

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

A BILL ENTITLED

1 AN ACT concerning

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

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; and generally
26 relating to payments to counties for State forests, State parks, and wildlife
27 management areas within a county.

28 BY repealing and reenacting, without amendments,
29 Article – Natural Resources
30 Section 5–101(a) and (e) and 10–801

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2015 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Natural Resources
5 Section 5–212 and 5–212.1
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2015 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Tax – Property
10 Section 6–102, 7–210, 7–211(c), and 7–501(a) and (b)
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2015 Supplement)

13 BY adding to
14 Article – Tax – Property
15 Section 6.5–101 through 6.5–301 to be under the new title “Title 6.5. Open Space
16 Incentive Program”
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2015 Supplement)

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

21 **Article – Natural Resources**

22 5–101.

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

24 (e) (1) “Forest land” means a biological community dominated by trees and
25 other woody plants that are capable of producing timber or other wood products with a
26 stocking of at least 100 trees per acre with at least 50% of those trees having a 2–inch or
27 greater diameter at 4.5 feet above the ground.

28 (2) “Forest land” includes forested areas that have been cut but not
29 converted to other land uses.

30 5–212.

31 (a) In this section, “Fund” means the Forest or Park Reserve Fund.

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

33 (c) The purpose of the Fund is to enable the Department to purchase and manage
34 in the name of the State lands suitable for forest culture, reserves, watershed protection,

1 State parks, scenic preserves, historic monuments, parkways, and State recreational
2 reserves.

3 (d) The Department shall administer the Fund.

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

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

8 (f) The Fund consists of:

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

12 (2) Revenue distributed to the Fund from fines collected under § 5–1302 of
13 this title; and

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

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

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

20 2. Helping to offset the costs to the Forest and Park Service
21 for developing and implementing a forest health emergency contingency program under §
22 5–307 of this title;

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

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

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

31 (iii) Administrative costs calculated in accordance with § 1–103(b)(2)
32 of this article.

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

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

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

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

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

13 **(4) A COUNTY MAY NOT RECEIVE A PAYMENT UNDER PARAGRAPH**
14 **(1)(II) OF THIS SUBSECTION IN A FISCAL YEAR IF THE COUNTY RECEIVES A PAYMENT**
15 **FROM THE STATE UNDER § 6.5-201 OF THE TAX – PROPERTY ARTICLE IN THE SAME**
16 **FISCAL YEAR.**

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

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

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

23 5-212.1.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) “Account” means the Forest and Park Concession Account.

26 (3) (i) “Concession operations” means activities within a State forest or
27 park that:

28 1. Raise revenue;

29 2. Function under a separate budget system; and

30 3. Supplement the operation of the facility where it is
31 located.

1 (ii) "Concession operations" includes:

- 2 1. Food concessions;
- 3 2. Boat rentals;
- 4 3. Gift shops;
- 5 4. Marine sales;
- 6 5. Snack bars; and
- 7 6. Camp stores.

8 (b) There is a Forest and Park Concession Account in the Department.

9 (c) The purpose of the Account is to finance:

10 (1) The maintenance and operation of concession operations; and

11 (2) The functions of State forests and parks.

12 (d) The Department shall administer the Account.

13 (e) (1) The Treasurer shall hold the Account separately and the Comptroller
14 shall reconcile the Account.

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

17 (f) The Account consists of any money derived from concession operations in
18 State forests and parks.

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

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

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

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

26 (2) (i) Subject to [subparagraph] **SUBPARAGRAPHS (ii) AND (iii)** of
27 this paragraph, each county in which any State forest or park is located shall be paid
28 annually out of the Account:

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

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

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

9 **(III) A COUNTY MAY NOT RECEIVE A PAYMENT UNDER**
10 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IN A FISCAL YEAR IF THE COUNTY**
11 **RECEIVES A PAYMENT FROM THE STATE UNDER § 6.5–201 OF THE TAX – PROPERTY**
12 **ARTICLE IN THE SAME FISCAL YEAR.**

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

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

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

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

22 10–801.

23 (a) The Department may acquire, by purchase, lease, condemnation, or gift, title
24 or control of any area of land or water in the State suitable to protect, propagate, or manage
25 wildlife or for hunting purposes. The area of land or water shall be known as a wildlife
26 management area. Any area of land or water greater than 100 acres may be acquired in
27 Garrett County or Allegany County only with the approval of that county. This requirement
28 does not apply to any areas which have previously been authorized for acquisition by the
29 General Assembly.

30 (b) The Department may purchase or erect any structure necessary for wildlife
31 management and may purchase or lease any area of land or water excluding the ownership
32 of and the right to drill any mineral, oil, or gas.

33 **Article – Tax – Property**

34 6–102.

1 (a) Except as otherwise provided in this section, a leasehold or other limited
2 interest in property is not subject to property tax.

3 (b) An interest of a life tenant or the owner of any other freehold estate in property
4 is subject to property tax as though the person in possession or the user of the property
5 were the owner of the property.

6 (c) An interest of the mortgagor, pledgor, or conditional sale buyer in personal
7 property is subject to property tax as though the person in possession or the user of the
8 personal property were the owner of the personal property.

9 (d) The following interests in real property are subject to property tax as though
10 the person in possession or the user of the property were the owner of the property:

11 (1) an interest of a tenant under a 99-year lease, whether or not the lease
12 is renewable;

13 (2) an interest of a tenant under a lease for less than 99 years, if the lease
14 is perpetually renewable; and

15 (3) an interest of a mortgagor or grantor under a deed of trust.

16 (e) Unless exempted under § 7-211, § 7-211.1, § 7-244, or § 7-501 of this article,
17 the interest or privilege of a person in property that is owned by the federal government,
18 the State, a county, a municipal corporation, or an agency or instrumentality of the federal
19 government, the State, a county, or a municipal corporation is subject to property tax as
20 though the lessee or the user of the property were the owner of the property, if the property
21 is leased or otherwise made available to that person:

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

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

27 TITLE 6.5. OPEN SPACE INCENTIVE PROGRAM.

28 SUBTITLE 1. GENERAL PROVISIONS.

29 6.5-101.

30 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

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

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

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

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

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

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

16 6.5-102.

17 THIS TITLE APPLIES TO STATE FORESTS, STATE PARKS, AND WILDLIFE
18 MANAGEMENT AREAS THAT ARE EXEMPT FROM THE PROPERTY TAX UNDER §
19 7-210 OF THIS ARTICLE.

20 SUBTITLE 2. PAYMENTS TO COUNTIES.

21 6.5-201.

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

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

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

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

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

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

14 **(B) THE NUMBER OF UNITS OF OPEN SPACE IN A COUNTY SHALL BE**
15 **DETERMINED BY:**

16 **(1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE TOTAL**
17 **NUMBER OF ACRES IN A COUNTY THAT ARE INCLUDED IN A STATE FOREST, STATE**
18 **PARK, OR WILDLIFE MANAGEMENT AREA;**

19 **(2) ROUNDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (1)**
20 **OF THIS SUBSECTION UP TO THE NEAREST WHOLE ACRE;**

21 **(3) DIVIDING THE NUMBER OF ACRES DETERMINED UNDER ITEM (2)**
22 **OF THIS SUBSECTION BY 10,000; AND**

23 **(4) ROUNDING THE NUMBER DETERMINED UNDER ITEM (3) OF THIS**
24 **SUBSECTION UP TO THE NEAREST WHOLE NUMBER.**

25 **(C) IF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT AREA IS**
26 **CONTAINED WITHIN THE BOUNDARIES OF MORE THAN ONE COUNTY, THE NUMBER**
27 **OF ACRES ATTRIBUTABLE TO THAT STATE FOREST, STATE PARK, OR WILDLIFE**
28 **MANAGEMENT AREA SHALL BE ALLOCATED TO EACH COUNTY BASED ON THE**
29 **PERCENTAGE CONTAINED WITHIN EACH COUNTY.**

30 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
31 **LAND THAT IS PART OF A STATE FOREST, STATE PARK, OR WILDLIFE MANAGEMENT**
32 **AREA AT ANY TIME DURING A FISCAL YEAR SHALL BE INCLUDED WHEN**
33 **DETERMINING THE TOTAL NUMBER OF ACRES UNDER SUBSECTION (B) OF THIS**
34 **SECTION.**

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

3 **(I) PROPERTY THAT IS SUBJECT TO PROPERTY TAX UNDER §**
4 **6-102 OF THIS ARTICLE;**

5 **(II) PROPERTY THAT IS EXEMPT FROM PROPERTY TAX IN**
6 **ACCORDANCE WITH § 7-501 OF THIS ARTICLE;**

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

9 **(IV) THE PORTION OF DEEP CREEK LAKE STATE PARK THAT IS**
10 **ATTRIBUTABLE TO PAYMENTS REQUIRED UNDER § 5-215 OF THE NATURAL**
11 **RESOURCES ARTICLE.**

12 **6.5-202.**

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

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

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

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

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

26 **SUBTITLE 3. MISCELLANEOUS.**

27 **6.5-301.**

28 **(A) IN THIS SECTION, “LOCAL TAX” MEANS A TAX IMPOSED BY A COUNTY OR**
29 **MUNICIPAL CORPORATION.**

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

3 7–210.

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

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

8 (2) is owned by:

9 (i) the federal government;

10 (ii) the State;

11 (iii) a county or a municipal corporation; or

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

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

17 7–211.

18 (c) (1) Except for an interest in federal enclave property as defined in §
19 7–211.3 of this subtitle, an interest of a person in any property of the federal government
20 or the State is not subject to property tax, if the government that owns the property makes
21 negotiated payments in lieu of tax payments.

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

24 7–501.

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

29 (b) Except for an interest in federal enclave property as defined in § 7–211.3 of
30 this title, in all counties except Worcester County, the governing body of the county or of a
31 municipal corporation in those counties or the Mayor and City Council of Baltimore City
32 may authorize, by law, an exemption from county or municipal corporation property tax for

1 the property described in § 6–102(e) of this article and provide for a negotiated payment in
2 lieu of the tax.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2016.