

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 331
Appropriations

(Delegate Stein)

Budget and Taxation

Program Open Space - Funding for Capital Improvements

This emergency bill modifies a statutory reference upon which an authorization for use of the State's share of Program Open Space (POS) funds for capital improvements is based.

Fiscal Summary

State Effect: None. The bill's change makes statute consistent with how POS funding for capital improvements on State land is currently allocated.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Statutory Reference

There is a statutory formula under the Tax-Property Article for transfer tax revenues to be allocated directly to POS and other land conservation programs. The formula has been revised over the years, with the revisions including a number of transfers of funding, mostly to the general fund, in specified fiscal years, to help balance the operating budget. Under provisions of the Natural Resources Article governing POS, funding allocated to POS under the transfer tax provisions of the Tax-Property Article is further allocated among the State and local components of POS (see below) and other uses.

Under those POS provisions, there is an authorization to use, for capital improvements on State land, up to 25% of the State's share of funds that would be available under the program if 100% of funding was available for distribution as provided in a specified paragraph of the transfer tax provisions of the Tax-Property Article. The paragraph referenced is an allocation to the Rural Legacy Program, another land conservation program that also receives transfer tax funding. The bill modifies the reference so that it refers to the entire subsection (that addresses the allocations to POS, the Rural Legacy Program, and other programs) rather than just the provision that addresses the Rural Legacy Program.

The reference to the Rural Legacy Program allocation has existed in statute since the enactment of Chapter 440 of 2002 (Budget Reconciliation and Financing Act of 2002), which modified and restructured the transfer tax provisions under the Tax-Property Article but did not also modify the reference under the POS provisions of the Natural Resources Article. That resulted in the authorization under the POS provisions of the Natural Resources Article for the use of funds for capital improvements on State land referring to the Rural Legacy Program allocation rather than the broader subsection, which it had referenced previously. This bill's change makes statute consistent with how the General Assembly and the Governor have been allocating POS funds for capital improvements on State land to date, despite the inadvertent change in the statutory reference resulting from Chapter 440 of 2002.

Program Open Space

In General

POS acquires and improves outdoor recreation and open space areas for public use. The program also preserves unique natural areas that are home to rare and endangered species. The State's goal is to conserve these lands before unaffordable land prices or development makes the task impossible. The Department of Natural Resources (DNR) indicates that most Maryland residents live within 15 minutes of an open space or recreational area funded by POS, ranging from parks, forests, and wildlife management areas to playgrounds, tennis courts, historic sites, Chesapeake Bay water access, and other community park amenities. DNR administers the program and allocates funding for State and local projects.

State and Local Components

POS consists of a State and a local component. The State component includes land acquisition funding, a direct grant of at least \$1.5 million to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS) and capital development funding. Capital development under the POS State component

consists of DNR maintenance and repair projects at public use facilities (Critical Maintenance Projects), design and construction of development projects on DNR property (Natural Resource Development Fund), and Ocean City beach replenishment (the costs of which are shared with the federal government, Worcester County, and Ocean City).

Under the local component, DNR allocates funds among the counties according to a formula established in 1982 that is based on past grant amounts, population change, and transfer tax revenue collections in each jurisdiction. To participate in the grant process, a county submits an annual program of proposed acquisition and development projects to DNR for approval. The annual program becomes the basis for a grant agreement for the county's total annual allocation. A municipality may receive POS funds through its county. The municipality must apply to its county for consideration of proposed municipal projects along with other county projects.

For further information on POS, see the fact sheet [Program Open Space: An Overview of Land Preservation Programs in Maryland](#) (Department of Legislative Services).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Budget and Management, Maryland Department of Agriculture, Maryland Department of Planning, Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2016
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