SENATE BILL 56

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

Program Open Space – Local Plans and Programs – General Assembly Approval

FOR the purpose of requiring approval through legislation enacted by the General Assembly before any local 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 local land preservation and recreation plan under Program Open Space takes effect; and generally relating to Program Open Space.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
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 (iii) of this paragraph, 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) [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.

(III) Approval through legislation enacted by the General Assembly shall be required before any local annual program takes effect or any grant agreement based on the program is executed.

(4) (I) [Any] Subject to subparagraph (ii) of this paragraph, 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 REVISED PROGRAM TAKES
EFFECT OR ANY GRANT AGREEMENT BASED ON THE 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. [Prior to]

(III) 1. 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 LOCAL PLAN
TAKES EFFECT.

5–906.

(d) As provided in § 5–905(a) of this subtitle[, beginning on December 1, 1973,]
local projects [shall] MAY not be considered or approved for a grant until [the]:

(1) THE annual program of the subdivision has been submitted; AND

(2) THE GENERAL ASSEMBLY HAS ENACTED LEGISLATION
APPROVING THE ANNUAL PROGRAM.

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