

KA05B
Department of Natural Resources

Program Open Space – Acquisition & Local Program (Statewide)

| | | | |
|-----------------|-------------------|------------------------|-------------------------------------------|
| PAYGO SF | 1,000,000 | Recommendation: | Adjust allocation of GO bond funds |
| PAYGO FF | 2,000,000 | | |
| GO Bonds | 15,000,000 | | |

Bill Text: Contingent upon the enactment of legislation reducing the amount of property transfer tax revenues allocated to Program Open Space, provide funds for the purchase of conservation easements, acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements, acquisition of land, design, and construction of recreational facilities. Funds appropriated for local grants shall be administered in accordance with Sections 5-905 and 5-906 of the Natural Resources Article.

Program Description: Title 5, Subtitle 9 of the Natural Resources Article established Program Open Space (POS) for the purpose of expediting the acquisition of outdoor recreation and open space areas and provision of recreation facilities before land is devoted to other purposes. The POS appropriation has historically been split between State and local government. While both State acquisitions and local grants fund projects that protect open space and provide recreation facilities, State acquisitions tend to place a greater emphasis on natural resource management. State POS funds are allocated for State land acquisition, capital improvements, critical maintenance, and operations. Local recreation and parks departments use local POS funds for acquisition, development, and planning projects.

Primary funding for POS has historically been provided by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another. The greater the development pressure, the more transfers, and thus the more transfer tax revenue realized for land conservation and recreation facilities. In recent years other funding sources such as bond funds and the federal Land and Water Conservation Fund have played an important role in funding this program, as transfer tax revenue has been diverted to the general fund for cost containment.

Over time, many special projects that are not necessarily related to land acquisition have been given a share of the transfer tax revenue. For example, transfer tax special funds have been earmarked for critical maintenance projects, park operations, and the Ocean City beach maintenance efforts. In addition to siphoning transfer tax revenue away from POS to other projects, subtle shifts in the program's focus have occurred. For example, an increasing percentage of POS funding has been dedicated to the purchase of conservation easements instead of the purchase of land in fee simple. While easements may be a less expensive conservation method, they do not provide for public

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outdoors recreation opportunities. These program earmarks and changes in method have shifted this program away from the pure State land acquisition and local park development program it was 30 years ago.

Year Program Began: 1969

Comments: As illustrated in **Exhibit 1**, the fiscal 2005 allowance provides a total of \$18.0 million for POS State and local land acquisition efforts: \$1.0 million in special funds, \$2.0 million in federal funds, and \$15.0 million in general obligation (GO) bond funds. Of this total amount, \$16.0 million or 89% would be allocated to local governments for the acquisition and or development of local parks. It is important to note that no funding is provided for the Heritage Conservation Fund or Baltimore City’s park operations and maintenance; historically a \$1.5 million annual allocation has been provided to Baltimore City. The \$2.0 million in federal funds would be split between the State and local governments for land acquisition. Using an average price of \$2,500 per acre, the Department of Natural Resources (DNR) estimates that the State could acquire 400 acres with the fiscal 2005 allowance.

Exhibit 1
Program Open Space Fiscal 2005 Allowance
(\$ in Millions)

| | <u>Transfer Tax Special Funds</u> | <u>Federal Funds</u> | <u>GO Bonds</u> |
|------------------------------|---------------------------------------|----------------------|-----------------|
| POS – State Share | | | |
| Land Acquisition | \$0 | \$1.0 | \$0 |
| Baltimore City Direct Grant | 0 | 0 | 0 |
| Ocean City Beach Maintenance | 1.0 | 0 | 0 |
| POS – Local Share | | | |
| Land Acquisition | 0 | 1.0 | 15.0 |
| Heritage Conservation Fund | 0 | 0 | 0 |
| Total | \$1.0 | \$2.0 | \$15.0 |

Note: This chart excludes critical maintenance funds.
Source: Fiscal 2005 budget book

The fiscal 2005 allowance provides only \$1.0 million for State land acquisition – a dramatic decrease from previous years, as shown in **Exhibit 2**.

Exhibit 2
POS State Land Acquisition
 (\$ in Millions)

| | <u>Special Funds</u> | <u>Federal Funds</u> | <u>GO Bonds</u> | <u>Total</u> |
|-------------|----------------------|----------------------|-----------------|--------------|
| Fiscal 2003 | \$7.4 | \$1.0 | \$0 | \$8.4 |
| Fiscal 2004 | 0 | 1.0 | 12.7 | 13.7 |
| Fiscal 2005 | 0 | 1.0 | 0 | 1.0 |

Source: Department of Natural Resources

Program Open Space Fund Data

(\$ in Millions)

| <i>Description</i> | <i>2003 Approp.</i> | <i>2004 Approp.</i> | <i>2005 Request</i> | <i>2006 Estimate</i> | <i>2007 Estimate</i> | <i>2008 Estimate</i> | <i>2009 Estimate</i> |
|--------------------|-------------------------|-------------------------|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| PAYGO SF | \$28.037 | \$4.414 | \$1.000 | \$81.850 | \$84.200 | \$86.300 | \$88.500 |
| PAYGO FF | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 |
| GO Bonds | 0.000 | 31.092 | 15.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Total | \$30.037 | \$37.506 | \$18.000 | \$83.850 | \$86.200 | \$88.300 | \$90.500 |

Issues

1. Program Open Space Affected by Cost Containment Again

As illustrated in **Exhibit 3**, under proposed fund transfer legislation (Senate Bill 509), \$70.3 million in transfer tax special fund revenue that would support programs under current law and \$41.9 million in estimated fiscal 2004 transfer tax funds attained over the estimate that would support programs in fiscal 2006 under current law is redirected to the general fund. Only \$4.9 million in transfer tax revenue is provided for the State's share of the Ocean City beach maintenance effort (\$1.0 million) and for critical maintenance and capital development projects (\$3.9 million) at State forests and parks. This proposed reduction in available transfer tax revenue is in addition to \$95.2 million in available fiscal 2005 transfer tax revenue being redirected to the general fund in accordance with 2003 budget reconciliation language.

Exhibit 3
Transfer Tax Revenues and Proposed Uses
Fiscal 2005

| | |
|-------------------------------------------------------------------------------------------|-------------------------|
| <u>Available Revenue</u> | |
| Transfer Tax Revenue Estimate | \$132,797,000 |
| Administrative expenses | -3,983,910 |
| Fiscal 2003 attainment adjustments | |
| Transfer to general fund per 2003 BFRA | -18,073,000 |
| Additional attainment over estimate | 25,374,354 |
| 50% transfer to general fund per 2003 BFRA | -77,093,722 |
| Total | \$77,093,722 |
| <u>Proposed Revenue Uses</u> | |
| POS/Ocean City beach maintenance | 1,000,000 |
| Critical maintenance/capital development | 3,863,000 |
| Heritage Areas Authority | 1,000,000 |
| State park operating expenses | 950,000 |
| Subtotal | 6,813,000 |
| <u>Transfers to General Fund</u> | |
| POS | 57,136,242 |
| MALPP* | 13,144,480 |
| Subtotal | 70,280,722 |
| Total | \$77,093,722 |
| Transfer to general fund – estimated fiscal 2004 attainment over original estimate | \$41,886,000 |

BRFA = Budget Reconciliation and Financing Act
MALPP = Maryland Agricultural Land Preservation Program

*An anticipated fiscal 2005 supplemental budget may provide all the transfer tax revenue that would fund MALPP under current law in fiscal 2005 but redirect these funds to the general fund contingent on legislation.

Sources: Department of Budget and Management and fiscal 2005 budget books

Since the transfer tax has been the primary source of revenue for POS, the existing and proposed transfers to the general fund substantially impact the program. The fiscal 2005 budget allowance seeks to partially offset the impact of these transfers on POS by providing \$15.0 million in GO bond funding for the POS local program.

DNR should brief the committees on the impact this proposed fund transfer legislation would have on POS.

2. Ensuring POS Funds Are Used

Last year, the Treasurer's Office reported that there were open bond authorizations extending back more than 30 years to 1968. At the end of fiscal 2002, approximately \$28 million in authorized, but unissued debt existed for projects that were authorized prior to fiscal 1996.

Legislation enacted in 2003 (Chapter 153, Acts of 2003) would have the effect of terminating capital appropriations if:

1. no part of the project is under contract, and the Board of Public Works has not encumbered funds for any part of the project; and
2. the appropriation is encumbered, but was appropriated 7 years ago or longer.

This termination provision becomes effective June 1, 2004, and could result in millions in authorized capital appropriations being reverted later this year.

Legislation (Senate Bill 713) has been introduced that proposes to exempt POS, the Rural Legacy Program, the Agricultural Land Preservation Fund, and the Heritage Conservation Fund from the provisions of Chapter 153, Acts of 2003.

DLS recommends that DNR describe the fiscal impact Chapter 153, Acts of 2003 may have on POS and the Rural Legacy Program. Also, DNR should provide data showing each local jurisdiction's unencumbered and encumbered POS fund balance by the year it was appropriated since fiscal 1995, and the State POS unencumbered and encumbered fund balance by the year it was appropriated since fiscal 1995. Furthermore, DNR should state its position on Senate Bill 713, and discuss why DNR programs should or should not be exempt from the provisions of Chapter 153, Acts of 2003.

Recommended Actions

1. Amend the following language:

(1) State Land Acquisition..... 5,000,000

a. Eastern Region..... 1,250,000
b. Central Region..... 1,250,000
c. Southern Region..... 1,250,000
d. Western Region..... 1,250,000

~~(2)~~ (2) Local Capital Development and Land Acquisition Grants..... 15,000,000
10,000,000

| | | | |
|-----|------------------------|----------------------|-----------|
| (a) | Allegany County | 466,741 | 111,161 |
| (b) | Anne Arundel County | 1,806,906 | 1,204,604 |
| (c) | Baltimore City | 1,193,601 | 795,734 |
| (d) | Baltimore County | 2,036,702 | 1,357,800 |
| (e) | Calvert County | 182,018 | 121,345 |
| (f) | Caroline County | 78,911 | 52,607 |
| (g) | Carroll County | 408,646 | 272,431 |
| (h) | Cecil County | 210,293 | 140,195 |
| (i) | Charles County | 370,795 | 247,197 |
| (j) | Dorchester County | 67,678 | 45,119 |
| (k) | Frederick County | 429,992 | 286,661 |
| (l) | Garrett County | 85,118 | 56,745 |
| (m) | Harford County | 603,604 | 402,403 |
| (n) | Howard County | 1,068,228 | 712,152 |
| (o) | Kent County | 50,855 | 33,903 |
| (p) | Montgomery County | 2,717,623 | 1,811,749 |
| (q) | Prince George's County | 2,298,116 | 1,532,077 |
| (r) | Queen Anne's County | 110,872 | 73,915 |
| (s) | St Mary's County | 204,622 | 136,415 |
| (t) | Somerset County | 48,571 | 32,381 |
| (u) | Talbot County | 116,554 | 77,703 |
| (v) | Washington County | 319,767 | 213,178 |
| (w) | Wicomico County | 213,136 | 142,091 |
| (x) | Worcester County | 210,651 | 140,434 |

Explanation: This language would change the allocation of State and Local Program Open Space (POS) general obligation (GO) bond funding, so that two-thirds, or \$10.0 million is directed to POS – Local Program and one-third or \$5.0 million is directed to POS – State Program. This reallocation of funds will ensure that both the State and local governments have funding available for land

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acquisition and park development activities. This allocation will also ensure that funds are available for the State to implement strategic, large-scale acquisitions consistent with the Administration's new land preservation strategy. The GO bond allowance includes an additional \$5.0 million for the Community Parks and Playgrounds Program, which is allocated directly to local jurisdictions to restore or create parks.

Fiscal 2005 Proposed Local Program Open Space Allocation

| <u>County</u> | <u>Allocation</u> |
|-----------------|---------------------|
| Allegany | \$166,741 |
| Anne Arundel | 1,806,906 |
| Baltimore | 2,036,702 |
| Calvert | 182,018 |
| Caroline | 78,911 |
| Carroll | 408,646 |
| Cecil | 210,293 |
| Charles | 370,795 |
| Dorchester | 67,678 |
| Frederick | 429,992 |
| Garrett | 85,118 |
| Harford | 603,604 |
| Howard | 1,068,228 |
| Kent | 50,855 |
| Montgomery | 2,717,623 |
| Prince George's | 2,298,116 |
| Queen Anne's | 110,872 |
| St Mary's | 204,622 |
| Somerset | 48,571 |
| Talbot | 116,554 |
| Washington | 319,767 |
| Wicomico | 213,136 |
| Worcester | 210,651 |
| Baltimore City | 1,193,601 |
| Total | \$15,000,000 |

Fiscal 2004 Local Program Open Space Allocation

| <u>County</u> | <u>Allocation</u> |
|-----------------|---------------------|
| Allegany | \$193,000 |
| Anne Arundel | 2,259,000 |
| Baltimore | 2,555,000 |
| Calvert | 224,000 |
| Caroline | 99,000 |
| Carroll | 508,000 |
| Cecil | 262,000 |
| Charles | 460,000 |
| Dorchester | 85,000 |
| Frederick | 525,000 |
| Garrett | 105,000 |
| Harford | 752,000 |
| Howard | 1,333,000 |
| Kent | 63,000 |
| Montgomery | 3,358,000 |
| Prince George's | 2,887,000 |
| Queen Anne's | 135,000 |
| St Mary's | 254,000 |
| Somerset | 61,000 |
| Talbot | 142,000 |
| Washington | 400,000 |
| Wicomico | 267,000 |
| Worcester | 253,000 |
| Baltimore City | 1,913,888 |
| Total | \$19,093,888 |