SENATE BILL 35

(Pre–filed)

By: Senator Ellis
Requested: October 29, 2021
Introduced and read first time: January 12, 2022
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Charles County – Program Open Space – General Assembly Approval

FOR the purpose of requiring approval through legislation enacted by the General
Assembly before any Charles County annual or revised program under Program
Open Space takes effect or any grant agreement based on the annual or revised
program is executed; requiring approval through legislation enacted by the General
Assembly before any revised Charles County land preservation and recreation plan
under Program Open Space takes effect; and generally relating to Program Open
Space policies in Charles County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–905(a) and (b)(2) and 5–906(d)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

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

Article – Natural Resources

5–905.

(a) (1) On or before May 1 of each year, the Department shall notify each local
governing body of its allocation of local acquisition and development funds for the next
fiscal year within the limits imposed by the formula developed for the apportionment of the
annual appropriations for Program Open Space.

(2) (i) By the first of July each year, a participating local governing
body shall submit an annual program of proposed acquisition and development projects,
together with a list of projects submitted by any municipal corporation to the local

governing body and not included in the local governing body’s annual program, to the
Department of Planning for review and to the Department for approval.

(ii) A municipal corporation may submit an annual program through
its local governing body.

(iii) A subdivision, for each proposed project under this subsection,
shall consider whether it is feasible to provide public access to the proposed project.

(iv) When considering whether it is feasible to provide public access

to a proposed project under this paragraph, a subdivision may consider:

1. The availability of funds available under this program or
from other sources to provide public access to the proposed project;

2. Public safety and liability issues if public access were
provided to the site;

3. Whether the site for the proposed project was acquired as
a part of a larger recreational and open space project that is not yet completed and ready
for public access; and

4. The existence of a contractual commitment on the site for
a proposed project that would limit public access for a period of time, including a home,
agricultural, or hunting lease.

(3) (i) [Upon] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**

PARAGRAPHS, ON review by the Department of Planning and approval by the Department
and the Board of Public Works, the allocated funds shall be encumbered for the purposes
of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article, and the
annual program shall become the basis for a grant agreement for the total allocation to
each of the local governing bodies.

(ii) 1. [Prior to] **BEFORE** approval of a local annual program, or
any revision thereof, the Department shall provide the legislators from the district within
which any part of the local jurisdiction is located the opportunity to review and comment
on the annual program or its revisions.

2. **APPROVAL THROUGH LEGISLATION ENACTED BY THE**

GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY CHARLES COUNTY ANNUAL
PROGRAM TAKES EFFECT OR ANY GRANT AGREEMENT BASED ON THE ANNUAL
PROGRAM IS EXECUTED.

(4) (I) [Any] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**

PARAGRAPHS, ANY program may be revised by the local governing body and the revised
program, after the Department of Planning reviews and the Department approves it, shall be substituted for the original program in the grant agreement.

(II) APPROVAL THROUGH LEGISLATION ENACTED BY THE GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY CHARLES COUNTY REVISED PROGRAM TAKES EFFECT OR ANY GRANT AGREEMENT BASED ON THE REVISED PROGRAM IS EXECUTED.

(5) (i) In accordance with the Department's regulations, upon receipt of evidence from the local governing body of a county or municipal corporation that funds have been spent on a project that is approved in the grant agreement, the Department shall cause the requested amount of funds from the local governing body’s allocation to be reimbursed to the local governing body.

(ii) Any municipal corporation may submit evidence of expenditures for approved projects through its local governing body to the Department.

(b) (2) (I) A local governing body shall prepare a local land preservation and recreation plan with acquisition goals based upon the most current population data available from the Department of Planning and submit it to the Department and to the Department of Planning for joint approval according to the criteria and goals set forth in guidelines prepared by the Department and the Department of Planning.

(II) A local governing body shall revise its local land preservation and recreation plan at least every 5 years and submit the revised local plan to the Department and to the Department of Planning for joint approval 1 year prior to the revision of the Maryland Land Preservation and Recreation Plan.

(III) 1. [Prior to] BEFORE approval of a revised local plan, the Department shall provide the legislators from the district within which any part of the local jurisdiction is located the opportunity to review and comment on the revised local plan.

2. APPROVAL THROUGH LEGISLATION ENACTED BY THE GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY REVISED CHARLES COUNTY PLAN TAKES EFFECT.

5–906.

(d) As provided in § 5–905(a) of this subtitle[, beginning on December 1, 1973, local]:

(1) LOCAL projects [shall] MAY not be considered or approved for a grant until the annual program of the subdivision has been submitted; AND

(2) A PROJECT IN CHARLES COUNTY MAY NOT BE APPROVED FOR A
GRANT UNTIL IT RECEIVES APPROVAL THROUGH LEGISLATION ENACTED BY THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.