

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1373 (Delegate Frush, *et al.*)  
Ways and Means and Environmental  
Matters

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Board of Public Works - Tax Forgiveness - Authority

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This bill authorizes the Board of Public Works (BPW), in connection with the acquisition of a property from an estate by the State or a local government, to waive any State tax liability, including penalties and interest, owed by the estate if the Department of Natural Resources (DNR) submits a formal request to BPW to waive the State tax liabilities associated with the property. DNR may submit such a request if DNR determines that the property is necessary to preserve open space for the benefit of natural habitat or the Chesapeake Bay and its tributaries.

The bill takes effect July 1, 2010.

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Fiscal Summary

**State Effect:** General and special fund revenues decrease beginning in FY 2011 to the extent BPW waives State tax liabilities associated with various estates. Any decrease in property tax revenues may require a general fund expenditure increase or an increase in the State property tax rates to offset the reduction. Special fund and general obligation bond expenditures decrease beginning in FY 2011 to the extent waiving State tax liabilities allows DNR to acquire property at a lower price.

**Local Effect:** Local government expenditures decrease to the extent waiving State tax liabilities allows local land conservation programs to acquire property at a lower price.

**Small Business Effect:** Potential meaningful.

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## Analysis

### Current Law/Background:

#### *Board of Public Works*

BPW is composed of the Governor, Comptroller, and Treasurer and is responsible for ensuring that significant State expenditures are necessary and appropriate, fiscally responsible, fair, and lawful. Among other things, BPW:

- approves the sale, lease, or transfer of State real and personal property;
- approves the expenditure of all general obligation bond funds;
- approves the expenditure of funds for capital improvements, except for State roads, bridges, and highways;
- controls procurement policy, adopts procurement regulations, and approves most contracts exceeding \$200,000; and
- approves allocation of funds paid to each county for school construction and adopts rules for the administration of the public school construction program.

BPW does not have the authority to waive State tax liabilities.

#### *Program Open Space (POS)*

POS, established in 1969 and administered by DNR, provides funds for State and local conservation acquisitions 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 jurisdiction's share is used primarily for the acquisition and development of high-impact recreational sites and facilities. As of January 6, 2010, the State share had preserved 302,538 acres and the local share had preserved 44,205 acres. **Exhibit 1** illustrates POS acquisition acres approved by BPW in recent years. While bond funds have been provided recently, POS is principally 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.

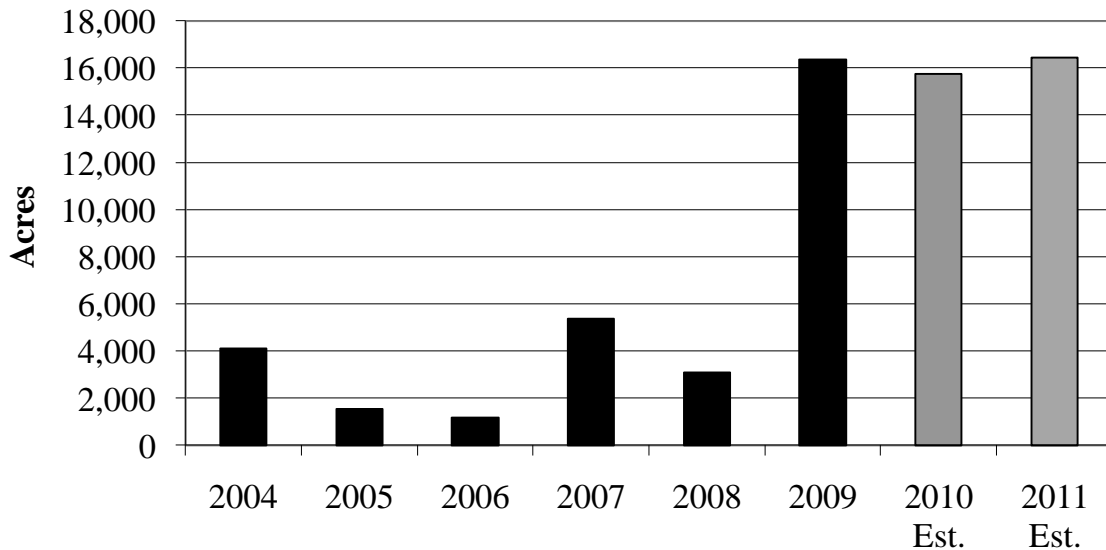
**State Fiscal Effect:** To the extent BPW waives State tax liabilities associated with various estates beginning in fiscal 2011, general fund revenues and/or special fund revenues decrease. Estate taxes and individual income taxes are paid into the general fund. Beginning in fiscal 2011, corporate income taxes are paid into the general fund and the Transportation Trust Fund. State property taxes are paid into the Annuity Bond Fund.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund, which is funded with State property taxes, among other revenue sources. Thus, if property taxes are waived, general fund expenditures may increase in an amount equal to the decrease in the Annuity Bond Fund revenues or the State property tax rate may increase to meet debt service payments, assuming the fund balance is not adequate to cover the State property tax revenue reduction. The fiscal 2011 State budget includes \$833.4 million for general obligation debt service costs, all of which are special funds from the Annuity Bond Fund.

Special fund and general obligation bond expenditures decrease in fiscal 2011 and future years to the extent waiving State tax liabilities allows DNR to acquire property at a lower price.

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**Exhibit 1**  
**POS Acquisition Acres Approved by the Board of Public Works**  
**Fiscal 2004-2011**



Source: Governor's Budget Books, Fiscal 2006-2011

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**Small Business Effect:** Small businesses may benefit to the extent they sell property to the State or a local government and the State waives any State tax liabilities associated with the property or estate.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation, Board of Public Works, Department of Natural Resources, Comptroller's Office, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 19, 2010  
mpc/lgc

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