

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1415

(Chair, Environmental Matters Committee)(By Request -
Departmental - Natural Resources)

Environmental Matters

Natural Resources - Program Open Space Contingency Fund

This departmental bill increases, from \$250,000 to \$750,000, the maximum allowable amount of funding in the Program Open Space (POS) Contingency Fund.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on State finances.

Local Effect: None.

Small Business Effect: The Department of Natural Resources (DNR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The POS Contingency Fund is a nonlapsing, revolving fund, which may not exceed \$250,000, consisting of DNR capital project funding in excess of the amount required and funds allocated by the Governor. The fund may be used to supplement an existing appropriation for a DNR capital or critical maintenance project.

DNR may request Board of Public Works (BPW) authorization for an expenditure from the fund if all reasonable attempts to reduce the cost of the capital project have been made; no practical alternative exists for securing funding to complete the capital or

critical maintenance project; and the requested funding does not increase the scope of the capital project. Prior to seeking BPW approval, DNR and the Department of Budget and Management must (1) provide written notice to the budget committees on the planned use of the funds; and (2) allow 45 days for review and comment by the budget committees unless the additional funds necessary do not exceed 20% of the original appropriation for any project and are necessary to prevent a work stoppage on the project.

DNR must submit a report to the General Assembly by January 1 of each year on the monies deposited in the fund, authorized for expenditure from the fund, and expended from the fund.

Unless otherwise specified by law, the authority to spend an appropriation for a capital project terminates, except to the extent BPW has encumbered money for a State project or program authorized by an appropriation act, seven years after the effective date of the appropriation act that authorized the project.

Background: The current funding cap has been in place since 1998 and may limit the fund's effectiveness as the number and cost of DNR construction projects increase. DNR advises that up to \$750,000 in excess funds from completed projects are currently available to transfer into the fund so that they can be used for other capital projects. Because the fund is already at the \$250,000 limit, however, the transfer cannot take place under current law. If the funding limit is not increased, DNR may be required to revert prior year funds due to the seven-year limit on the authority to spend a capital appropriation authorized on or after June 1, 1997.

In 2008, Legislative Services recommended approval of transfers from the POS Contingency Fund to the Somerset Forestry Office project and the Sassafras Natural Resources Management Area site improvements project. At the same time, Legislative Services noted that the \$250,000 cap on the fund is inadequate and recommended that DNR review the fund to determine an appropriate fund balance ceiling and propose legislation to amend statute.

A similar fund, the State's Construction Contingency Fund, receives an appropriation every year and has a statutorily mandated cap of 1.25% of the capital debt affordability limit.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 17, 2009
ncs/ljm

Analysis by: Amanda Mock

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Natural Resources – Program Open Space Contingency Fund

BILL NUMBER: HB 1415

PREPARED BY: Department of Natural Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.