

**Department of Legislative Services**  
 Maryland General Assembly  
 2015 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 134 (Senator Edwards, *et al.*)  
 Budget and Taxation and Education, Health, Rules and Executive Nominations  
 and Environmental Affairs

**Open Space Incentive Program - Payments to Counties**

This bill establishes an Open Space Incentive Program to make specified annual payments, beginning in fiscal 2017, to counties that have more than 50,000 acres of land that consists of State forests, State parks, and wildlife management areas. The payments replace, in the affected counties, existing payments to counties of a portion of revenues generated from State forests and parks.

The bill takes effect July 1, 2015.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$4.0 million annually beginning in FY 2017 due to payments to at least Allegany and Garrett counties under the Open Space Incentive Program, subject to adjustments based on the Consumer Price Index (CPI) every two years beginning in FY 2018. Special fund expenditures decrease by at least \$564,900 annually, beginning in FY 2017, due to the elimination of existing revenue sharing payments to those counties. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2017.**

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	4,000,000	4,040,000	4,040,000	4,080,400
SF Expenditure	0	(564,900)	(564,900)	(564,900)	(564,900)
Net Effect	\$0	(\$3,435,100)	(\$3,475,100)	(\$3,475,100)	(\$3,515,500)

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

**Local Effect:** Local government revenues increase by a net amount of at least \$3.4 million in FY 2017 and future years, subject to adjustments based on the CPI.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** Under the Open Space Incentive Program, beginning in fiscal 2017, the State pays each county that has at least six “units of open space” \$250,000 annually for each unit of open space in the county. A “unit of open space” is 10,000 acres of land within a county which consists of State forests, State parks, or wildlife management areas. The payments are based on the number of units of open space in a county in the preceding fiscal year, rounding up to the nearest whole unit of open space (*e.g.*, 50,001 acres is rounded up to six units of open space). Any portions of those lands that counties are able to generate revenue from, through property taxes, payments in lieu of taxes, or, in Garrett County, Deep Creek Lake State Park revenue-sharing, are not included in the determination of a county’s number of units of open space. The Governor must include in the annual budget bill the total amount to be paid to each county as certified by the Secretary of Natural Resources, and the payments are made to the counties in quarterly installments. Beginning in fiscal 2018, and every two years thereafter, the \$250,000 per unit of open space payment is adjusted based on the CPI. The program may not be construed to prohibit the application or collection of a local tax on the extraction of natural resources.

### **Current Law/Background:**

#### *Revenue-sharing – Forest and Park Revenues*

Counties in which State forests and parks comprise less than 10% of the total land area of the county receive 15% of the revenue derived from the State forests and parks in the county, including net revenue from concession operations. Counties in which State forests and parks comprise 10% or more of the total land area of the county receive 25% of the revenue derived from the State forests and parks, including net revenue from concession operations. The remaining revenue derived from State forests and parks is used primarily to fund the Department of Natural Resources’ (DNR) Forest Service and Maryland Park Service.

In fiscal 2010 through 2013, this revenue-sharing was reduced significantly through budget reconciliation legislation (Chapter 487 of 2009 and Chapter 397 of 2011), which limited the revenue-sharing to revenue derived from timber sales (see **Exhibit 1**). The proposed Budget Reconciliation and Financing Act of 2015 (Senate Bill 57/House Bill 72) limits the revenue-sharing to revenue derived from timber sales and net revenue from concession operations in fiscal 2015 and 2016. The Governor’s proposed fiscal 2016 budget includes an associated \$2.5 million general fund reduction for the Maryland Park Service contingent

on the enactment of legislation eliminating existing Maryland Park Service revenue-sharing payments to counties.

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**Exhibit 1**  
**Total Revenue-sharing Payments to Counties**  
**Fiscal 2009-2014**  
**(\$ in Millions)**

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Payments to Counties	\$2.0	\$0.3	\$0.2	\$0.2	\$0.2	\$2.4

Source: Department of Natural Resources

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*Applicability of Property Tax to State Land*

Government-owned property devoted to a governmental use or purpose is generally not subject to property tax. The interest or privilege of a person to whom government-owned property is leased or otherwise made available to use in connection with a for-profit business, however, is subject to property tax as though the lessee or user were the owner of the property, unless the federal or State government owns the property and makes negotiated payments in lieu of tax. Most counties and municipalities have specified authority to authorize an exemption for such interests in government-owned property and to provide for a negotiated payment in lieu of tax. The bill excludes from the calculation of “units of open space” any such State-owned property from which counties receive property tax or payments in lieu of tax or for which counties have authorized property tax exemptions.

*State Forests, State Parks, and Wildlife Management Areas*

DNR’s State Park System covers 137,827 acres, DNR’s State Forest System covers 215,607 acres, and wildlife management areas cover 119,868 acres. Wildlife management areas are areas acquired by DNR to protect, propagate, or manage wildlife, or for hunting purposes.

**State Expenditures:** General fund expenditures increase by at least \$4.0 million annually beginning in fiscal 2017 due to payments to at least Allegany and Garrett counties under the Open Space Incentive Program, subject to adjustments based on the CPI every two years beginning in fiscal 2018. Special fund expenditures decrease by at least \$564,944 annually, beginning in fiscal 2017, due to the elimination of existing revenue sharing payments to at least Allegany and Garrett counties. **Exhibit 2** shows, by county,

the fiscal 2014 existing revenue-sharing payments, the number of units of open space and associated acreage in each county (accounting only for DNR-owned land, as discussed below), and the proposed Open Space Incentive Program payments for fiscal 2017 based on current acreage. This estimate, which is based on information provided by DNR, assumes that:

- State forest and park revenues remain at the fiscal 2014 level through fiscal 2020; and
- payments to counties under the Open Space Incentive Program increase by 1% every two years beginning in fiscal 2018 due to the required increases based on the CPI.

It should be noted that the estimate only accounts for State forests, State parks, and wildlife management area lands that are owned by DNR. Based on the definition in the bill of “State forest,” forest land owned or leased by the State but not controlled by DNR also would be included in the calculation of “units of open space,” upon which payments under the program are based. It is not known at this time how much additional land that is not controlled by DNR might qualify under the bill as forest land owned or leased by the State or to what extent that might increase the fiscal impact of the bill.

In addition, to the extent the amount of land that consists of State forests, State parks, or wildlife management areas increases in future years, general fund expenditures increase (1) by \$1.5 million annually for each additional county that reaches six units of open space and (2) by \$250,000 for each additional unit of open space beyond six units in those additional counties and each additional unit of open space in Allegany and Garrett counties. Special fund expenditures also decrease by additional amounts annually based on the amount of the revenue sharing payments that are replaced by the new payments under the Open Space Incentive Program in each additional county that reaches six units of open space.

DNR acquires, on average, 5,000 acres of land per year through Program Open Space, much of which is added to DNR’s State parks, State forests, and wildlife management areas.

**Exhibit 2**  
**Existing and Proposed Payments to Counties**

<b><u>County</u></b>	<b><u>Existing Revenue-sharing Payments</u></b>	<b><u>Acreage of Forests, Parks, and WMAs*</u></b>	<b><u>Units of Open Space</u></b>	<b><u>Proposed OSIP Payments in FY 2017</u></b>
Allegany	\$230,454	66,817	7	\$1,750,000
Anne Arundel	277,463	4,568	1	0
Baltimore City	0	0	0	0
Baltimore	176,922	21,474	3	0
Calvert	4,788	3,065	1	0
Caroline	59,193	7,223	1	0
Carroll	17,351	4,819	1	0
Cecil	82,891	13,585	2	0
Charles	19,663	20,001	3	0
Dorchester	8,281	46,660	5	0
Frederick	123,399	12,440	2	0
Garrett	334,490	82,174	9	2,250,000
Harford	126,937	6,913	1	0
Howard	78,712	9,787	1	0
Kent	0	4,951	1	0
Montgomery	94,796	12,384	2	0
Prince George's	13,418	6,265	1	0
Queen Anne's	13,021	4,606	1	0
St. Mary's	116,971	7,072	1	0
Somerset	50,621	47,984	5	0
Talbot	0	238	1	0
Washington	116,546	22,527	3	0
Wicomico	5,028	22,703	3	0
Worcester	467,691	40,331	5	0
<b>Total</b>	<b>\$2,418,636</b>	<b>468,587</b>	<b>60</b>	<b>\$4,000,000</b>

\*Based on information provided by DNR, the Deep Creek Lake Natural Resources Management Area (4,714 acres) is excluded from the Garrett County acreage shown in the exhibit to account for the bill's requirement that "the portion of Deep Creek Lake State Park that is attributable to payments required under §5-215 of the Natural Resources Article" be excluded from the determination of the number of units of open space. The Department of Legislative Services notes, however, that it is unclear what land, specifically, is subject to that exclusion.

OSIP: Open Space Incentive Program

Source: Department of Natural Resources; Department of Legislative Services

**Local Revenues:** Local government revenues increase by a net amount of at least \$3.4 million in fiscal 2017 and future years, reflecting increased revenues in at least Allegany and Garrett counties, subject to adjustments based on the CPI every two years beginning in fiscal 2018. This estimate reflects the \$4.0 million in Open Space Incentive Program payments less the \$564,944 in existing revenue-sharing payments these counties receive in the absence of the bill.

To the extent the amount of land that consists of State forests, State parks, or wildlife management areas increases in future years, local government revenues (1) increase in each additional county that reaches six units of open space, by the net amount resulting from the replacement of the county's existing revenue sharing payment with the new payment under the Open Space Incentive Program and (2) further increase in Allegany and Garrett counties, by \$250,000 for each additional unit of open space.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1091 (Delegate Beitzel, *et al.*) – Environment and Transportation.

**Information Source(s):** Department of Natural Resources; Department of Budget and Management; State Department of Assessments and Taxation; Allegany, Dorchester, Frederick, Garrett, Howard, Montgomery, Queen Anne's, Washington, and Worcester counties; Baltimore City; Maryland Association of Counties; Department of Legislative Services

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