

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1552

(Chair, Environmental Matters Committee)

(By Request – Departmental – Natural Resources)

Environmental Matters

Sustainable Forestry Act of 2008

This departmental bill makes various changes to help achieve sustainability in the management of the State's forest resources. Among other things, the bill • expands the allowable uses of the Forest or Park Reserve Fund; • requires the Department of Natural Resources to report and monitor forest retention and restoration; • modifies specified planning and right-to-farm provisions to include forestry; and • requires the Governor to establish a task force to develop a specific plan of policies, programs, and other actions necessary to achieve and maintain a policy of no net loss of forests.

The task force provisions take effect June 1, 2008 and terminate June 30, 2009.

Fiscal Summary

State Effect: Potential increase in special fund expenditures to • develop forest stewardship plans on private lands; • provide specified grants to forest conservancy district boards; and • acquire specified data from local governments. Potential decrease in general/federal fund expenditures to develop forest stewardship plans on private lands.

Local Effect: Potential increase in local expenditures related to planning and updating local GIS capabilities.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). Legislative Services generally concurs with this assessment but notes that forestry-related businesses could be positively impacted to the extent the bill contributes to sustainable forestry.

Analysis

Bill Summary: The bill:

- establishes a declaration of policy and legislative intent to achieve no net loss of forest land and promote sustainable forestry;
- modifies the allowable uses of the Forest or Park Reserve Fund to include offsetting the costs to DNR's Forest Service for developing and approving forest stewardship plans on privately owned forest lands and providing annual grants to forest conservancy district boards for specified purposes;
- modifies right-to-farm provisions to include silvicultural (forestry) operations;
- modifies the allowable content of land use plan elements within local comprehensive plans to include forestry land uses;
- modifies the State Economic Growth, Resource Protection, and Planning Policy to include the promotion of sustainable forestry management;
- encourages DNR, to the extent financial resources are made available, to develop a forest stewardship plan on all appropriate DNR-owned lands and to share the findings and recommendations with other State agencies and local governments;
- requires DNR to report and monitor forest retention and restoration by encouraging local jurisdictions to report specified geospatial data to the State and, if State funding is required to acquire that data, to use funds in the Woodland Incentives Fund; and
- requires that the task force established pursuant to the bill, which is to be staffed by DNR, report its findings and recommendations to the Governor by December 1, 2008.

Current Law:

State Policy Relating to Forests – In General

Forests, streams, valleys, wetlands, parks, scenic, historic, and recreation areas of the State are basic assets. Their proper use, development, and preservation are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State. It is the policy of the State to encourage the economic development and use of its natural resources for the improvement of local economy, preservation of the natural beauty, and promotion of the recreational and leisure interest throughout the State.

Forests, timberlands, woodlands, and soil resources of the State are basic assets and the proper use, development, and preservation of these resources are necessary to protect and promote the health, safety, and general welfare of the State. It is the policy of the State to

encourage economic management and scientific development of its forests and woodlands to maintain, conserve, and improve the soil resources of the State so that an adequate source of forest products is preserved for the people.

Stated Importance of Forestry

Statute specifies that forestry constitutes a traditional, fundamental, beneficial, and desirable use of the State's forest resource. Forestry is an important land management tool that contributes significantly to the economy of the State by supporting a vital forest products industry, as well as to the health of forests and their wildlife, water quality, and recreational benefits by sustaining forest productivity and wildlife habitats.

In Maryland, forestry is often carried out in close proximity to populated areas. Other than development for more intensive uses, this harvest of timber may represent a major source of income for the profitable use of private property. Since it is in the State and public interests to preserve the forest land base and other natural resources, a local government with planning and zoning powers must support forestry by a reasonable exercise of those powers.

The Forest Conservation Act – In General

Enacted in 1991, the Forest Conservation Act provides a set of minimum standards that developers must follow when designing a new project that affects forest land. Local governments are responsible for making sure these standards are met, but may choose to implement even more stringent criteria. If there is no local agency in place to review development plans, DNR does so. In general, the Act calls for a minimum amount of forest cover on development sites based upon the site's zoning.

Forest or Park Reserve Fund

The stated purpose of the fund, which is administered by DNR, is to enable the department to purchase and manage 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. The fund, which generally consists of revenues derived from State forests and parks, may only be used for

- purchasing and managing those lands;
- certain annual payments to counties; and
- specified administrative costs.

Right-to-farm

If an agricultural operation has been under way for a period of one year or more and if the operation is in compliance with applicable federal, State, and local health, environmental,

zoning, and permit requirements relating to any nuisance claim and is not conducted in a negligent manner, the operation may not be deemed to be a public or private nuisance, and a private action may not be sustained on the grounds that the operation interferes or has interfered with the use or enjoyment of other property.

Local Comprehensive Plans

Under Article 66B, the State's zoning and planning law, local planning commissions are required to develop comprehensive plans; these plans are required to include several specified elements. Among other things, the plans must include a land use plan element that proposes the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land and may include public and private, residential, commercial, industrial, agricultural, and recreational land uses. Under current law, forestry is not specifically listed.

State Economic Growth, Resource Protection, and Planning Policy

The State Economic Growth, Resource Protection, and Planning Policy sets out eight visions relating to future development and the protection of certain areas and resources. Under current law, the promotion of sustainable forestry management is not specifically identified within any of the visions.

Background: In its January 2007 report, the Maryland Transition Work Group on Environment and Natural Resources recommended that the State adopt a no net loss of forests goal through legislative and executive actions. Maryland loses 8,600 acres of forested land each year. The work group noted that the maintenance of forests is as key to restoring the Chesapeake Bay as any investments in sewage treatment or air quality controls. Trees absorb vast quantities of air pollutants, including greenhouse gases, and also filter nonpoint source pollution from farms and developed areas. The workgroup indicated that converting just 10% of the forest area in a watershed can increase nutrient runoff by 40%. Forests also generate billions of dollars for the hunting, recreational, and wood-products industries. The work group concluded that avoidance and minimization of forest loss should be a priority over reforestation.

In December 2007, the Chesapeake Executive Council signed a directive entitled *Protecting the Forests of the Chesapeake Bay Watershed*. Among other things, this Forestry Conservation Initiative committed the bay states to • permanently protect an additional 695,000 acres of forest from conversion by 2020; • accelerate reforestation and conservation in urban/suburban areas and riparian forest buffers by 2020; • work with local governments, legislative delegations, land trusts, or other stakeholders to create or augment dedicated sources of local funding by 2010; and • by 2009, establish and implement a mechanism to track and assess forest land cover change. Under the

directive, Maryland has committed to protecting 96,000 acres by 2012 and 250,000 acres by 2020. Approximately 724,000 acres of forest lands in the State are already protected.

DNR advises that the conservation of Maryland's forest and tree resources is crucial to meeting the State's commitments under the *Chesapeake 2000* agreement and the 2007 Forest Conservation Initiative. The bill is intended to help achieve sustainability in the management of the State's forest resources and move towards the implementation of a policy of no net loss of forests.

State Expenditures:

Expansion of Allowable Uses of Forest or Park Reserve Fund

By expanding the allowable uses of the fund to include offsetting the costs to DNR's Forest Service for developing and approving forest stewardship plans on privately owned forest lands, the bill could result in an increase in special fund expenditures and a corresponding decrease in general/federal fund expenditures for those activities. DNR advises that the Forest Service currently completes approximately 400 plans each year at an average annual cost of about \$320,000.

By expanding the allowable uses of the fund to include providing annual grants to forest conservancy district boards, special fund expenditures could increase further. According to DNR, there are 24 boards in the State. Although the amount of grants that would be provided under the bill is unknown, *for illustrative purposes only*, if DNR were to provide grants of \$4,000 per board per year, special fund expenditures could increase by \$96,000 annually.

According to DNR, the extent to which sufficient special funds will be available for these expanded purposes is unknown. However, DNR advises that the estimated fiscal 2008 ending balance of the Forest or Park Reserve Fund is approximately \$2.4 million.

Acquiring Data from Local Governments

The bill directs DNR to use the Woodland Incentives Fund to acquire specified geospatial data from local governments, if necessary. DNR advises that it is unclear how much funding would be needed to acquire such data; some local jurisdictions may already have this data or could develop it easily. Others may need additional funding. Accordingly, special fund expenditures could increase but any such increase cannot be reliably estimated at this time. DNR advises that the estimated fiscal 2008 ending balance of the Woodland Incentives Fund is \$902,769.

Forest Stewardship Plans on DNR-owned Lands

The bill *encourages*, but does not *require*, DNR to prepare a forest stewardship plan on all appropriate DNR-owned lands. This provision is only applicable *to the extent financial resources are made available*. DNR advises that it is currently developing forest stewardship plans on DNR-owned lands using reimbursable grant funds, but that those funds are anticipated to be exhausted by the end of fiscal 2009. According to DNR, the reimbursable funds currently support two contractual employees (one forester and one technician) and related expenses at a cost of approximately \$82,000 annually. Accordingly, to the extent funding is identified, it is reasonable to assume that DNR would continue this activity. However, since DNR is already doing this, it is unclear that any future expenditures for this activity would be the result of this bill alone.

Task Force

Any expense reimbursements for task force members and staffing costs for DNR are assumed to be minimal and absorbable within existing budgeted resources.

Local Expenditures: Local planning expenditures could increase for some local jurisdictions if they choose to modify their local comprehensive plans to include forestry information in their land use plan elements. Any increase will depend on the extent to which local jurisdictions already include this type of information and the extent to which this activity could be handled by existing staff.

Local governments could also incur additional costs to implement sustainable forestry management as a vision within the State's Economic Growth, Resource Protection, and Planning Policy. Any such impact cannot be reliably estimated at this time but is not anticipated to be significant.

Finally, local expenditures could also increase to the extent local jurisdictions choose to report forest retention and restoration data in a geospatial format; according to DNR, some jurisdictions may have to update their GIS capabilities to be able to report in this manner. However, the bill only *encourages* this activity. In addition, the bill directs DNR to use funds in the Woodland Incentives Fund if State funding is required to acquire such data.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Planning, Maryland Department of Agriculture, Somerset County, Charles County, Maryland-National Capital Park and Planning Commission, *Maryland Transition Work Group Report on Environment and Natural Resources* (January 2007), U.S. Environmental Protection Agency (Chesapeake Bay Program), Department of Legislative Services

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