to the purposes of the fund up to an amount calculated under a generally accepted methodology for determining indirect costs.

These uses, however, are subject to the MPS funding provisions enacted under the BRFA of 2014, requiring specified percentages of revenues in the Forest or Park Reserve Fund that are attributable to MPS operations to be appropriated to MPS. As noted above, the Attorney General's Office has recommended that the MPS funding provisions be treated as an expression of intent only.

The BRFA of 2015 (House Bill 72 as passed by the General Assembly) eliminates the above payments to counties from revenues other than timber sales revenues in fiscal 2015, similar to actions taken in fiscal 2010 through 2013.

Maryland Park Service Budget

MPS, within DNR, manages natural, cultural, historic, and recreational resources in parks across the State and provides related educational services. The fiscal 2016 budget includes \$41.2 million for MPS, consisting of \$35.2 million in special funds, \$5.1 million in general funds, and smaller amounts of reimbursable and federal funds. The special funding is largely made up of transfer tax revenues (\$24.1 million) and funds attributable to MPS operations from the Forest or Park Reserve Fund (\$6.7 million).

Under Chapter 2 of the 2007 first special session (Budget Reconciliation Act), the greater of \$21.0 million or 20% of certain transfer tax revenues allocated to Program Open Space must be appropriated to DNR to operate State forests and parks (adding to an existing authorization of up to \$1.2 million of those transfer tax revenues to be used each fiscal year to operate State forests and parks). This funding has been directed to MPS, making up a significant portion of its budget. MPS is experiencing a certain amount of revenue instability, however, due to reduced transfer tax revenue estimates. As a result of a write-down in estimated transfer tax revenues for fiscal 2015, a fiscal 2015 general fund deficiency appropriation and an elimination of payments to the counties of Forest or Park Reserve Fund revenues, other than timber sales revenues, and Forest and Park Concession Account revenues (allowing for those revenues to be used by MPS) are included in the 2015 budget bill and BRFA of 2015, respectively, to replace a significant portion of MPS transfer tax special funds in fiscal 2015. The fiscal 2016 transfer tax revenue estimate has also required reductions in funding for MPS in fiscal 2016 in comparison to the fiscal 2015 appropriation.

As shown in **Exhibit 1**, the \$6.7 million in special funds from the Forest or Park Reserve Fund in the fiscal 2016 budget for MPS represents 60% of the revenues from the fund attributable to MPS operations after a portion of those revenues (\$2.1 million) is allocated to administrative costs in DNR's Office of the Secretary. The remaining 40% of those revenues attributable to MPS operations (\$4.5 million) is included in the budget for the Forest Service.

Exhibit 1
Forest Service and Maryland Park Service Funding Comparison
Fiscal 2016

	Forest Service	Park Service	Total
<i>Revenue</i>			
Revenue	\$3,457,820	\$13,293,875	
Minus Administrative Costs	553,353	2,127,412	
Available Revenue	\$2,904,467	\$11,166,463	\$14,070,930
<i>Spending</i>			
Supported by Own-Sourced Revenue	\$2,904,466	\$6,702,113	\$9,606,579
Supported by Parks Revenue	4,464,351		4,464,351
Supported by Fund Balance	443,829		443,829
Total Spending	\$7,812,646	\$6,702,113	\$14,514,759
Spending Supported by Own-Sourced Revenue as a Percent of Available Revenue	100%	60%	

Source: Department of Natural Resources; Department Legislative Services

State Expenditures: General fund expenditures may increase by up to \$2.2 million in fiscal 2017 and by up to \$4.5 million in fiscal 2018 and future fiscal years. This estimate reflects the replacement of Forest or Park Reserve Fund revenues used in other parts of DNR's budget that are directed to MPS to meet the mandated funding percentages in fiscal 2017 and future years. The estimate assumes that, in fiscal 2017 and future years:

- Forest or Park Reserve Fund revenues attributable to MPS operations are equivalent to fiscal 2016 estimated revenues;
- in the absence of the bill, the Governor includes an appropriation for MPS of Forest or Park Reserve Fund revenues attributable to MPS operations equal to at least the 60% included in the fiscal 2016 budget (after deduction of administrative costs in DNR's Office of the Secretary), but pursuant to the advice of the Attorney General's Office, is not required to include more than that amount; and

- funding levels in other parts of DNR’s budget that receive Forest or Park Reserve Fund revenues attributable to MPS operations are maintained at fiscal 2016 levels.

A general fund expenditure increase of \$2.2 million in fiscal 2017 reflects replacement of an amount needed to increase the percentage of the \$11.2 million of available revenues attributable to MPS operations (shown in Exhibit 1), that are appropriated to MPS, from 60% to 80%. A general fund expenditure increase of \$4.5 million in fiscal 2018 and future years similarly reflects replacement of an amount needed to increase the percentage from 60% to 100%.

To the extent that, in the absence of the bill, the Governor includes, in fiscal 2017 and future years, an appropriation for MPS of Forest or Park Reserve Fund revenues attributable to MPS operations that is greater than the amount included in the fiscal 2016 budget or even meets or exceeds the funding requirements enacted in the BRFA of 2014 and ratified and amended by this bill, general fund expenditures increase by a lesser amount or potentially do not increase at all.

Local Revenues: The modifications made by the BRFA of 2014 make the pre-existing uses of the Forest or Park Reserve Fund, which include the payments to counties, subject to the MPS funding provisions. The BRFA of 2015 eliminates the payments to counties from Forest or Park Reserve Fund revenues attributable to MPS operations (revenues other than timber sales revenues) in fiscal 2015 (\$1.6 million). It is possible that the bill could affect the payments in fiscal 2017 and future years, and particularly in fiscal 2018 and future years, when 100% of the revenues attributable to MPS operations must be appropriated to MPS, because the county payments are subject to those MPS funding provisions. However, it does not appear that MPS is prevented from using the revenues to nonetheless fulfill the payments to counties, which are currently made under the MPS budget. Although there is uncertainty regarding the impact of the MPS funding provisions on the payments to counties in future years, for purposes of this fiscal and policy note, it is assumed that those payments continue.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Natural Resources, Department of Legislative Services

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