

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 259 (Senator Middleton, *et al.*)(Joint Subcommittee on Program Open Space/Agricultural Land Preservation)

Education, Health, and Environmental Affairs

Environmental Matters

Program Open Space - Attainment of Acquisition Goals - Increased Allocation
for Local Government

This bill increases the maximum percentage (from 75% to 100%) of Program Open Space funds that a local government may spend on development projects after certification by the Department of Natural Resources and the Maryland Department of Planning that it has attained its acreage acquisition goals.

The bill takes effect June 1, 2008 and terminates May 31, 2010.

Fiscal Summary

State Effect: None. Total POS funding would not be affected.

Local Effect: While the bill does not increase the total amount of funds allocated to local governments under POS, it provides certain local governments with greater flexibility in the use of their POS allocation.

Small Business Effect: Minimal.

Analysis

Current Law: One-half of any local governing body's annual apportionment must be used for acquisition or development projects; up to 20% of these funds may be used for capital renewal. If DNR and MDP certify that acquisition goals set forth in the current, approved local land preservation and recreation plan (LPRP) have been met and that the

acreage attainment equals or exceeds the minimum recommended acreage goals developed for that jurisdiction under the Maryland LPRP, a local governing body may use up to 75% of its future annual apportionment for development projects for five years after attainment. If so, up to 20% of the funds authorized for use for development projects may be used for capital renewal.

Background: POS was established by the General Assembly in 1969 (Chapter 403) to expedite the acquisition of outdoor recreation and open space before property cost and development made it impossible, and to accelerate the development of outdoor recreational facilities. POS provides for both State and local acquisition and development. POS is funded through special funds derived from the State's transfer tax, which imposes a 0.5% tax on all real property recorded in the State.

In its most recent LPRP, the State recommended a local recreational goal of 30 acres of recreation land per 1,000 persons. Each local governing body, in its own LPRP, may set a goal that differs from the State recommended goal. However, the higher of the two goals is used in determining whether a local governing body has met its acreage goal. The local recreation acreage goal is designed to encourage counties and municipalities to acquire sufficient land to meet the current and future active recreational and open space needs of their residents.

Additional Comments: Identical legislation was enacted in 2001 (Chapter 658) but terminated on September 30, 2006. DNR reports that, during that five-year period, 10 counties (Allegany, Carroll, Dorchester, Garrett, Kent, Queen Anne's, Somerset, Washington, Wicomico, and Worcester) requested and received permission to use 100% of their POS funding for recreation development projects. DNR notes that even counties that were given such permission still continue to acquire land when needed.

Additional Information

Prior Introductions: Virtually identical legislation was introduced as SB 49/HB 69 of 2007. HB 69 passed the House with amendments. Both bills received unfavorable reports by the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Planning, Washington County, Montgomery County, Kent County, Worcester County, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2008
mcp/lgc Revised - Senate Third Reader - April 1, 2008

Analysis by: Lesley G. Cook

Direct Inquiries to:
(410) 946-5510
(301) 970-5510