

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 384 (Senator Harris, *et al.*)  
Education, Health, and Environmental Affairs

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Program Open Space - Impervious Surface Projects - Prohibition

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This bill prohibits local Program Open Space (POS) funding for recreation and open space land to be used for the development of impervious surface. "Impervious surface" includes structures, buildings, dwelling units, roads, parking lots, and driveways as well as areas that are covered with gravel, stone, shell, impermeable decking, pavers, or any other impervious materials. "Impervious surface" does not include a fence or wall that is less than one foot in width that has not been constructed with a footer; a wood mulch pathway, a bike pathway, or a walking pathway; or a deck with gaps to allow water to pass freely.

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Fiscal Summary

**State Effect:** The bill does not affect State operations or finances.

**Local Effect:** The bill does not affect the overall funding for local governments; however, it does limit how they may use POS funds.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** POS funds are to be used by the State to acquire land for outdoor public recreation and open space use and by local governments for the acquisition and development of land for recreation and open space.

**Background:** POS, established in 1969 and administered by the Department of Natural Resources, provides funds for State and local acquisition and development of public

outdoor recreational sites, facilities, and open space. The State share focuses on the acquisition of land for natural resource conservation with the inclusion of low-impact recreational activities where appropriate. The local share is used primarily for the acquisition and development of high-impact recreational sites and facilities. Local governments use this funding to create ball fields, playgrounds, tennis courts, boating facilities, fishing sites, hunting areas, forests, golf courses, hiking trails, greenways, and wildlife areas. As of January 7, 2009, the State share had preserved 292,866 acres and the local share had preserved 43,310 acres.

Impervious surfaces are generally constructed surfaces covered by impenetrable materials such as asphalt, concrete, brick, compacted soil, and stone. Impervious surfaces have a negative impact on air and water resources as they seal the soil surface, eliminating water infiltration and natural groundwater recharge and allowing pollutants to accumulate. Many of these pollutants are subsequently washed into water bodies by stormwater runoff, reducing water quality. Impervious surfaces absorb heat and become urban heat islands that prompt increased energy consumption in buildings. Furthermore, impervious surfaces deprive tree roots of aeration, reducing forest canopy shade that would otherwise moderate urban climate.

**Local Fiscal Effect:** Local governments use a significant portion of their POS funds for projects that create impervious surfaces. Typical POS projects include restrooms, picnic pavilions, visitor centers, parking lots, and rubber surfacing that facilitates handicap accessibility and increases playground safety. Since POS is a significant source of funding for local recreational site development, the bill requires local governments to identify alternative funding sources or eliminate recreational site development projects.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Maryland Department of Planning, Department of Legislative Services

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