

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 119 (Senator Zirkin)
Education, Health, and Environmental Affairs

**Program Open Space – Local Funds – Acquisition and Development of Land for
Education Purposes**

This bill authorizes the counties and Baltimore City to use funding under the local component of Program Open Space (POS) to acquire and develop land for education purposes. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: None. The bill does not affect POS funding amounts.

Local Effect: While the bill allows POS funding to be used by local governments for additional purposes, it does not affect POS funding amounts.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Statute specifies that POS local funding is provided to counties and Baltimore City to assist in acquisition and development of land for recreation and open space purposes, including the provision of public access to the land. Various additional provisions, which are not changed by the bill, govern the use of POS local funding, including how much funding can be used for land acquisition versus development (discussed further in the Background section of this fiscal and policy note).

Background:

Program Open Space

POS acquires and improves outdoor recreation and open space areas for public use. The program also preserves unique natural areas that are home to rare and endangered species. The State's goal is to conserve these lands before unaffordable land prices or development makes the task impossible. POS consists of a State and a local component.

The State component includes land acquisition funding, capital development funding, and a direct grant of \$3.5 million in fiscal 2018, increasing to \$6.0 million in fiscal 2020 and following years, to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS).

Under the local component of POS, the Department of Natural Resources (DNR) allocates funds among the counties according to a formula established in 1982 that is based on past grant amounts, population change, and transfer tax revenue collections in each jurisdiction. **Appendix 1** shows the POS local funding allocations for the local governments under the Governor's proposed fiscal 2019 budget. To participate in the grant process, a county submits an annual program of proposed acquisition and development projects to DNR for approval. The annual program becomes the basis for a grant agreement for the county's total annual allocation. A municipality may receive POS funds through its county. The municipality must apply to its county for consideration of proposed municipal projects along with other county projects.

Use of POS Local Funding for Acquisition vs. Development

At least 50% of a county's annual apportionment of POS local funding must be used for acquisition projects. The other 50% may be used for either acquisition or development projects, and 20% of that 50% may be used for capital renewal. Baltimore City is an exception and may use any portion of its annual POS local apportionment for acquisition or development.

If a county meets acquisition goals in its local land preservation and recreation plan and those goals equal or exceed minimum acreage goals recommended for that jurisdiction under the State's land preservation and recreation plan, a county may use up to 75% of its future annual apportionment for development projects for a period of five years after attainment. Up to 20% of the 75% may be used for capital renewal. Pursuant to Chapter 406 of 2017, counties that have met those goals and have more than 65,000 acres of land within the jurisdiction consisting of State forests, State parks, or wildlife management areas may use up to 100% of the counties' future annual apportionments of POS local funding for development projects and capital renewal.

“Capital renewal” means renewal of a capital project for which an improvement is necessary to ensure the physical integrity of a facility, fixed equipment, or an existing physical improvement. It does not include preventive, routine, or operational maintenance projects related to aesthetics, daily upkeep, maintenance of surrounding grounds, or road maintenance (with the exception of park or recreation area road maintenance projects identified in the Governor’s operating or capital budgets).

POS funding (alone or in conjunction with federal funding) covers 100% of the cost of approved acquisition projects, but POS funding cannot be used to cover the full cost of a development project. Subject to certain exceptions, POS funding (alone or in conjunction with federal funding) covers 75% of the cost of a development project. If DNR certifies that a county has met its acquisition goals, the percentage increases to 90%.

Small Business Effect: It is unclear to what extent the bill changes the nature of local governments’ use of POS local funding (for example, whether the bill allows funding to be devoted to land acquisition or capital project needs of school systems or whether the bill simply allows for funding to be devoted to community education facilities available to the general public, similar to community recreation facilities and open space areas for which funding is currently used). Changes in the types of projects POS local funding is used for may have a meaningful impact on small businesses if it results in (1) changes in the amount of funding that is ultimately paid to small businesses for services or other resources provided for POS projects and/or (2) shifts in the specific small businesses that have the ability to provide services or other resources for the projects.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Department of Budget and Management; Public School Construction Program; Maryland State Department of Education; Caroline and Montgomery counties; City of Bowie; Department of Legislative Services

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nb/lgc

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Appendix 1 – POS Local Allocations under the Governor’s Proposed Fiscal 2019 Budget

<u>County</u>	<u>Allocation</u>
Allegany	\$583,857
Anne Arundel	6,344,482
Baltimore City	4,205,945*
Baltimore County	7,140,837
Calvert	634,575
Caroline	274,855
Carroll	1,418,834
Cecil	727,572
Charles	1,295,301
Dorchester	237,232
Frederick	1,509,686
Garrett	293,448
Harford	2,103,024
Howard	3,761,843
Kent	176,945
Montgomery	9,529,414
Prince George’s	8,074,966
Queen Anne’s	383,662
St. Mary’s	713,136
Somerset	169,301
Talbot	403,342
Washington	1,109,791
Wicomico	740,525
Worcester	555,251
Total	\$52,387,824

*Does not include POS State funding that Baltimore City also receives.

POS: Program Open Space

Source: Department of Budget and Management