

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 783

(Delegate James, *et al.*)

Environmental Matters

Budget and Taxation

Transfer Tax - Program Open Space Bonds - Land and Easement Acquisition

This bill authorizes \$70.0 million in bond funds for the Department of Natural Resource’s (DNR) State Program Open Space (POS) land acquisition program and authorizes the transfer of up to \$5.0 million of this amount to the Maryland Department of Agriculture’s (MDA) Maryland Agricultural Land Preservation Fund (MALPF). Property transfer tax revenue must be used to pay principal and interest on the POS bonds prior to any other distribution. The bonds may not be included as State tax-supported debt by the Capital Debt Affordability Committee (CDAC) until they are issued.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: Bond revenues may increase by \$70.0 million in FY 2010. To the extent the bonding authority is deferred, bond revenues are deferred. To the extent bond revenues are provided in FY 2011 through 2013, special fund revenues decrease by the same amount. Although special fund expenditures do not increase, they are redirected to pay debt service, to the extent the bonding authority is used.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Bond Rev.	\$70,000,000	\$0	\$0	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	\$70,000,000	\$0	\$0	\$0	\$0

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

Local Effect: The bill is not expected to affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: At the request of the Governor, the Board of Public Works is authorized to borrow money and incur special obligation indebtedness through a special obligation loan to be known as the POS Acquisition Opportunity Loan of 2009.

POS bond funding may be provided in the State Consolidated Capital Bond Funding Program or in a separate bond enabling act. POS bonds may be sold as a single issue or consolidated and sold as part of a single issue of bonds. Cash proceeds from the bond sale must be paid to the Treasurer for specified costs before being credited to the Comptroller and expended by DNR. The principal must be discharged within 15 years after the bond issuance date.

DNR is required to use authorized POS bond funds for State land acquisition that is supported by current appraisals and presents a unique opportunity due to reduced price, extraordinary location, or environmental value. MDA is required to use bond funds for the purchase of easements that present a unique opportunity due to reduced price, extraordinary location, or agricultural value. POS bond funds may not be used to reimburse the State for the acquisition of land prior to the bill's effective date.

Property transfer tax revenue must be used to pay principal and interest on outstanding POS bonds prior to any other distribution. The bill specifies that transfer tax revenues allocated to only State POS land acquisition and MALPF, to the extent any debt service is attributable to MALPF, must be reduced by an amount equal to the debt service for the fiscal year. Furthermore, in fiscal 2011 through 2013, the bill requires property transfer tax special fund revenues allocated to POS to be reduced by the amount of POS bond funding provided.

The bill authorizes the Comptroller to advance land acquisition funds to DNR prior to the issuance of the authorized bond funds, and the bond funds are not subject to specified limitations on the terms of State debt authorizations.

DNR is authorized to use State POS funds to acquire real property for an amount that is less than the property's lowest appraised value.

Current Law/Background: POS, established in 1969 and administered by DNR, provides funds for State and local acquisition and development of public outdoor recreational sites, facilities, and open space. The State POS share focuses on the acquisition of land for natural resource conservation with the inclusion of low-impact recreational activities where appropriate. The local POS share is used primarily for the acquisition and development of high-impact recreational sites and facilities. As of January 7, 2009, the State POS share had preserved 292,866 acres, and the local POS share had preserved 43,310 acres.

Primary funding for POS has historically been provided by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another. The greater the development pressure, the more transfers, and thus the more transfer tax revenue realized for land conservation and recreation facilities. In some years, other funding sources such as general obligation (GO) bond funds and the federal Land and Water Conservation Fund have played an important role in funding this program, as transfer tax revenues have been diverted to the general fund to cover general fund budget shortfalls.

The Maryland Agricultural Land Preservation Foundation, which was established in 1977 and is part of MDA, purchases agricultural preservation easements that forever restrict development on prime farmland and woodland. In addition to funding from the State transfer tax, MALPF also receives funding from the agricultural land transfer tax, local matching funds, and the Federal Farmland Protection Program. As of January 2009, MALPF had cumulatively purchased or had a pending contract to purchase permanent conservation easements on 2,005 farms covering 274,950 acres.

Chapter 43 of 1978 created CDAC to recommend an estimate of State debt to the General Assembly and the Governor. CDAC is chaired by the State Treasurer, and other committee voting members are the Comptroller, the Secretaries of Transportation and Budget and Management, and an individual appointed by the Governor. When reviewing State debt, CDAC considers GO bonds, consolidated transportation bonds, stadium authority bonds, bay restoration bonds, Grant Anticipation Revenue Vehicle revenue bonds, and capital leases supported by State revenues. While the Governor and the General Assembly are not bound by CDAC's recommendations, the State has always adhered to CDAC's recommended limits. CDAC recommended a limit of \$1.11 billion for new authorizations of GO bonds during the 2009 legislative session.

State Fiscal Effect: The bill authorizes up to \$70.0 million in bond funding over an unlimited period of time. This analysis assumes the full \$70.0 million bond authorization is utilized in fiscal 2010, as land prices have declined significantly and many extraordinary land acquisition opportunities exist. Therefore, State bond revenues increase by \$70.0 million in fiscal 2010 for POS and MALPF and special fund expenditures are redirected to pay associated debt service costs in fiscal 2010 and subsequent years. To the extent the bonding authority is deferred, bond revenues and special fund expenditures for payment of debt service are deferred.

To the extent bond revenues are provided in fiscal 2011 through 2013, property transfer tax special fund revenues decrease by the same amount.

Since POS bonds are recognized as State debt upon issuance, to the extent they are issued, there is more competition for limited State debt and debt availability for other purposes decreases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Charles, Frederick, Montgomery, and Somerset counties; Board of Public Works; Department of Budget and Management; Department of Natural Resources; Department of Legislative Services

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