

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 116

(Senators Edwards and Middleton)

Education, Health, and Environmental Affairs

Appropriations

Program Open Space - Attainment of Acquisition Goals - Local Government
Apportionment and Use of Funds

This bill increases the extent to which counties that have more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas and have met specified land preservation acquisition goals, including those in the county's current, approved local land preservation and recreation plan, can use Program Open Space (POS) local funding for development projects and capital renewal. Under the bill, those counties are allowed to use up to 100% of the counties' future annual apportionments of POS local funding for development projects and capital renewal. The bill also requires the Joint Subcommittee on Program Open Space and Agricultural Land Preservation to review the State's standard for land acquisition of 30 acres per 1,000 people to determine whether adjustments may be made to the standard to encourage additional acquisition of land under POS. The joint subcommittee must report its findings and recommendations to specified legislative committees by October 1, 2018.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: None. POS State funding is not affected. The required review of the State's standard for land acquisition can be handled with existing resources.

Local Effect: The increased flexibility provided under the bill may affect the timing of spending of POS local funding by counties with more than 65,000 acres of State forests, State parks, or wildlife management areas (only Allegany and Garrett counties) that meet acquisition goals, but it does not change the amount of POS local funding allocated to counties overall or individually.

Small Business Effect: Potential meaningful.

Analysis

Current Law: At least 50% of a county's annual apportionment of POS local funding must be used for acquisition projects. The other 50% may be used for either acquisition or development projects, and 20% of that 50% may be used for capital renewal. Baltimore City is an exception and may use any portion of its annual POS local apportionment for acquisition or development.

If a county meets acquisition goals in its local land preservation and recreation plan and those goals equal or exceed minimum acreage goals recommended for that jurisdiction under the State's land preservation and recreation plan, a county may use up to 75% of its future annual apportionment for development projects for a period of five years after attainment. Up to 20% of the 75% may be used for capital renewal.

"Capital renewal" means renewal of a capital project for which an improvement is necessary to ensure the physical integrity of a facility, fixed equipment, or an existing physical improvement. It does not include preventive, routine, or operational maintenance projects related to aesthetics, daily upkeep, maintenance of surrounding grounds, or road maintenance (with the exception of park or recreation area road maintenance projects identified in the Governor's operating or capital budgets).

A county must provide matching funds for development projects, and the percentage requirement for the local match varies based on the type of project, whether federal funds are provided, and whether the county has met its land acquisition goals.

Background:

POS, 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. POS consists of a State and a local component.

The State component includes land acquisition funding, capital development funding, and a direct grant of \$1.5 million in fiscal 2017, increasing to \$6.0 million in fiscal 2020 and following years, to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS).

Under the local component of POS, the Department of Natural Resources (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.

Use of POS Local Funding

In response to a request in the *2015 Joint Chairmen's Report*, a report on the State's land preservation programs was submitted to the budget committee chairmen by DNR and other agencies, which discussed the question of the appropriate percentage of POS local funding to be devoted to acquisition of land before development projects may be funded. DNR had been receiving feedback from counties for years that they would like more flexibility in spending POS funding. The reasons given were that (1) counties can have more urgent operating, maintenance, and development needs at existing parks than the need to acquire additional land; (2) acquisition projects can be more expensive and require banking of funding over multiple years to generate enough funding for an acquisition project, whereas funding could be spent more quickly on priority development projects; and (3) more flexibility would allow counties to maximize their funding, such as using it for acquisition when the real estate market is low and focusing more on development projects when the real estate market is high.

The report recommended removing the current restriction on POS local funding that sets aside a percentage only for acquisition. It also indicated that projects should be funded based on needs identified in a county's local land preservation, parks, and recreation plan using an analytical methodology that includes multiple factors such as user demand, population density, and land and facility distribution. At the time, the 23 counties and Baltimore City had identified needs-based priorities in their local land preservation, parks, and recreation plans for over \$1.8 billion for the acquisition, development, and rehabilitation of park and recreation facilities through 2022.

Past Changes

The extent to which counties that meet their acquisition goals are allowed to use their POS funding for other uses has been increased temporarily a number of times in the past, most recently under Chapter 470 of 2011, which increased the percentage that could be used for development projects to 100% but required that 25% be used for repair or renovation of existing recreational facilities or structures, capital renewal, or land acquisition. Chapter 470 was in effect for three years and terminated in 2014.

Local Fiscal Effect: The bill does not change the amount of POS local funding allocated to counties overall or individually. However, the increased flexibility for counties that have more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas and meet acquisition goals may affect the timing of when POS local funding is spent by those counties, potentially accelerating the use of funding.

Allegany (67,161 acres) and Garrett (87,261 acres) counties are the only two counties that currently have more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas, based on acreage totals in the *Fiscal Year 2016 DNR Owned Lands Acreage* report. Of the remaining counties, those closest to having more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas are Somerset and Dorchester counties, with 48,053 and 46,661 acres, respectively. DNR indicates that both Allegany and Garrett counties have met the counties' land acquisition goals in their 2012 land preservation, parks, and recreation plans (referred to in statute as land preservation and recreation plans). Counties are currently working on updating their 2012 plans (pursuant to a statutory requirement that the plans be revised at least every five years), with the final plans due to be submitted to DNR and the Maryland Department of Planning by July 1, 2017.

Appendix 1 shows the POS local funding allocations for the local governments under the Governor's proposed fiscal 2018 budget.

Small Business Effect: To the extent more POS local funding is used for development projects and capital renewal in Allegany and Garrett counties, small businesses providing goods or services for those projects, may meaningfully benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Department of Budget and Management; Baltimore City; Allegany, Garrett, Harford, Montgomery, Talbot, and Wicomico counties; Maryland Association of Counties; Department of Legislative Services

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Appendix 1 – POS Local Allocations under Proposed Fiscal 2018 Budget

| <u>County</u> | <u>Allocation</u> |
|------------------|---------------------|
| Allegany | \$410,938 |
| Anne Arundel | 4,373,406 |
| Baltimore City | 3,921,847* |
| Baltimore County | 4,947,383 |
| Calvert | 433,387 |
| Caroline | 192,397 |
| Carroll | 982,183 |
| Cecil | 506,327 |
| Charles | 891,122 |
| Dorchester | 164,178 |
| Frederick | 1,015,843 |
| Garrett | 202,318 |
| Harford | 1,455,204 |
| Howard | 2,579,824 |
| Kent | 122,393 |
| Montgomery | 6,497,925 |
| Prince George's | 5,590,935 |
| Queen Anne's | 261,490 |
| St. Mary's | 492,863 |
| Somerset | 118,344 |
| Talbot | 274,246 |
| Washington | 773,841 |
| Wicomico | 516,957 |
| Worcester | 487,928 |
| Total | \$37,213,279 |

*Does not include POS State funding that Baltimore City also receives.