

**Department of Legislative Services**  
 Maryland General Assembly  
 2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 713

(Senator Middleton)

Budget and Taxation

Appropriations

**State Finance - State Projects or Programs - Funding**

This bill provides that the allocated State funds for local Program Open Space (POS) projects be considered encumbered when the Board of Public Works approves a local jurisdiction's capital plan for the use of POS funds. In addition, any previously authorized or appropriated State funds for local POS projects must be considered encumbered as of the last time the county's annual program was approved. Any unspent funds within the Ocean Beach Replenishment Fund are exempt from certain provisions in the State Finance and Procurement Article relating to State debt authorization.

The bill takes effect June 1, 2004.

**Fiscal Summary**

**State Effect:** General fund revenues would decrease by \$7.6 million in FY 2005 since unencumbered balances for capital pay-as-you-go appropriations for local POS projects would not terminate after seven years. This would enable \$7.6 million in unencumbered balances for local POS projects to be spent after June 1, 2004. The impact in future years is unknown.

(\$ in millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	(\$7.6)	(-)	(-)	(-)	(-)
SF Expenditure	-	-	-	-	-
Bond Exp.	0	-	-	-	-
Net Effect	(\$7.6)	\$0	\$0	\$0	\$0

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

**Local Effect:** Unencumbered bond authorizations and capital pay-as-you-go appropriations for local Program Open Space projects would not terminate after seven

years. This would enable \$7.6 million in unencumbered balances for local capital projects to be spent after June 1, 2004.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Section 7-305 (D)(3) of the State Finance and Procurement Article specifies that the authority to spend the appropriation for a capital project terminates seven years after the effective date of the appropriation act that authorized the project unless: (1) the appropriation act provides otherwise; or (2) in an emergency the Board of Public Works (BPW) unanimously grants a temporary exception for one year. An exception is made in cases where BPW has encumbered money for a State project or program authorized by an appropriation act.

Section 8-128 (C) of the State Finance and Procurement Article specifies that an authorization of State debt shall automatically terminate seven years after the date of the authorization, unless: (1) the enabling act provides otherwise; or (2) in an emergency, BPW unanimously grants a temporary exception for one year. An exception is made in cases where BPW has encumbered money for a State project or program authorized by an appropriation act.

**Background:** At the 2003 session, the General Assembly passed legislation (Chapter 153) that provided for a seven-year limitation on the authority to spend an appropriation for a capital expenditure and a seven-year limitation on the authorization for State debt. The State Treasurer, in consultation with the Comptroller, must submit a report on January 1 each year to the Governor and the General Assembly that lists all projects or programs for which authorization would be terminated in the upcoming year due to the Act's provisions.

### *Reasons Behind Chapter 153*

The Treasurer's Office reported during the 2003 session that there were open bond authorizations extending as far back as 35 years. At the end of fiscal 2002, approximately \$28 million in authorized, but unissued debt existed for projects that were authorized prior to fiscal 1996. As a result, the State was unnecessarily reducing its debt capacity by holding open these authorizations for projects that, for a variety of reasons, might never move forward but had not been abandoned. Since State law required that bond proceeds be allocated to individual capital project accounts and expended only on those individual projects, unexpended bond proceeds had accumulated in the individual projects accounts.

The federal tax law of 1986 requires an entity that sells tax-exempt bonds to spend down the proceeds within 18 to 24 months, depending on the project. This law prevents arbitrage abuses by which an entity earns a higher rate of interest from the investment of bond proceeds than the interest paid on the bonds. The accumulation of unexpended bond proceeds for projects over seven years old had resulted in the State earning arbitrage interest on those proceeds and becoming subject to a federal tax rebate liability. Chapter 153 of 2003 addressed these issues.

**State and Local Fiscal Effect:** According to the Comptroller's Office, approximately \$28 million in unencumbered bond authorizations and capital pay-as-you-go appropriations will terminate as of June 1, 2004 in accordance with Chapter 153 of 2003. Of this amount, \$7.6 million is for capital projects within the local POS program. **Exhibit 1** shows the unencumbered balances for capital projects within the local POS program. Pursuant to this legislation, the authority to spend the unencumbered balances for their original purposes would not terminate. This would result in an \$7.6 million decrease in general fund revenues in fiscal 2005 as the projects affected were funded with transfer tax revenues, which would revert to the general fund after seven years. The impact in future years is unknown.

State funds for the Ocean Beach Replenishment Fund are not currently affected by the bill's provisions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Board of Public Works, Department of Natural Resources, Maryland Department of Agriculture, Department of Budget and Management, Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 2004  
lc/ljm Revised - Senate Third Reader - April 9, 2004

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**Exhibit 1**  
**Capital Projects To Be Terminated**  
**As of June 1, 2004**

**Unencumbered Balance**  
**as of January 31, 2004**

**Local Program Open Space**

Baltimore City Direct Grants 1991	30,000
Baltimore City Direct Grants 1992	85,264
Susquehanna State Park 1994	27,543
Cunningham Falls State Park 1994	338
Gambrill State Park 1994	460
Green Ridge State Forest 1996	5,254
Greenwell State Park 1996	71,217
North Point State Park 1996	568
Gunpowder Falls State Park 1996	8,614
Greenwell State Park 1997	252,000
James Island State Park 1997	71
Sandy Point State Park 1997	9,050
St. Clemens Island State Park 1997	1,401
Small Enhancement Projects 1997	<u>22,499</u>
<b>Subtotal</b>	<b>\$514,279</b>
Allegany County 1988	70,733
Allegany County 1992	43,261
Allegany County 1996	<u>9,689</u>
<b>Subtotal</b>	<b>\$123,683</b>
Anne Arundel County 1992	468,576
Anne Arundel County 1996	<u>105,092</u>
<b>Subtotal</b>	<b>\$573,668</b>
Baltimore City 1992	309,350
Baltimore City 1997	<u>69,016</u>
<b>Subtotal</b>	<b>\$378,366</b>
Baltimore County 1988	107,890
Baltimore County 1992	527,431
Baltimore County 1992	47,324
Baltimore County 1995	227,343
Baltimore County 1996	<u>118,480</u>
<b>Subtotal</b>	<b>\$1,028,468</b>

Exhibit 1 (continued)

**Unencumbered Balance  
as of January 31, 2004**

Calvert County 1988	175,667
Calvert County 1996	<u>10,832</u>
<b>Subtotal</b>	<b>\$186,499</b>
Caroline County 1988	38,207
Caroline County 1992	20,384
Caroline County 1996	<u>17,860</u>
<b>Subtotal</b>	<b>\$76,451</b>
Carroll County 1988	187,850
Carroll County 1992	105,880
Carroll County 1996	<u>23,682</u>
<b>Subtotal</b>	<b>\$317,412</b>
Cecil County 1988	101,663
Cecil County 1992	54,496
Cecil County 1996	<u>12,178</u>
<b>Subtotal</b>	<b>\$168,337</b>
Charles County 1988	41,304
Charles County 1992	95,966
Charles County 1995	3,590
Charles County 1996	21,413
Charles County 1997	<u>280,411</u>
<b>Subtotal</b>	<b>\$442,684</b>
Dorchester County 1988	65,965
Dorchester County 1992	17,521
Dorchester County 1996	6,990
Dorchester County 1997	<u>6,655</u>
<b>Subtotal</b>	<b>\$97,131</b>
Frederick County 1988	207,376
Frederick County 1992	110,885
Frederick County 1996	<u>24,933</u>
<b>Subtotal</b>	<b>\$343,194</b>
Garrett County 1988	17,858
Garrett County 1992	21,653
Garrett County 1996	<u>4,846</u>
<b>Subtotal</b>	<b>\$44,357</b>

Exhibit 1 (continued)

**Unencumbered Balance  
as of January 31, 2004**

Harford County 1992	156,151
Harford County 1996	<u>38,907</u>
<b>Subtotal</b>	<b>\$195,058</b>
Howard County 1988	349,972
Howard County 1992	280,589
Howard County 1996	<u>110,857</u>
<b>Subtotal</b>	<b>\$741,418</b>
Kent County 1988	29,241
Kent County 1992	13,184
Kent County 1996	<u>2,936</u>
<b>Subtotal</b>	<b>\$45,361</b>
Montgomery County 1992	710,680
Montgomery County 1995	14,100
Montgomery County 1996	<u>158,383</u>
<b>Subtotal</b>	<b>\$883,163</b>
Prince George's County 1988	422,493
Prince George's County 1992	602,103
Prince George's County 1995	8,177
Prince George's County 1996	<u>21,387</u>
<b>Subtotal</b>	<b>\$1,054,160</b>
Queen Anne's County 1992	28,296
Queen Anne's County 1996	<u>6,351</u>
<b>Subtotal</b>	<b>\$34,647</b>
St. Mary's County 1988	190,242
St. Mary's County 1992	53,303
St. Mary's County 1996	<u>11,789</u>
<b>Subtotal</b>	<b>\$255,334</b>
Somerset County 1988	30,060
Somerset County 1992	12,498
Somerset County 1996	<u>2,795</u>
<b>Subtotal</b>	<b>\$45,353</b>

Exhibit 1 (continued)

	<b><u>Unencumbered Balance as of January 31, 2004</u></b>
Talbot County 1992	29,876
Talbot County 1996	<u>6,635</u>
<b>Subtotal</b>	<b>\$36,511</b>
Washington County 1988	154,436
Washington County 1992	82,531
Washington County 1996	<u>18,412</u>
<b>Subtotal</b>	<b>\$255,379</b>
Wicomico County 1988	1,501
Wicomico County 1992	55,003
Wicomico County 1996	<u>12,335</u>
<b>Subtotal</b>	<b>\$68,839</b>
Worcester County 1988	104,016
Worcester County 1992	53,069
Worcester County 1996	<u>11,824</u>
<b>Subtotal</b>	<b>\$168,909</b>
<b>Total</b>	<b>\$7,564,382</b>

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