

HOUSE BILL 1409

Q1, M1
HB 1091/15 – ENV

6lr2170
CF SB 263

By: **Delegates Otto and Beitzel**

Introduced and read first time: February 12, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 5, 2016

CHAPTER _____

1 AN ACT concerning

2 **Payment in Lieu of Taxes – ~~State Forests, State Parks, and Wildlife Management~~**
3 **Areas State Forest and State Park Land**

4 FOR the purpose of ~~prohibiting a county from receiving certain revenues derived from a~~
5 ~~State forest or State park reserve within a county if the county receives a certain~~
6 ~~payment in a fiscal year; prohibiting a county from receiving certain revenues~~
7 ~~derived from concession operations within a State forest or State park if the county~~
8 ~~receives a certain payment in a fiscal year; requiring certain payments to counties~~
9 ~~for State forests, State parks, and wildlife management areas that are exempt from~~
10 ~~the property tax; providing for the amount of the payments; establishing eligibility~~
11 ~~criteria for a county to receive certain payments for State forests, State parks, and~~
12 ~~wildlife management areas that are exempt from the property tax; providing for a~~
13 ~~triennial adjustment to the amount of the payments beginning in a certain fiscal~~
14 ~~year; establishing the manner of determining which land is considered in~~
15 ~~determining the amount of the payment; clarifying how to apportion the land in a~~
16 ~~State forest, State park, or wildlife management area that is contained in multiple~~
17 ~~counties; clarifying when land shall be included in the total number of acres for a~~
18 ~~county in a fiscal year; excluding certain lands from being included in the total~~
19 ~~number of acres in a county; requiring the Secretary of Natural Resources to certify~~
20 ~~certain information to the Governor and the Secretary of Budget and Management~~
21 ~~on or before a certain date each year; requiring the Governor to include certain~~
22 ~~amounts to be paid to each county in the annual budget bill; requiring the State to~~
23 ~~pay to each county a certain percent of a certain payment on or before certain dates;~~
24 ~~clarifying that the provisions of this Act may not be construed to prohibit the~~
25 ~~application of or collection of certain taxes; defining certain terms; requiring the~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 State to make certain payments to counties as a payment in lieu of taxes for State
 2 forest and State park land located in the county for certain fiscal years; requiring the
 3 Governor to include certain amounts to be paid to each county in the annual budget
 4 bill; requiring the State Department of Assessments and Taxation to complete an
 5 update of a certain study and submit the updated study to the Governor and the
 6 General Assembly on or before a certain date; providing for the termination of this
 7 Act; and generally relating to payments to counties for State forests, State parks,
 8 and wildlife management areas within forest and State park land located in a county.

9 BY repealing and reenacting, without amendments,
 10 Article – Natural Resources
 11 Section ~~5-101(a) and (c) and 10-801~~ 5-212 and 5-212.1
 12 Annotated Code of Maryland
 13 (2012 Replacement Volume and 2015 Supplement)

14 ~~BY repealing and reenacting, with amendments,~~
 15 ~~Article – Natural Resources~~
 16 ~~Section 5-212 and 5-212.1~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(2012 Replacement Volume and 2015 Supplement)~~

19 BY repealing and reenacting, without amendments,
 20 Article – Tax – Property
 21 Section ~~6-102, 7-210, 7-211(e), and 7-501(a) and (b)~~
 22 Annotated Code of Maryland
 23 (2012 Replacement Volume and 2015 Supplement)

24 BY adding to
 25 Article – Tax – Property
 26 Section ~~6.5-101 through 6.5-301~~ to be under the new title “Title 6.5. Open Space
 27 Incentive Program Payment in Lieu of Taxes for State Forest and State Park
 28 Land”
 29 Annotated Code of Maryland
 30 (2012 Replacement Volume and 2015 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 32 That the Laws of Maryland read as follows:

33 Article – Natural Resources

34 ~~5-101.~~

35 ~~(a) In this title the following words have the meanings indicated.~~

36 ~~(c) (1) “Forest land” means a biological community dominated by trees and~~
 37 ~~other woody plants that are capable of producing timber or other wood products with a~~

1 ~~stocking of at least 100 trees per acre with at least 50% of those trees having a 2-inch or~~
2 ~~greater diameter at 4.5 feet above the ground.~~

3 ~~(2) "Forest land" includes forested areas that have been cut but not~~
4 ~~converted to other land uses.~~

5 5-212.

6 (a) In this section, "Fund" means the Forest or Park Reserve Fund.

7 (b) There is a Forest or Park Reserve Fund in the Department.

8 (c) The purpose of the Fund is to enable the Department to purchase and manage
9 in the name of the State lands suitable for forest culture, reserves, watershed protection,
10 State parks, scenic preserves, historic monuments, parkways, and State recreational
11 reserves.

12 (d) The Department shall administer the Fund.

13 (e) (1) The Treasurer shall hold the Fund separately and the Comptroller shall
14 account for the Fund.

15 (2) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of
16 the State Finance and Procurement Article.

17 (f) The Fund consists of:

18 (1) Except as provided in § 5-307(f)(4) of this title, any money obtained
19 from the State forest reserves, State parks, scenic reserves, parkways, historic monuments,
20 and recreation areas;

21 (2) Revenue distributed to the Fund from fines collected under § 5-1302 of
22 this title; and

23 (3) Revenue received by the Fund under § 5-207(b) of this subtitle.

24 (g) (1) Subject to ~~[paragraph] PARAGRAPHS (3) AND (4)~~ of this subsection,
25 the Fund may be used only for:

26 (i) 1. Purchasing and managing in the name of the State lands
27 suitable for forest culture, reserves, watershed protection, State parks, scenic preserves,
28 historic monuments, parkways, and State recreational reserves; and

29 2. Helping to offset the costs to the Forest and Park Service
30 for developing and implementing a forest health emergency contingency program under §
31 5-307 of this title;

1 (ii) Subject to ~~[paragraph] PARAGRAPHS (2) AND (4)~~ of this
2 subsection, payments to counties in the amount of:

3 1. If the State forest or park reserve comprises less than 10%
4 of the total land area of the county, a sum equal to 15% of the revenue derived from the
5 State forest or park reserve located in that county; and

6 2. If the State forest or park reserve comprises 10% or more
7 of the total land area of the county, a sum equal to 25% of the revenue derived from the
8 State forest or park reserve located in that county; and

9 (iii) Administrative costs calculated in accordance with § 1-103(b)(2)
10 of this article.

11 (2) For fiscal years 2012, 2013, and 2015 only, the payments under
12 paragraph (1)(ii) of this subsection shall be based only on the revenue derived from sales of
13 timber.

14 (3) From revenues described in subsection (f) of this section that are
15 attributable to Maryland Park Service operations, less any amount of those revenues
16 allocated for administrative costs in accordance with paragraph (1)(iii) of this subsection,
17 the Governor shall include in the State budget an appropriation for the Maryland Park
18 Service equal to:

19 (i) At least 60% of the remaining revenues, for fiscal year 2016;

20 (ii) At least 80% of the remaining revenues, for fiscal year 2017; and

21 (iii) 100% of the remaining revenues, for fiscal year 2018 and each
22 fiscal year thereafter.

23 ~~(4) A COUNTY MAY NOT RECEIVE A PAYMENT UNDER PARAGRAPH~~
24 ~~(1)(II) OF THIS SUBSECTION IN A FISCAL YEAR IF THE COUNTY RECEIVES A PAYMENT~~
25 ~~FROM THE STATE UNDER § 6.5 201 OF THE TAX PROPERTY ARTICLE IN THE SAME~~
26 ~~FISCAL YEAR.~~

27 (h) (1) The Treasurer shall invest the money of the Fund in the same manner
28 as other State money may be invested.

29 (2) Any investment earnings of the Fund shall be credited to the General
30 Fund of the State.

31 (i) Expenditures from the Fund may be made only in accordance with the State
32 budget.

33 5-212.1.

- 1 (a) (1) In this section the following words have the meanings indicated.
- 2 (2) "Account" means the Forest and Park Concession Account.
- 3 (3) (i) "Concession operations" means activities within a State forest or
4 park that:
- 5 1. Raise revenue;
 - 6 2. Function under a separate budget system; and
 - 7 3. Supplement the operation of the facility where it is
8 located.
- 9 (ii) "Concession operations" includes:
- 10 1. Food concessions;
 - 11 2. Boat rentals;
 - 12 3. Gift shops;
 - 13 4. Marine sales;
 - 14 5. Snack bars; and
 - 15 6. Camp stores.
- 16 (b) There is a Forest and Park Concession Account in the Department.
- 17 (c) The purpose of the Account is to finance:
- 18 (1) The maintenance and operation of concession operations; and
 - 19 (2) The functions of State forests and parks.
- 20 (d) The Department shall administer the Account.
- 21 (e) (1) The Treasurer shall hold the Account separately and the Comptroller
22 shall reconcile the Account.
- 23 (2) The Account is a special, nonlapsing account that is not subject to §
24 7-302 of the State Finance and Procurement Article.
- 25 (f) The Account consists of any money derived from concession operations in
26 State forests and parks.

1 (g) (1) Except as provided in paragraph (2) of this subsection, the Account
2 shall be used only for:

3 (i) The maintenance and operation of concession operations;

4 (ii) The function of State forests and parks to the extent of the
5 projected balance of the Account from the prior fiscal year; and

6 (iii) Administrative costs calculated in accordance with § 1-103(b)(2)
7 of this article.

8 (2) (i) Subject to ~~[subparagraph] SUBPARAGRAPHS~~ (ii) ~~AND (III)~~ of
9 this paragraph, each county in which any State forest or park is located shall be paid
10 annually out of the Account:

11 1. If the State forest or park reserve comprises less than 10%
12 of the total land area of the county, a sum equal to 15% of the net revenue derived from
13 concession operations within a State forest or park located in that county; or

14 2. If the State forest or park reserve comprises 10% or more
15 of the total land area of the county, a sum equal to 25% of the net revenue derived from
16 concession operations within a State forest or park located in that county.

17 (ii) For fiscal year 2015 only, the payments under subparagraph (i)
18 of this subsection may not be made.

19 ~~(III) A COUNTY MAY NOT RECEIVE A PAYMENT UNDER~~
20 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH IN A FISCAL YEAR IF THE COUNTY~~
21 ~~RECEIVES A PAYMENT FROM THE STATE UNDER § 6.5-201 OF THE TAX PROPERTY~~
22 ~~ARTICLE IN THE SAME FISCAL YEAR.~~

23 (h) (1) The Treasurer shall invest the money of the Account in the same
24 manner as other State money may be invested.

25 (2) Any investment earnings of the Account shall be credited to the General
26 Fund of the State.

27 (i) (1) Expenditures from the Account may be made only in accordance with
28 the State budget.

29 (2) The budget submitted by the Governor to the General Assembly shall
30 include the revenues and expenditures of the Account in the same detail as other special
31 fund accounts administered by the Department.

32 ~~10-801.~~

~~(1) by the federal government, the State, a county, a municipal corporation, or an agency or instrumentality of the federal government, the State, a county, or a municipal corporation; and~~

~~(2) with the privilege to use the property in connection with a business that is conducted for profit.~~

TITLE 6.5. OPEN SPACE INCENTIVE PROGRAM PAYMENT IN LIEU OF TAXES FOR STATE FOREST AND STATE PARK LAND.

SUBTITLE 1. GENERAL PROVISIONS.

6.5-101.

(A) FOR FISCAL YEAR 2018 AND FISCAL YEAR 2019, THE STATE SHALL PAY TO EACH COUNTY AS A PAYMENT IN LIEU OF TAXES FOR STATE FOREST AND STATE PARK LAND LOCATED IN THE COUNTY AN AMOUNT EQUIVALENT TO THE PAYMENTS RECEIVED BY THE COUNTY UNDER §§ 5-212(G)(1)(II) AND 5-212.1(G)(2)(I) OF THE NATURAL RESOURCES ARTICLE.

(B) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL THE TOTAL AMOUNT TO BE PAID TO EACH COUNTY AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

~~(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "FOREST LAND" HAS THE MEANING STATED IN § 5-101 OF THE NATURAL RESOURCES ARTICLE.~~

~~(C) "STATE FOREST" MEANS FOREST LAND OWNED OR LEASED BY THE STATE.~~

~~(D) "STATE PARK" MEANS A PARK OWNED BY THE STATE THAT IS PROMOTED, ADMINISTERED, OR MANAGED BY THE DEPARTMENT OF NATURAL RESOURCES.~~

~~(E) (1) "UNIT OF OPEN SPACE" MEANS 10,000 ACRES OF LAND WITHIN A COUNTY THAT CONSISTS OF STATE FORESTS, STATE PARKS, OR WILDLIFE MANAGEMENT AREAS.~~

~~(2) A "UNIT OF OPEN SPACE" MAY BE LESS THAN 10,000 ACRES AS PROVIDED UNDER § 6.5-201 OF THIS TITLE.~~

~~(F) "WILDLIFE MANAGEMENT AREA" MEANS LAND ACQUIRED AND USED BY THE STATE IN ACCORDANCE WITH TITLE 10, SUBTITLE 8 OF THE NATURAL RESOURCES ARTICLE.~~

~~6.5-102.~~

~~THIS TITLE APPLIES TO STATE FORESTS, STATE PARKS, AND WILDLIFE MANAGEMENT AREAS THAT ARE EXEMPT FROM THE PROPERTY TAX UNDER § 7-210 OF THIS ARTICLE.~~

~~SUBTITLE 2. PAYMENTS TO COUNTIES.~~

~~6.5-201.~~

~~(A) (1) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, BEGINNING IN FISCAL YEAR 2018 AND EACH FISCAL YEAR THEREAFTER, THE STATE SHALL PAY TO EACH COUNTY \$250,000 FOR EACH UNIT OF OPEN SPACE IN THE COUNTY.~~

~~(2) THE PAYMENTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY IN THE PRECEDING FISCAL YEAR.~~

~~(3) (I) IN FISCAL YEAR 2018, A COUNTY MAY NOT RECEIVE A PAYMENT IN ACCORDANCE WITH THIS SECTION UNLESS THE COUNTY HAS AT LEAST SEVEN UNITS OF OPEN SPACE.~~

~~(II) IN FISCAL YEAR 2019, A COUNTY MAY NOT RECEIVE A PAYMENT IN ACCORDANCE WITH THIS SECTION UNLESS THE COUNTY HAS AT LEAST FOUR UNITS OF OPEN SPACE.~~

~~(4) (I) IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED MONTHLY BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR THAT IS THE U.S. CITY AVERAGE OF ALL ITEMS IN A BASKET OF CONSUMER GOODS AND SERVICES.~~

~~(II) BEGINNING WITH PAYMENTS MADE IN FISCAL YEAR 2021, AND EVERY 3 YEARS THEREAFTER, THE AMOUNT THE STATE IS REQUIRED TO PAY FOR EACH UNIT OF OPEN SPACE SHALL BE ADJUSTED TO REFLECT THE CHANGE IN THE CONSUMER PRICE INDEX FROM JULY 1 OF THE THIRD PRECEDING FISCAL YEAR THROUGH JUNE 30 OF THE PRECEDING FISCAL YEAR.~~

1 ~~(B) THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY SHALL BE~~
2 ~~DETERMINED BY:~~

3 ~~(1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE TOTAL~~
4 ~~NUMBER OF ACRES IN A COUNTY THAT ARE INCLUDED IN A STATE FOREST, STATE~~
5 ~~PARK, OR WILDLIFE MANAGEMENT AREA;~~

6 ~~(2) ROUNDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (1)~~
7 ~~OF THIS SUBSECTION UP TO THE NEAREST WHOLE ACRE;~~

8 ~~(3) DIVIDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (2)~~
9 ~~OF THIS SUBSECTION BY 10,000; AND~~

10 ~~(4) ROUNDING THE NUMBER DETERMINED UNDER ITEM (3) OF THIS~~
11 ~~SUBSECTION UP TO THE NEAREST WHOLE NUMBER.~~

12 ~~(C) IF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT AREA IS~~
13 ~~CONTAINED WITHIN THE BOUNDARIES OF MORE THAN ONE COUNTY, THE NUMBER~~
14 ~~OF ACRES ATTRIBUTABLE TO THAT STATE FOREST, STATE PARK, OR WILDLIFE~~
15 ~~MANAGEMENT AREA SHALL BE ALLOCATED TO EACH COUNTY BASED ON THE~~
16 ~~PERCENTAGE CONTAINED WITHIN EACH COUNTY.~~

17 ~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~
18 ~~LAND THAT IS PART OF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT~~
19 ~~AREA AT ANY TIME DURING A FISCAL YEAR SHALL BE INCLUDED WHEN~~
20 ~~DETERMINING THE TOTAL NUMBER OF ACRES UNDER SUBSECTION (B) OF THIS~~
21 ~~SECTION.~~

22 ~~(2) THE FOLLOWING MAY NOT BE INCLUDED WHEN DETERMINING~~
23 ~~THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY:~~

24 ~~(I) PROPERTY THAT IS SUBJECT TO PROPERTY TAX UNDER §~~
25 ~~6-102 OF THIS ARTICLE;~~

26 ~~(II) PROPERTY THAT IS EXEMPT FROM PROPERTY TAX IN~~
27 ~~ACCORDANCE WITH § 7-501 OF THIS ARTICLE;~~

28 ~~(III) STATE PROPERTY FOR WHICH A PAYMENT IN LIEU OF TAX~~
29 ~~AGREEMENT IS IN EFFECT UNDER § 7-211(C) OR § 7-501 OF THIS ARTICLE; OR~~

30 ~~(IV) THE PORTION OF DEEP CREEK LAKE STATE PARK THAT IS~~
31 ~~ATTRIBUTABLE TO PAYMENTS REQUIRED UNDER § 5-215 OF THE NATURAL~~
32 ~~RESOURCES ARTICLE.~~

~~6.5-202.~~

~~(A) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, THE SECRETARY OF NATURAL RESOURCES SHALL CERTIFY TO THE GOVERNOR AND THE SECRETARY OF BUDGET AND MANAGEMENT:~~

~~(I) THE TOTAL NUMBER OF UNITS OF OPEN SPACE IN EACH COUNTY, AS DETERMINED UNDER § 6.5-201 OF THIS SUBTITLE; AND~~

~~(II) THE TOTAL AMOUNT TO BE PAID BY THE STATE TO EACH COUNTY AS DETERMINED UNDER § 6.5-201 OF THIS SUBTITLE.~~

~~(2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL THE TOTAL AMOUNT TO BE PAID TO EACH COUNTY AS CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(B) ON OR BEFORE OCTOBER 1, JANUARY 1, APRIL 1, AND JUNE 1 EACH FISCAL YEAR, THE STATE SHALL PAY 25% OF THE AMOUNT CERTIFIED UNDER SUBSECTION (A) OF THIS SECTION TO EACH COUNTY.~~

~~SUBTITLE 3. MISCELLANEOUS.~~~~6.5-301.~~

~~(A) IN THIS SECTION, "LOCAL TAX" MEANS A TAX IMPOSED BY A COUNTY OR MUNICIPAL CORPORATION.~~

~~(B) THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT THE APPLICATION OF OR COLLECTION OF A LOCAL TAX ON THE EXTRACTION OF NATURAL RESOURCES.~~

7-210.

(a) Except as otherwise provided in § 6-102 of this article and except as otherwise provided under this section, government-owned property is not subject to property tax, if the property:

(1) is devoted to a governmental use or purpose; and

(2) is owned by:

(i) the federal government;

(ii) the State;

(iii) a county or a municipal corporation; or

(iv) an agency or instrumentality of the federal government, the State, a county, or of a municipal corporation.

(b) The exemption provided for the property owned by an agency or instrumentality in subsection (a)(2)(iv) of this section applies only to the extent that a law exempts the property.

~~7-211.~~

~~(e) (1) Except for an interest in federal enclave property as defined in § 7-211.3 of this subtitle, an interest of a person in any property of the federal government or the State is not subject to property tax, if the government that owns the property makes negotiated payments in lieu of tax payments.~~

~~(2) Land owned by the federal government that is the location for federal enclave property as defined in § 7-211.3 of this subtitle is not subject to property tax.~~

~~7-501.~~

~~(a) The governing body of Allegany County, Anne Arundel County, Montgomery County, or Washington County or the governing body of a municipal corporation in those counties may authorize, by law, an exemption from county or municipal corporation property tax for the property that is described in § 6-102(c) of this article.~~

~~(b) Except for an interest in federal enclave property as defined in § 7-211.3 of this title, in all counties except Worcester County, the governing body of the county or of a municipal corporation in those counties or the Mayor and City Council of Baltimore City may authorize, by law, an exemption from county or municipal corporation property tax for the property described in § 6-102(c) of this article and provide for a negotiated payment in lieu of the tax.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The State Department of Assessments and Taxation shall complete an update of the study of the impact of real property tax exemptions on county revenue that was completed by the Department of Legislative Services in January 2014. The updated study shall include:

(1) the total value of tax-exempt property statewide and in each county, including as a percentage of the county's assessable base;

(2) the total value of tax-exempt property statewide and in each county, categorized by type of exemption, including at a minimum:

(i) federal government property;

1 (ii) State government property;

2 (iii) local government property;

3 (iv) educational property;

4 (v) religious property; and

5 (vi) charitable and fraternal property;

6 (3) the total revenue foregone due to tax-exempt property statewide and
7 in each county and the property tax rate equivalent of the foregone revenue;

8 (4) the revenue foregone due to tax-exempt property statewide and in each
9 county categorized by type of exemption and the property tax rate equivalent of the
10 foregone revenue;

11 (5) the five tax-exempt properties with the highest assessed value in each
12 county; and

13 (6) the number of payment in lieu of taxes agreements with tax-exempt
14 entities and the amount of revenue raised through payment in lieu of taxes agreements
15 statewide and in each county.

16 (b) On or before July 1, 2017, the State Department of Assessments and Taxation
17 shall submit the updated study to the Governor and, in accordance with § 2-1246 of the
18 State Government Article, the General Assembly.

19 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2016. It shall remain effective for a period of 3 years and, at the end of June 30,
21 2019, with no further action required by the General Assembly, this Act shall be abrogated
22 and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.