

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 791 (Senator Elfreth)

Budget and Taxation and Education, Health,
 and Environmental Affairs

Natural Resources - Land Conservation - Establishment of Goals and Programs
(Maryland the Beautiful Act)

This bill establishes (1) land conservation goals for the State; (2) a Local Land Trust Revolving Loan Program administered by the Maryland Environmental Trust (MET); and (3) a Greenspace Equity Program administered by the Department of Natural Resources (DNR). The bill establishes funding requirements for the programs and increases mandated funding for the Mel Noland Woodland Incentives and Fellowship Fund.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$200,000 in FY 2023, by \$14.1 million in FY 2024, and by at least \$6.1 million annually thereafter. Special fund revenues increase by \$11.0 million in FY 2024 and at least \$1.0 million annually thereafter. Special fund expenditures increase by \$6.0 million in FY 2024 and 2025 and by at least \$1.0 million annually thereafter. **This bill establishes and increases mandated appropriations beginning in FY 2024.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$0	\$11.0	\$1.0	\$1.0	\$1.0
GF Expenditure	\$0.2	\$14.1	\$6.1	\$6.1	\$6.1
SF Expenditure	\$0	\$6.0	\$6.0	\$1.0	\$1.0
Net Effect	(\$0.2)	(\$9.1)	(\$11.1)	(\$6.1)	(\$6.1)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues and expenditures likely increase beginning in FY 2024.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

“Conserve” means to permanently protect land from development through purchase, donation, a perpetual conservation or an open space easement, or fee ownership in order to preserve the cultural, historical, ecological, or agricultural value of the land.

“Community greenspace” means a community space that enhances the public health and livability of a community, including a community garden, a community gathering open space area, a community woodland, a “green network,” a park; a trail, and an urban farm. “Green network” means a system of greenspaces that are interconnected by linear corridors that facilitate the movement of people and wildlife.

“Eligible applicant” means (1) a land trust or other nongovernmental organization located or working in an underserved area where a project is proposed to be implemented or (2) a county or municipality.

“Stewardship” means activities undertaken to maintain the conservation values and public use of a property, not including the operating expenses of a grant recipient.

“Underserved area” means an area of the State falling within the boundaries of an urban area, as delineated by the U.S. Census Bureau, and (1) a neighborhood that was, at any point in time, redlined or graded as “hazardous” by the Home Owners’ Loan Corporation; (2) a census tract with an average rate of unemployment for the most recent 24-month period for which data are available that exceeds the average rate of unemployment for the State; (3) a census tract with a median household income for the most recent 24-month period for which data is available that is equal to or less than 75% of the median household income for the State during that period; or (4) a housing project.

Conservation Goals

The bill establishes the intent of the General Assembly that (1) by 2030, 30% of lands in the State are conserved and (2) by 2040, 40% of lands in the State are conserved. To meet the specified conservation goals, the Smart Growth Subcabinet, in coordination with relevant stakeholders, must (1) coordinate the actions of State agencies, local governments, and nongovernmental partners; (2) by July 1, 2023, develop and publish a plan to meet the State’s conservation goals and update the plan as needed (and not less than every five years thereafter); and (3) by December 1, 2023, and each December 1 thereafter, report to

specified committees of the General Assembly on the State's progress toward meeting the conservation goals.

The conservation goals must be accomplished through multiple efforts, including:

- working with local communities, counties, municipalities, American Indian communities, and private landowners to conserve natural places and resources;
- improving access to nature for all individuals in the State, including communities of color and economically disadvantaged communities;
- sequestering carbon and greenhouse gas emissions in lands and waters of the State;
- increasing public incentives for private landowners to voluntarily conserve and protect areas of demonstrated conservation value and areas that have a high capacity to sequester carbon and greenhouse gas emissions;
- focusing conservation work at a large landscape scale that is biologically and ecologically meaningful;
- preventing the extinction of native plant and animal species by recovering and restoring the species;
- stabilizing ecosystems and ecosystem services, restoring degraded ecosystems, and maintaining ecological functions; and
- increasing economic opportunities for farmers, ranchers, and foresters.

Local Land Trust Revolving Loan Program

Purpose and Administration

The purpose of the Local Land Trust Revolving Loan Program is to (1) support the efforts of local land trusts that work with State and local government entities and that have difficulty accessing money from existing Program Open Space (POS) preservation programs in a timely manner and (2) provide revolving loans to land trusts on a rolling basis to assist the land trusts to purchase property. The program is administered by the MET, though MET may authorize a nonprofit organization to manage and administer the program on its behalf.

A land trust that receives a program loan must repay the Local Land Trust Revolving Loan Fund, described below, (1) at a rate to be determined by MET, not to exceed one point below the prime interest rate and (2) after the property is placed under easement or transferred to a State or local government entity.

Local Land Trust Revolving Loan Fund

The Local Land Trust Revolving Loan Fund must be administered by MET to finance the revolving loan program. The fund consists of money appropriated in the State budget to the fund, interest earnings, and any other money from any source accepted for the benefit of the fund. In fiscal 2024, the Governor must include in the annual budget bill an appropriation of \$10.0 million to the fund.

Land Preservation Rapid Response Advisory Committee

The bill establishes a Land Preservation Rapid Response Advisory Committee to (1) review and prioritize program loan applications for final approval by the MET Executive Committee and (2) make recommendations to the executive committee on which projects to fund and the funding to be allocated to each project.

Greenspace Equity Program

Purpose and Administration

The purpose of the Greenspace Equity Program, administered by DNR, is to enhance the public health and livability of underserved areas by implementing projects to preserve, create, and enhance community greenspace. DNR must develop an application for the program, publicize the program, provide technical assistance to program applicants, and recommend grant awards to the Greenspace Equity Board.

Greenspace Equity Board

The Greenspace Equity Board must advise DNR on the administration of the Greenspace Equity Program and approve grant awards under the program. DNR must provide staff to the board. The Maryland Department of Agriculture, the Department of Housing and Community Development, and the Maryland Department of Planning (MDP) *may* provide staff.

Funding

The Governor must include in the annual budget bill appropriations to the program of \$3.0 million in fiscal 2024 and \$5.0 million in fiscal 2025 and each fiscal year thereafter.

Grants under the Program

Beginning in fiscal 2024, DNR must make grants to “eligible applicants” for greenspace equity projects in underserved areas. A grant may be used for:

- land acquisition, appraisals, environmental assessments, site development, and other expenses and materials related to planning and implementing a project, including development or maintenance of the site for public use;
- administrative costs in an amount not more than 3% of the total project cost, or \$15,000, whichever is greater; or
- “stewardship” of a project that previously received a grant under the program or a project that would qualify for a grant but existed before July 1, 2023.

In awarding grants, DNR must consider (1) the extent to which the project engages and is supported by residents, organizations, and businesses located in the underserved area in which the project will be located; (2) the amount of financial or in-kind contributions for implementation of the project, if applicable; and (3) the degree to which the project enhances the public health, livability, and community open space in the underserved area.

An application submitted for the program must include evidence of support from the local government and the underserved community in which the project will be located.

DNR must reserve at least 50% of the annual appropriation to the program for grants to local land trusts and other nongovernmental organizations.

Mel Noland Woodland Incentives and Fellowship Fund

The bill increases the amount of funding the Governor is required to include in the annual budget bill for the Mel Noland Woodland Incentives and Fellowship Fund from \$50,000 to \$1.0 million beginning in fiscal 2024.

Current Law:

Agricultural Land Preservation Goal

Chapter 284 of 2021 established a State goal of preserving a total of 1,030,000 acres of productive agricultural land by 2030 through local land preservation programs and several State programs, including:

- *Maryland Agricultural Land Preservation Foundation (MALPF):* The General Assembly created MALPF to preserve productive agricultural land and woodland, limit the extent of urban development, and protect agricultural land and woodland as open space. MALPF, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities.

- *Maryland GreenPrint Program:* Chapter 570 of 2001 established the Maryland GreenPrint Program to create a statewide green infrastructure network by acquiring property and property interests, including easements, in a manner that complements other conservation programs. Chapter 570 terminated in 2006, although acres that were preserved under the program contribute toward the State’s agricultural land preservation goal.
- *Rural Legacy Program:* The Rural Legacy Program within DNR provides funding for local governments and conservation organizations (such as land trusts) to purchase property and conservation easements within designated rural legacy areas. Rural legacy areas are designated as rich in a multitude of agricultural, forestry, natural, and cultural resources. Local governments and land trusts apply annually to the Rural Legacy Board, which makes recommendations for designating rural legacy areas and granting funds to preserve land in the rural legacy areas that are then reviewed and approved by the Board of Public Works.
- *Maryland Environmental Trust:* MET was established by statute in 1967 “to conserve, improve, stimulate, and perpetuate the aesthetic, natural, health and welfare, scenic, and cultural qualities of the environment, including, but not limited to land, water, air, wildlife, scenic qualities, [and] open spaces.” The trust was created as a quasi-public entity and is both a unit of DNR and governed by a private board of trustees. MET’s primary method for protecting land is through soliciting donations of conservation easements from private landowners, who may be eligible for both federal and State tax benefits that are available for such donations.
- *Next Generation Farmland Acquisition Program:* The Next Generation Farmland Acquisition Program (“Next Gen Program”) is administered by the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO), which was established under Chapter 467 of 2004 to help Maryland’s farm, forestry, seafood, and related rural businesses to achieve profitability and sustainability. Under statutory authority to administer rural land acquisition and easement programs, including programs to assist young and beginning farmers, MARBIDCO administers the Next Gen Program, and the recently begun Small Acreage Next Generation Farmland Acquisition Program (“SANG”), which help young and beginning farmers purchase land, with the purchases made under the programs resulting in, or typically leading to, permanent easements on the land.

Smart Growth Subcabinet

The Smart Growth Subcabinet comprises the Special Secretary; the Secretary of Agriculture; the Secretary of Budget and Management; the Secretary of Commerce; the Secretary of the Environment; the Secretary of General Services; the Secretary of Higher Education; the Secretary of Housing and Community Development; the Assistant Secretary of the Office of Neighborhood Revitalization; the Secretary of Natural Resources; the Secretary of Planning; the Secretary of Transportation; a representative of the Governor's office; the Secretary of Health; the Secretary of Labor; and the Director of the Maryland Energy Administration. The subcabinet must:

- provide a forum for discussion of interdepartmental issues relating to activities that affect growth, development, neighborhood conservation, and resource management;
- work together to promote the understanding of smart growth;
- work together to create, enhance, support, and revitalize sustainable communities;
- meet at least biannually with county and municipal elected leaders and planning officials to discuss local government issues relating to activities that affect smart growth, development, neighborhood conservation, and resource management;
- make recommendations to specified State agencies;
- evaluate and report annually to the Governor and the General Assembly on the implementation of the State's smart growth policy; and
- perform other duties assigned by the Governor.

Program Open Space

DNR administers POS, which acquires and improves outdoor recreation and open space areas for public use. POS consists of a State and local component. Under the State component, POS preserves natural areas through fee-simple purchases and easement acquisitions. Under the local component, DNR allocates funds among the counties for local conservation acquisitions and development of public outdoor recreational sites, facilities, and open space.

To participate in the grant process, a local government must prepare a local Land Preservation and Recreation Plan (LPRP) every five years. Each participating local government must also submit an annual program of proposed acquisition and development projects to DNR and MDP. The annual program is the basis for total allocations to each local government.

Mel Noland Woodland Incentives and Fellowship Fund

The Mel Noland Woodland Incentives and Fellowship Fund may be used for a variety of forest-related purposes specified in statute. Chapter 223 of 2019 established the Mel Noland Fellowship Program within DNR to support students seeking careers in fields relating to natural resources. The Governor must appropriate \$50,000 annually to the fund, and DNR must direct \$50,000 annually from the fund to the fellowship program. (The bill increases the amount the Governor must appropriate to the fund from \$50,000 to \$1.0 million, but does not change the amount – \$50,000 – that must be directed from the fund to the fellowship program.)

State Fiscal Effect:

Conservation Goals

It is unclear to what extent State spending on land conservation increases over the course of fiscal 2023 through 2040 as a result of the bill's conservation goals, which aim to conserve (1) 30% of lands in the State by 2030 and (2) 40% of lands in the State by 2040. Establishing the goals in statute may increase the likelihood that land conservation program funding levels (not including those established under the bill) increase in fiscal 2023 through 2040.

MDP indicates that, as of November 9, 2021, approximately 853,528 acres of productive *agricultural* land have been preserved, which is 82.9% of the 1,030,000-acre goal established by Chapter 284 of 2021. Overall, 1,806,837 acres of *total* land, approximately 29% of the land acreage in the State, have been protected through the aforementioned programs and other efforts.

The development and publishing of the required plan to meet the State's conservation goals, and associated updates and reporting, are assumed to be handled by the Smart Growth Subcabinet with existing resources.

Local Land Trust Revolving Loan Program and Fund

General Fund Impact

Under the bill, the Governor must provide an appropriation of \$10.0 million in fiscal 2024 to the Local Land Trust Revolving Loan Fund to be used for the Local Land Trust Revolving Loan Program. Therefore, general fund expenditures increase by \$10.0 million in fiscal 2024 to provide the required revolving loan funding and by indeterminate amounts in future years to the extent any additional general fund appropriations are made to the fund.

DNR advises that additional staff will be needed within MET to administer the loan program. Due to the significant amount of funding the program receives in fiscal 2024, it is assumed for the purposes of this fiscal and policy note that funding for loans is not provided in fiscal 2023, but staff to administer the program begins October 1, 2022, to set up the program in advance of funding becoming available in fiscal 2024. Since the bill does not explicitly allow for the revolving loan fund to be used for administrative costs, this analysis assumes that the program needs additional general funds to cover those costs. Therefore, DNR general fund expenditures increase overall by \$123,526 in fiscal 2023 (for administrative costs associated with hiring one administrator and one grant/loan specialist to establish and administer the revolving loan program) and by \$10,144,797 in fiscal 2024 (reflecting ongoing administrative costs plus the \$10.0 million appropriation to the fund). DNR advises that existing personnel cannot absorb the additional work. To the extent MET instead authorizes a nonprofit organization to manage and administer the program on its behalf, general fund expenditures for administrative costs may be less. The estimate includes salaries, fringe benefits, one-time start-up costs, the general fund appropriation, and ongoing operating expenses.

	<u>FY 2023</u>	<u>FY 2024</u>
Positions	2.0	0.0
Salaries and Fringe Benefits	\$108,840	\$142,666
General Fund Appropriation to Fund	0	10,000,000
Operating Expenses	<u>14,686</u>	<u>2,131</u>
Total General Fund Program Expenditures	\$123,526	\$10,144,797

Future year general fund expenditures reflect full salaries with annual increases and employee turnover, annual increases in ongoing operating expenses, and any additional general fund appropriations to the revolving loan fund that may be needed.

Special Fund Impact

Special fund revenues increase by \$10.0 million in fiscal 2024 and by indeterminate amounts in future years, reflecting the revolving loan fund's receipt of general funds and loan repayments. Special fund expenditures increase by \$5.0 million in each of fiscal 2024 and 2025 and by indeterminate amounts in future years, reflecting awarding of loans under the program. DNR indicates that the timing of expenditures under the program depends on project applications and schedules, but for the purposes of this fiscal and policy note, the initial \$10.0 million appropriation to the program is assumed to be spent over the course of fiscal 2024 and 2025 (\$5.0 million in each fiscal year).

Greenspace Equity Program

Under the bill, the Governor must provide an appropriation of \$3.0 million in fiscal 2024 and \$5.0 million annually beginning in fiscal 2025 to the Greenspace Equity Program. Similar to the revolving loan fund, due to the significant amount of funding the program receives in fiscal 2024 and future years, it is assumed for the purposes of this fiscal and policy note that funding for loans is not provided in fiscal 2023, but one of three staff needed to administer the program begins October 1, 2022, to set up the program in advance of funding becoming available in fiscal 2024. This analysis assumes that the amounts required to be appropriated in fiscal 2024 and future years may be used to provide staff to the program, since the appropriation is made to the program in general and the bill discusses administration of the program. Therefore, DNR general fund expenditures increase by \$71,069 in fiscal 2023 and by \$3.0 million in fiscal 2024. This estimate includes hiring (1) one administrator, beginning October 1, 2022, to establish the program, staff the Greenspace Equity Board, and provide technical assistance to potential grant applicants and (2) one additional administrator and one administrative officer beginning July 1, 2023, to assist in administering the program, including publicizing the program, providing technical assistance to program applicants, and recommending grant awards to the Greenspace Equity Board. DNR advises that existing personnel cannot absorb the additional work. The estimate includes salaries, fringe benefits, one-time start-up costs, grant funding, and ongoing operating expenses.

	<u>FY 2023</u>	<u>FY 2024</u>
Positions	1.0	2.0
Salaries and Fringe Benefits (Total)	\$63,726	\$233,266
Grant Funding	0	2,750,442
Operating Expenses	<u>7,343</u>	<u>16,292</u>
Total General Fund Program Expenditures	\$71,069	\$3,000,000

Future year expenditures reflect overall expenditures of \$5.0 million per fiscal year, covering ongoing grant funding, full salaries with annual increases and employee turnover, as well as annual increases in ongoing operating expenses.

Beginning in fiscal 2024, DNR must make grants to eligible applicants. DNR must also reserve at least 50% of the annual appropriation to the program for grants to local land trusts and other nongovernmental organizations. Since this analysis assumes that the amounts required to be appropriated to the program beginning in fiscal 2024 can be used to cover administrative expenses, the remaining portion of the appropriation can be used to make grants to eligible participants. For fiscal 2024, approximately \$2.8 million (or approximately 91.7% of the appropriated amount) is available to make grants. Beginning in fiscal 2025, the mandated appropriation increases to \$5.0 million annually; after staff and administrative costs to administer the Greenspace Equity Program are incurred,

approximately \$4.8 million (or approximately 95% of the appropriated amount) annually is available to make grants.

Mel Noland Woodland Incentives and Fellowship Fund

The Governor's proposed fiscal 2023 budget includes \$50,000 for the Mel Noland Woodland Incentives and Fellowship Fund. However, under the bill, beginning in fiscal 2024, the Governor must increase the annual appropriation to \$1.0 million. Therefore, general fund expenditures increase by \$950,000 annually beginning in fiscal 2024 due to the bill's increased mandated appropriation. Special fund revenues and expenditures increase correspondingly, reflecting receipt of the general funds by the fund and expenditures from the fund. The additional funding is assumed to be administered by DNR with existing resources.

Local Fiscal Effect: Counties and municipalities are likely affected by and/or participate in the goals and programs established by the bill, beginning in fiscal 2024. Local revenues and expenditures related to land conservation likely increase by an indeterminate amount as a result.

Small Business Effect: Small businesses that provide material or services, including appraisals, title work, surveys, or other due diligence, for land preservation (acquisition and capital improvement) projects may meaningfully benefit from additional land conservation efforts under the bill. Small businesses in the agricultural and resource-based industries may also benefit to the extent land conservation efforts in the State are increased to meet the bill's land conservation goals.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1031 (Delegates Luedtke and Stein) - Environment and Transportation and Appropriations.

Information Source(s): Department of Commerce; Charles, Montgomery, and Somerset counties; Maryland Association of Counties; City of Havre de Grace; Maryland Municipal League; University System of Maryland; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; Maryland Energy Administration; Department of Legislative Services

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