

**Department of Legislative Services**

Maryland General Assembly

2002 Session

**FISCAL NOTE**

**Revised**

House Bill 1131

(Delegate James, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

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**Local Land Preservation Programs**

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This bill authorizes a county or municipal corporation to adopt a local land preservation program. The bill establishes requirements relating to programs established under the bill and provides for State matching funds under specified conditions. The Department of Natural Resources (DNR) would administer the program at the State level. A provision requiring the Maryland Department of the Environment (MDE) and DNR to study and develop viable funding mechanisms to provide State matching funds takes effect June 1, 2002.

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**Fiscal Summary**

**State Effect:** Until a funding mechanism to provide State matching funds is identified and implemented, the total cost of the bill, including costs to provide matching funds and costs to administer the program, cannot be reliably estimated.

**Local Effect:** Local expenditures for land preservation could increase to the extent a local government chooses to implement a program under the bill. Local grant revenues from State matching funds could also increase.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill states that the General Assembly declares that:

- it is State public policy to improve, conserve, and manage the quality of the waters of the State and protect, maintain, and improve the quality of water for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses;
- it is also the policy of the State to preserve valuable open space in its natural, agricultural, or forestry use, which will not only help contain sprawl development but will also improve the water quality of the Chesapeake Bay and its tributaries by limiting point and nonpoint sources of pollution and help meet a goal of the Chesapeake Bay Agreement to protect 20% of the Chesapeake Bay watershed by 2010;
- the promotion of water quality in this State is closely related to the promotion of land preservation, requiring integration and coordination of the planning for the development and use of the water and associated land resources and inviting innovative solutions for protection of watersheds, including acquisition of land and easements for water quality protection and preservation of natural resources; and
- new funding sources designed to improve water quality and land preservation should be made available in the form of matching grants to local governments so as to leverage and fully utilize all available moneys and create incentives that will encourage local governments to develop their own funding for water quality protection and land conservation and preservation projects.

A local land preservation program established under the bill must provide funds to the local government units to purchase interests in real property from willing sellers, including easements, transferable development rights (TDRs), and fee estates. A program must encourage partnerships among the federal, State, and local governments and nonprofit land trust organizations and must encourage local land conservation initiatives. Each program must be administered in accordance with local law adopted under the authority of the bill.

A program must be funded by a continuing, dedicated, and clearly identified local or private funding source, not derived from State funds, that is adopted in accordance with State or local law. A local government may not use funding provided under the bill to supplant existing or planned local or private funds dedicated to land preservation. Subject to the availability of specified funds and other specified conditions, a program shall be eligible for State matching funds.

A local governing body may adopt regulations to implement a local land preservation program as specified in the bill. In a county with a locally adopted TDR program and with the approval of the county, funds may be used to purchase TDRs in the county in accordance with the locally approved TDR program. The bill establishes requirements relating to the resale of development rights.

To establish partnerships to carry out a local land preservation program, the bill authorizes a local governing body to enter into agreements with other governmental units, including the Rural Legacy Board, the Maryland Agricultural Land Preservation Foundation, and the Maryland Environmental Trust.

The bill establishes requirements relating to appraising the value of easements and fee simple interests in property acquired under the bill. All easement acquisitions must be recorded among the land records where the real property is located. An easement acquired under the bill is perpetual and may not be extinguished or released.

The bill establishes requirements for sponsors (local governments) applying for funding to implement a local program under the bill. The sponsor must submit applications to appropriate State and local units and consider their recommendations. A sponsor may submit funding requests for acquisition of property under its program to DNR for evaluation and submission to the Board of Public Works (BPW).

The bill requires DNR to review local programs and applications, submit applications to BPW as specified in the bill, and coordinate applications received with available remaining funding. DNR must provide technical support and assistance to local governments, adopt criteria for distributing available State funding, assist sponsors to coordinate their programs with related efforts under existing State programs, and consult with other federal, State, and local units and private land trusts in order to facilitate conservation efforts under the bill. The bill specifies criteria DNR must use and establishes a procedure DNR must use to allocate available funding.

MDE and DNR must collaborate to study and develop viable funding mechanisms, including the leveraging of federal and State funds, to implement State funding to match funding provided by local governments under the bill. MDE and DNR must report their findings and recommendations by October 1, 2002 to specified committees of the General Assembly. If MDE and DNR identify viable funding mechanisms that do not require legislation for implementation, they must implement State matching funds in accordance with those funding mechanisms and must notify specified committees and the Department of Legislative Services.

The State must take appropriate steps to work in partnership with the U.S. Environmental Protection Agency (EPA) and other appropriate federal agencies to identify and secure financial support from the federal government for local land acquisition and conservation programs under the bill.

**Current Law:** Several land preservation programs are administered by the State, such as Program Open Space (POS), the Rural Legacy Program, the GreenPrint Program, and the

Maryland Agricultural Land Preservation Program. The Maryland Environmental Trust, which was established by the General Assembly in 1967, is a statewide local land trust. Local jurisdictions may establish land preservation programs in accordance with local law. In some cases, local programs may work in conjunction with State programs.

**Background:** The Chesapeake 2000 Agreement, to which Maryland is a party, established a goal of preserving 20% of the land area in the watershed from development by 2010. This bill seeks to meet that goal by leveraging existing funds and cultivating new funds for land preservation.

**State Fiscal Effect:** Under the bill, MDE and DNR must collaborate to study and develop viable funding mechanisms, including the leveraging of federal and State funds. Legislative Services advises that it is possible that the funding mechanism identified by MDE and DNR will require legislation to be implemented. Once a funding mechanism has been identified, State expenditures could increase significantly to provide matching funds to local jurisdictions for local land preservation programs.

By encouraging the State to work with the federal government to identify and secure financial support for the bill, it is possible that the bill could result in an increase in federal fund revenues, which could offset some of the cost of providing matching funds under the bill.

Depending on the funding mechanism that is implemented, expenditures could increase for DNR to administer the program, including costs to hire additional staff. Until a funding mechanism has been identified and implemented, however, the total cost of the bill cannot be reliably estimated.

**Local Fiscal Effect:** In order to establish a local land preservation program under the bill, a local government must provide a continuing, dedicated, and clearly identified local or private funding source. Subject to specified conditions, a program will be eligible for State matching funds. Accordingly, local expenditures and revenues for land preservation could increase, perhaps significantly. The total increase in local funding for land preservation activities cannot be reliably estimated at this time because the extent to which local jurisdictions will choose to establish programs, the extent to which local jurisdictions will provide funds for those programs, and the extent to which State matching funds will be available are unknown.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 627 (Senator Frosh) – Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Natural Resources; Maryland Department of the Environment; Maryland Department of Planning; Trust for Public Land; Calvert, Caroline, Montgomery, and Prince George’s counties; Town of Bel Air; City of Salisbury; Leonardtown; Department of Legislative Services

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