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2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 1253 (Senator Peters)  
Education, Health, and Environmental Affairs

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Program Open Space - Definition of Local Governing Body - Alteration

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This bill, under State law provisions governing Program Open Space (POS), modifies the extent to which the Maryland-National Capital Park and Planning Commission (M-NCPPC) is included under the definition of “local governing body,” so that M-NCPPC is only considered a “local governing body” in Montgomery County and not in both Montgomery and Prince George’s counties.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Prince George’s County expenditures increase by approximately \$750,000 in FY 2019 and by similar amounts in future years to administer POS local funding. County expenditures likely also increase to provide local matching funding for POS development projects and for post-acquisition/development operating costs of POS projects. The POS local funding allocation for Prince George’s County does not change. While the portion of that funding spent at the county level shifts from M-NCPPC’s budget to the county’s budget, the shifting of that funding, in and of itself, has no net effect on local revenues or expenditures.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Under State law provisions governing POS, “local governing body” is defined as M-NCPPC and the governing body of any county or Baltimore City.

## **Background:**

### *Program Open Space*

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 \$3.5 million in fiscal 2018, 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 (including Baltimore City) according to a formula established in 1982 that is based on past grant amounts, population change, and transfer tax revenue collections in each jurisdiction. **Appendix 1** shows the POS local funding allocations for the local governments under the Governor's proposed fiscal 2019 budget, including \$8.1 million allocated to Prince George's County. 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. The fiscal 2018 annual program for Prince George's County's allocation includes projects from seven municipalities.

### *"Local Governing Body"*

Under the local component of POS, statute primarily refers to "local governing bodies" (which includes M-NCPPC) with respect to the receipt and administration of funding under the local component; however, the allocation of funding, under the formula mentioned above, is among the "subdivisions" (the 23 counties and Baltimore City). M-NCPPC currently administers local POS funding for both Montgomery and Prince George's counties.

M-NCPPC is a bi-county agency responsible for a regional system of parks and land use planning in Montgomery and Prince George's counties, as well as a public recreation program in Prince George's County.

### *Use of POS Local Funding for Acquisition vs. Development*

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. Pursuant to Chapter 406 of 2017, counties that have met those goals and have more than 65,000 acres of land within the jurisdiction consisting of State forests, State parks, or wildlife management areas may use up to 100% of the counties' future annual apportionments of POS local funding for development projects and 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).

POS funding (alone or in conjunction with federal funding) covers 100% of the cost of approved acquisition projects, but POS funding cannot be used to cover the full cost of a development project. Subject to certain exceptions, POS funding (alone or in conjunction with federal funding) covers 75% of the cost of a development project. If DNR certifies that a county has met its acquisition goals, the percentage increases to 90%.

#### **Local Fiscal Effect:**

##### *Administrative Costs to Administer POS Local Funding*

Prince George's County expenditures increase by approximately \$750,000 in fiscal 2019 and by similar amounts in future years to administer the county's allocation of POS local funding. This estimate reflects the cost of hiring environmental planning, administrative, project management, landscape architecture, and land acquisition staff, totaling approximately five new full-time positions.

The county's allocation of POS local funding is currently administered by a team of M-NCPPC staff (under the Prince George's County Department of Parks and Recreation (DPR) within M-NCPPC) as part of a broader capital improvement program, of which POS local funding makes up a relatively small portion. M-NCPPC indicates that POS funds are almost always a part of a package of funding for individual acquisitions/projects. Eliminating POS local funding from DPR's capital improvement program is not expected to allow for any reduction or transfer (to the county) of M-NCPPC staff. M-NCPPC indicates that the division administering the capital improvement program is currently understaffed and a reduction or transfer of staff would adversely affect its ability to deliver the ongoing capital program that would remain despite the loss of POS local funding. Therefore, new staff, with necessary expertise and experience, are expected to be needed to administer the POS local funding for the county.

While the bill takes effect part-way through fiscal 2019 (October 2018), this estimate assumes that the additional staff are hired July 1, 2018, to facilitate the transition of the administration of the county's POS local funding from M-NCPPC to the county in fiscal 2019.

#### *Local Matching Funding and Post-Acquisition/Development Operating Costs*

County expenditures may increase to provide local matching funding for any development projects undertaken with POS local funding. As mentioned above, POS local funding can provide 100% of the total project cost of each approved local acquisition project, but development projects require local matching funding of 25% (or 10% if a jurisdiction has met specified land acquisition goals, which Prince George's County has not met). POS local funding used for M-NCPPC projects (as opposed to funding allocated to municipality projects) is predominantly used for acquisition projects, but, for any development projects that are undertaken, the local matching funding requirement is met by M-NCPPC funding in its broader capital improvement program (funding that would not be shifted to the county's budget pursuant to this bill).

If the county undertakes any development projects using POS local funding, county expenditures increase to provide the necessary local matching funding for the project to the extent that the project would not otherwise have been undertaken (and county funding would not otherwise have been spent on the project) in the absence of the POS local funding.

County expenditures, and possibly also revenues (*e.g.*, park user fees), also likely increase due to ongoing maintenance and operating needs of land acquired and/or developed using POS local funding.

County expenditures (and any potential fee revenue) associated with providing local matching funding or with post-acquisition/development maintenance and operating needs cannot be reliably estimated and are dependent on the POS program the county develops and the specific projects undertaken.

*Shift of POS Local Funding from M-NCPPC to Prince George's County*

While POS local funding is shifted under the bill from M-NCPPC's budget to the county's budget, the shift of that funding, in and of itself, has no net local fiscal effect. The timing of the spending of the funding (at the county or municipal level), however, could be affected if the transition of administration of the funding from M-NCPPC to the county and the time needed to get a county-administered program up and running causes a delay in spending of the POS local funding.

As mentioned above, \$8.1 million in POS local funding is allocated to Prince George's County in the Governor's proposed fiscal 2019 budget. A significant portion of that amount shifts from M-NCPPC's budget to the county's budget reflecting the amount spent at the county level, with the remaining portion of the \$8.1 million spent at the municipal level.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1821 (Delegate Davis) - Rules and Executive Nominations.

**Information Source(s):** Department of Natural Resources; Prince George's County; Maryland-National Capital Park and Planning Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - March 19, 2018  
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## Appendix 1 – POS Local Allocations under the Governor’s Proposed Fiscal 2019 Budget

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<u>County</u>	<u>Allocation</u>
Allegany	\$583,857
Anne Arundel	6,344,482
Baltimore City	4,205,945*
Baltimore County	7,140,837
Calvert	634,575
Caroline	274,855
Carroll	1,418,834
Cecil	727,572
Charles	1,295,301
Dorchester	237,232
Frederick	1,509,686
Garrett	293,448
Harford	2,103,024
Howard	3,761,843
Kent	176,945
Montgomery	9,529,414
Prince George’s	8,074,966
Queen Anne’s	383,662
St. Mary’s	713,136
Somerset	169,301
Talbot	403,342
Washington	1,109,791
Wicomico	740,525
Worcester	555,251
<b>Total</b>	<b>\$52,387,824</b>

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

POS: Program Open Space

Source: Department of Budget and Management