

SENATE BILL 163

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EMERGENCY BILL

9lr0136
CF HB 1564

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: January 20, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Program Open Space – Use of Funds – Indoor or Outdoor Recreational**
3 **Facilities**

4 FOR the purpose of authorizing a local government body to use certain Program Open
5 Space funds for the construction of certain indoor or outdoor recreational
6 facilities; requiring certain indoor recreational facilities to meet or exceed a
7 certain rating under certain circumstances; requiring certain indoor
8 recreational facilities to incorporate, to the maximum extent practicable, certain
9 site design standards; altering the percentage of funds that the State shall
10 provide to a local governing body for the construction of an indoor recreational
11 facility located outside of a priority funding area under certain circumstances;
12 altering the percentage of funds that the State shall provide to a local governing
13 body for the acquisition of land located within a priority funding area under
14 certain circumstances; requiring the Department of Planning, in consultation
15 with the Department of Natural Resources, to conduct a certain evaluation;
16 requiring the Department of Planning to report its evaluation to certain
17 committees of the General Assembly on or before a certain date; providing for
18 the application of this Act; making this Act an emergency measure; and
19 generally relating to the use of funds for Program Open Space.

20 BY repealing and reenacting, without amendments,
21 Article – Natural Resources
22 Section 5–903(a)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Natural Resources
3 Section 5–903(b) and 5–905(c)(3)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2008 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Natural Resources**

9 5–903.

10 (a) (1) Of the funds distributed to Program Open Space under § 13–209 of
11 the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in
12 the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of
13 the State Finance and Procurement Article, to the Maryland Heritage Areas Authority
14 Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions
15 Article to be used for the purposes provided in that subtitle.

16 (2) (i) 1. Of the remaining funds not appropriated under
17 paragraph (1) of this subsection:

18 A. One half of the funds shall be used for recreation and
19 open space purposes by the Department and the Historic St. Mary’s City Commission;
20 and

21 B. 20% of the funds or \$21,000,000, whichever is greater,
22 shall be appropriated to the Forest and Park Service in the Department to operate
23 State forests and parks.

24 2. Except as otherwise provided in this section, any
25 funds the General Assembly appropriates to the State under this subsection shall be
26 used only for land acquisition projects.

27 (ii) At least \$1,500,000 of the State’s share of funds available
28 under subparagraph (i)1A of this paragraph for this program shall be utilized to make
29 grants to Baltimore City for projects which meet park purposes. The grants shall be in
30 addition to any funds Baltimore City is eligible to receive under subsection (b) of this
31 section, and may be used for acquisition or development. In order for Baltimore City to
32 be eligible for a State grant, the Department shall review projects or land to be
33 acquired within Baltimore City, and upon the Department’s recommendation, the
34 Board of Public Works may approve projects and land including the cost. Title to the
35 land shall be in the name of the Mayor and City Council of Baltimore City. The State
36 is not responsible for costs involved in the development or maintenance of the land.

1 (iii) 1. A portion of the State's share of funds available under
2 subparagraph (i)1A of this paragraph for this Program not to exceed \$8,000,000 for
3 each fiscal year may be transferred by an appropriation in the State budget to the
4 Rural Legacy Program under Subtitle 9A of this title.

5 2. In each fiscal year, up to \$2 million of the funds
6 transferred under this subparagraph to the Rural Legacy Program may be used to
7 purchase zero coupon bonds for easements.

8 3. Sums allocated to the Rural Legacy Program may not
9 revert to the General Fund of the State.

10 (b) (1) The General Assembly shall appropriate the remaining funds not
11 appropriated under subsection (a) of this section to assist local governing bodies in
12 acquisition and development of land for recreation and open space purposes.

13 (2) ~~FUNDS~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
14 SUBSECTION, FUNDS APPROPRIATED UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION FOR DEVELOPMENT OF LAND FOR RECREATION AND OPEN SPACE
16 PURPOSES MAY BE USED FOR INDOOR OR OUTDOOR RECREATION AND OPEN
17 SPACE PURPOSES, INCLUDING THE CONSTRUCTION OF INDOOR OR OUTDOOR
18 RECREATIONAL FACILITIES SUCH AS AQUATIC, GOLF, COMMUNITY, AND NATURE
19 CENTERS.

20 (3) AN INDOOR RECREATIONAL FACILITY FUNDED UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION SHALL:

22 (I) IF THE FACILITY IS 7,500 SQUARE FEET OR GREATER,
23 MEET OR EXCEED THE CURRENT VERSION OF THE U.S. GREEN BUILDING
24 COUNCIL'S LEED GREEN BUILDING RATING SYSTEM SILVER RATING,
25 HOWEVER, THE FACILITY IS NOT REQUIRED TO BE CERTIFIED THROUGH THE
26 LEED CERTIFICATION PROCESS; AND

27 (II) INCORPORATE, TO THE MAXIMUM EXTENT
28 PRACTICABLE, THE NONSTRUCTURAL SITE DESIGN PRACTICES IN THE
29 MARYLAND STORMWATER DESIGN MANUAL, INCORPORATED BY REFERENCE IN
30 COMAR 26.17.02.

31 5-905.

32 (c) (3) (i) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF
33 THIS PARAGRAPH, IF the local governing body is unable to obtain federal funds
34 pursuant to § 5-906 of this subtitle, for each approved local development project the
35 State shall provide:

36 1. 75 percent of the total project cost; or

1 2. If the Department has certified pursuant to
 2 paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the
 3 total project cost.

4 (ii) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF
 5 THIS PARAGRAPH, IF federal funds are provided on any acquisition or development
 6 project cost, the State shall provide 50 percent of the difference between the total
 7 project cost and the federal contribution. Subject to the limitation that total State
 8 funds, when added to every other available fund, may not exceed 100 percent of a
 9 project's cost, the minimum State contribution to a project shall be 25 percent. If the
 10 federal funds are less than 50 percent of the total project cost, the State shall provide
 11 an amount equal to the difference between the federal contribution and:

12 1. 75 percent of the total project cost; or

13 2. If the Department has certified pursuant to
 14 paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the
 15 total project cost.

16 **(iii) 1. SUBJECT TO THE REQUIREMENT IN**
 17 **SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, IF A LOCAL GOVERNING BODY**
 18 **USES ITS FUNDS APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO**
 19 **ACQUIRE LAND WITHIN A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02**
 20 **OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE STATE SHALL**
 21 **PROVIDE 90 PERCENT OF THE TOTAL PROJECT COST.**

22 **2. IF A LOCAL GOVERNING BODY USES ITS FUNDS**
 23 **APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO CONSTRUCT AN**
 24 **INDOOR RECREATIONAL FACILITY THAT IS NOT ANCILLARY AND NECESSARY**
 25 **FOR OUTDOOR RECREATION, AND WILL BE LOCATED OUTSIDE OF A PRIORITY**
 26 **FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND**
 27 **PROCUREMENT ARTICLE, THE STATE SHALL PROVIDE 50 PERCENT OF THE**
 28 **TOTAL PROJECT COST.**

29 **3. THE STATE SHALL PROVIDE 90 PERCENT OF THE**
 30 **TOTAL PROJECT COST UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH**
 31 **IF THE LOCAL GOVERNING BODY AGREES TO LIMIT THE AMOUNT OF**
 32 **IMPERVIOUS SURFACE ON THE LAND ACQUIRED WITHIN A PRIORITY FUNDING**
 33 **AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT**
 34 **ARTICLE, TO NO MORE THAN 10 PERCENT OF THE LAND.**

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
 36 Planning shall evaluate, in consultation with the Department of Natural Resources
 37 and local governments, the degree to which State goals for recreation, parks, open
 38 space, and land acquisition are being effectively addressed through the local side

1 Program Open Space process. On or before October 1, 2010, the Department of
2 Planning shall report its evaluation, as well as any recommended statutory or
3 administrative changes, to the Senate Education, Health, and Environmental Affairs
4 Committee and the House Environmental Matters Committee, in accordance with §
5 2-1246 of the State Government Article.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply prospectively and may not be applied or interpreted to have any
8 effect on projects initiated prior to the effective date of this Act.

9 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act is an
10 emergency measure, is necessary for the immediate preservation of the public health
11 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
12 members elected to each of the two Houses of the General Assembly, and shall take
13 effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.