

**Department of Legislative Services**  
 Maryland General Assembly  
 2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 717 (Chair, Environment and Transportation Committee)(By Request - Departmental - Natural Resources)

Environment and Transportation

**Natural Resources - Public Lands - Acquisition, Staffing, Operations, and Funding**

This departmental bill establishes several provisions applicable to the Department of Natural Resources (DNR), and one provision applicable to local governments, relating to (1) affiliated foundations; (2) use of Program Open Space (POS) State land acquisition funding; (3) management of newly-acquired real property interests; (4) other provisions governing DNR’s acquisition of real property interests; (5) a Land and Property Management Program; and (6) use of POS local funding for development projects.

**Fiscal Summary**

**State Effect:** State expenditures are affected, as summarized in the table below and shown in more detail in the Analysis section. Revenues are not directly affected. The FY 2026 budget as introduced includes \$212,543 in special funds and two merit positions contingent on legislation that matches the description of one of the bill’s provisions.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	35,000	0	0	0	0
SF Expenditure	212,500	594,600	988,100	1,415,800	1,876,000
Net Effect	(\$247,500)	(\$594,600)	(\$988,100)	(\$1,415,800)	(\$1,876,000)

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

**Local Effect:** Local governments may benefit, as discussed below. See also Additional Comments.

**Small Business Effect:** DNR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

## Analysis

### Bill Summary:

#### *Affiliated Foundations*

The bill authorizes DNR to establish one or more affiliated foundations to work with the Maryland Park Service, the Maryland Forest Service, the Wildlife and Heritage Service, and the Office of Outdoor Recreation, and establishes various provisions governing the foundations, which:

- ***purposes*** – establish the purposes of an affiliated foundation to be (1) soliciting and accepting funds for improvements designed to expand and enhance the equitable use of and access to lands managed by the department for recreation and conservation purposes; (2) promoting activities that enhance public programming and offerings, restore or maintain public access to natural resources, or support operation and maintenance activities within DNR-managed lands; and (3) partnering with individuals, corporations, and other entities to support innovative projects that enhance visitors’ experiences;
- ***policies*** – require DNR to develop policies for operating each affiliated foundation that must be submitted to the Attorney General and the State Ethics Commission for review and, if appropriate, approval;
- ***solicitation and receipt of contributions*** – authorize an affiliated foundation to solicit and receive contributions from businesses, governmental entities, nonprofit organizations, and individuals interested in the promotion of DNR-managed lands;
- ***not an agency or instrumentality of the State*** – establish that (1) an affiliated foundation may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose and (2) a financial obligation or liability of an affiliated foundation may not be considered a debt or an obligation of the State or DNR;
- ***DNR officials/employees may serve as foundation directors/officials*** – establish that conflict of interest provisions of the Maryland Public Ethics Law do not prohibit a DNR official or employee from also becoming a director or official of an affiliated foundation provided that (1) the State Ethics Commission must be notified and may raise objections or concerns and (2) such an official or employee may not be compensated by the affiliated foundation but may be reimbursed for expenses;

- **reporting** – require DNR to report annually to the Governor, the Legislative Policy Committee, and the State Ethics Commission on (1) the names of the officials and employees serving as a director or an official of an affiliated foundation and (2) how the policies for operating each affiliated foundation have been implemented in the previous year; and
- **audit** – require that an affiliated foundation be audited each year by an independent certified public accountant.

#### *Use of Program Open Space Funding for Operating Costs*

The bill authorizes the Governor to transfer, to DNR, funds from the POS State land acquisition balance if (1) the balance is more than \$80.0 million at the end of a given fiscal year and (2) DNR’s existing special fund sources are insufficient to cover existing salaries for permanent, classified positions responsible for operating and maintaining land administered and managed by the department. After such a fund transfer, the remaining balance must be at least \$80.0 million.

DNR may use any amount of the transferred funds as a one-time fiscal year expenditure for (1) operation and maintenance of lands administered and managed by the department; (2) administrative expenses related to land acquired by the department under POS; or (3) law enforcement activities, services, salaries, and related expenses of the Natural Resources Police. DNR may also transfer any amount of the transferred funds to the Forest or Park Reserve Fund. Any fund transfer supplements rather than supplants any other funding for operation, maintenance, and administration of lands administered and managed by DNR regardless of the source of the other funding.

#### *Budget Requests for Positions to Manage and Administer New Real Property*

The bill requires DNR, after acquiring a real property interest, to include in its annual budget request to the Department of Budget and Management (DBM) a request for funds to create new permanent, classified positions to manage and administer the real property. The request must be based on specified data and calculated using the ratio of at least one permanent, classified position per 400 acres of newly acquired real property interests.

#### *Other Provisions Governing the Department’s Acquisition of Real Property*

Under existing provisions governing the department’s acquisition of real property, references to “land” and “real property” are changed to references to a “real property interest.” The bill defines “real property interest” to mean a nonleasehold interest in real property, including a fee simple acquisition interest, conservation easement interest, or another perpetual easement interest.

The bill also (1) authorizes DNR, with approval of the Board of Public Works (BPW), to develop and utilize an easement valuation system to value conservation easement interests; (2) establishes that a requirement that a contract for the acquisition of a real property interest be approved by BPW does not apply to a real property interest acquired by gift; and (3) changes a requirement that a contract for acquisition be executed by BPW to an authorization for a contract to be executed by BPW.

#### *Land and Property Management Program*

The bill establishes a Land and Property Management Program in DNR, the stated purpose of which is to process real property transactions that involve property owned by the department. The program is responsible for (1) processing lease agreements, easements, and other property-related documents and (2) facilitating issuing leases for department housing to department employees in accordance with the department's residential housing policy.

#### *Local Use of Program Open Space Funding for Development*

The bill increases the extent to which counties that have met land acquisition goals in their current, approved local land preservation and recreation plan can use POS local funding for development projects. The bill (1) allows those counties to use up to 100%, instead of up to 75%, of their future POS local funding for development projects; (2) eliminates a requirement that the counties' acreage attainment goals equal or exceed the minimum recommended acreage goals developed for the jurisdiction under the Maryland Land Preservation and Recreation Plan; and (3) eliminates a provision that limits the duration of the authorization to use the increased percentage of funding for development projects to a period of five years.

(The bill, however, does not affect Garrett and Allegany counties' ability to use POS local funding for development projects. They already have the ability to use up to 100% of their funding for development projects, under a provision that applies to jurisdictions with more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas. However, see Additional Comments regarding the counties' ability to use funding for capital renewal.)

#### **Current Law/Background:**

##### *Affiliated Foundations*

DNR indicates that the creation of one or more affiliated foundations (1) utilizes the department's ability to access a variety of user groups and constituents to help support the department's efforts to conserve and provide access to public lands and (2) allows the

department to form more formal partnerships with corporate and nonprofit partners. DNR indicates that the National Park Foundation, the official charitable arm of the National Park Service, is an example of this approach to public lands management.

The conflict-of-interest provisions of the Maryland Public Ethics law – from which the bill exempts DNR officials or employees who serve as a director or official of an affiliated foundation – establish prohibitions and requirements that primarily guard against the potential for a government official’s or employee’s personal financial interests or outside employment to influence their actions as a governmental official or employee.

While not specifically identified by DNR, these provisions of the bill appear broadly consistent with funding recommendations in the [Maryland State Park System Study and Recommendations \(2024\)](#) (see pp. 178-179), completed pursuant to Chapter 39 of 2022, (the Great Maryland Outdoors Act), relating to public-private partnerships, corporate sponsorships, and establishment of a nonprofit organization to support the State’s park system.

#### *Use of Program Open Space Funding for Operating Costs*

The State transfer tax, which is 0.5% of the amount paid for the transfer of real property, is used to fund POS, along with several land conservation programs and State forest and park operations. DNR administers POS, which acquires and improves outdoor recreation and open space areas for public use. POS consists of a State and local component. Approximately 50% of the transfer tax funding distributed to POS is allocated to State land acquisition and capital development, 30% is allocated to local government acquisition and development, and 20% is allocated to State forest and park operations.

The Budget Reconciliation and Financing Act of 2025 (BRFA) (House Bill 352 and Senate Bill 321), as introduced, authorizes the Governor to appropriate to DNR up to \$16.4 million from POS State land acquisition fund balance for operating expenses in the Maryland Park Service in fiscal 2026 only. DNR indicates that the current POS State land acquisition fund balance is approximately \$135.0 million and, in addition to the \$16.4 million proposed to be appropriated under the BRFA in fiscal 2026, a total of \$17.13 million of acquisition projects are currently scheduled for BPW approval. However, given that additional projects are likely encumbered between now and the end of fiscal 2026, and additional transfer tax revenues are collected during that time, it is difficult to project the POS State land acquisition fund balance at the end of fiscal 2026. But DNR expects, under the bill, to make such a projection in fall 2025, during the fiscal 2027 budget process, to determine the extent of any transfer of POS State land acquisition fund balance to cover operating costs in fiscal 2027.

DNR indicates that this bill (1) provides ongoing authority for use of POS State land acquisition fund balance for operating expenses similar in manner to the BRFA's authorization applicable to fiscal 2026 only and (2) allows the department to both continue to acquire land to achieve State land conservation goals and have sufficient operating funding to manage existing and newly acquired State lands.

#### *Budget Requests for Positions to Manage and Administer New Real Property*

DNR indicates that since 2003, acreage under active management by the department has increased from approximately 350,000 acres to more than 500,000 acres, while the number of authorized positions within the land management units in DNR, prior to fiscal 2024, had decreased during that time period. Chapter 39 (the Great Maryland Outdoors Act) provided a one-time influx of positions in fiscal 2024 that returned the department's land management units to 2003 staffing levels, but with the growth in acreage of DNR's lands since 2003, the department continues to need additional land management staff.

DNR indicates that the bill's provision requiring the department to make a budget request for new positions to manage newly acquired land at a rate of one new position per 400 acres of newly-acquired land is based on a recommendation in the [Maryland State Park System Study and Recommendations \(2024\)](#) (see pp. 55 and 57) that DNR's Maryland Park Service staff to visitors and acreage ratio be returned to the ratio in 2003 of one staff per 33,585 visitors and per 401 acres.

#### *Provisions Governing the Department's Acquisition of Real Property*

DNR's acquisition and transfer of land is subject to specified provisions under the Natural Resources Article, which, among other things, require the department to negotiate the acquisition of real property for open space, recreation, conservation, and other purposes under the article, with each acquisition made in the name of the State to the use of the department.

Under current law, except for real property acquired by gift, DNR must obtain two independent appraisals of real property acquired from a private owner, and a contract for the acquisition of land must be approved and executed by BPW.

DNR generally indicates that the bill's changes to these provisions reflect current practice, including (1) referring to "real property interests" to clarify that a land exchange may include perpetual easement interests as well as fee simple interests; (2) authorizing in statute the use of an easement valuation system, which BPW has approved DNR's use of in place of two independent appraisals; and (3) allowing other entities to hold title/easements with BPW approval.

### *Land and Property Management Program*

DNR indicates that the bill codifies the Land and Property Management Program which was recently established in the department's Land Acquisition and Planning Unit to (1) oversee and process real property transactions for the department and (2) implement a newly created DNR housing policy which governs leasing of the department's operational houses to employees and eliminates individual managers' authority over leasing decisions.

### *Local Use of Program Open Space Funding for Development*

As referenced above, approximately 30% of transfer tax funding distributed to POS is allocated to local government land acquisition and development. The funding is allocated among the counties through an apportionment formula.

A county must prepare (and revise, every five years) a local land preservation and recreation plan with acquisition goals to be approved by DNR and the Maryland Department of Planning (MDP). At least one half of a county's annual apportionment of POS funding must be used for acquisition, with the other half available for acquisition or development, unless DNR and MDP certify that the county's acquisition goals have been met (and those goals equal or exceed goals developed for the jurisdiction under the Maryland Land Preservation and Recreation Plan), in which case a county may use up to 75% of its future annual apportionment for development projects for a period of five years. And 20% of the 75% may be used for capital renewal. A county that has more than 65,000 acres of land consisting of State forests, State parks, or wildlife management areas (Garrett and Allegany counties) may use up to 100% of its future annual apportionment for development projects and capital renewal.

DNR indicates that the bill's authorization for all counties to use up to 100% of their funding for development if acquisition goals are met gives the counties additional flexibility while maintaining a focus on acquisition goals. The bill's repeal of the requirement that counties' goals equal or exceed goals for the county under the Maryland Land Preservation and Recreation Plan reflects the fact that the plan does not include minimum goals for counties.

**Exhibit 1** shows the POS allocations under the fiscal 2026 budget as introduced for each county and indicates whether the counties have met their acquisition goals.

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**Exhibit 1**  
**Fiscal 2026 POS Allocation – and – Acquisition Goal Status**

	<u>FY 2026 POS Local Allocation</u>	<u>Has met acquisition goals?</u>
Allegany	289,184	Y
Anne Arundel	3,091,794	N
Baltimore City*	12,057,189	n/a
Baltimore County	3,479,391	N
Calvert	307,846	Y
Caroline	135,211	Y
Carroll	691,395	Y
Cecil	358,223	Y
Charles	636,800	N
Dorchester	117,447	Y
Frederick	745,503	Y
Garrett	146,379	Y
Harford	1,029,868	N
Howard	1,819,543	Y
Kent	87,920	Y
Montgomery	4,610,730	N
Prince George's	3,775,630	Y
Queen Anne's	191,940	Y
St. Mary's	350,184	Y
Somerset	82,900	Y
Talbot	200,079	Y
Washington	544,413	Y
Wicomico	363,080	Y
Worcester	359,744	Y
<b>TOTAL</b>	<b>35,472,393</b>	

\* Includes a \$10.0 million direct grant to Baltimore City from POS State funding required by statute.

n/a: not available

POS: Program Open Space

Source: Department of Natural Resources; Department of Budget and Management

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**State Fiscal Effect:** The estimated effect of the bill on State finances is summarized in **Exhibit 2** and discussed further below.



**Exhibit 2**  
**Estimated State Fiscal Effect of the Bill**

<u>Description</u>	<u>Agency</u>	<u>Type</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
Land and Property Management Program	DNR	SF Expenditures	\$212,543	\$215,869	\$225,437	\$235,475	\$245,526
		<i>SF Positions (new)</i>	<i>2.0</i>				
Budget Requests for Positions	DNR	SF Expenditures		378,696	762,647	1,180,326	1,630,444
		<i>SF Positions (new)</i>		<i>4.0</i>	<i>4.0</i>	<i>4.0</i>	<i>4.0</i>
Any Additional Use of Program Open Space Funds for Operating Costs	DNR	SF Expenditures		-	-	-	-
Modifications to Ethics Law	Ethics	GF Expenditures	35,000				
		<b>State Net Effect</b>	<b>\$247,543</b>	<b>\$594,565</b>	<b>\$988,084</b>	<b>\$1,415,801</b>	<b>\$1,875,970</b>
		<i>Total Positions (new)</i>	<i>2.0</i>	<i>4.0</i>	<i>4.0</i>	<i>4.0</i>	<i>4.0</i>

DNR: Department of Natural Resources  
Ethics: State Ethics Commission  
GF: general fund  
SF: special fund  
-: indeterminate increase

Source: Department of Legislative Services

As summarized in Exhibit 2, the bill has the following effects on State finances:

- Land and Property Management Program** – Special fund expenditures increase by \$212,543 in fiscal 2026 and by ongoing amounts in future years, reflecting the cost of two additional positions in the Land and Property Management Program. The fiscal 2026 budget as introduced includes \$212,543 in special funds and two merit positions contingent on the enactment of legislation allowing DNR to realign POS State land acquisition fund balance to support operating expenses under certain circumstances. DNR and DBM indicate that (1) the two additional positions for the program (which has four existing positions) are needed to help manage the program’s workload as DNR continues to acquire land and (2) the bill’s allowance

for the use of POS State land acquisition fund balance for operating costs helps ensure there is funding for the two positions in future years. Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

- **Budget Requests for Positions** – Special fund expenditures increase by \$378,696 in fiscal 2027 and greater amounts in future years, reflecting hiring of additional DNR staff in accordance with budget requests made pursuant to the bill for new staff, at a rate of one new position for every 400 newly acquired acres of land. This estimate assumes (1) budget requests made by DNR pursuant to the bill are approved and result in hiring of requested staff in the following fiscal year; (2) at least four additional staff are hired each fiscal year, beginning in fiscal 2027, based on the required ratio of one additional position per 400 acres of newly acquired real property interests and the average annual increase in DNR land acreage (1,751 acres) between fiscal 2019 and 2024; and (3) the cost of the additional positions is covered, if no other special funds (DNR’s predominant source of funding) are available, by transferred POS State land acquisition fund balance as allowed by the bill. Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.
- **Any Additional Use of Program Open Space Funds for Operating Costs** – While the bill’s allowance for the use of POS State land acquisition fund balance for operating costs is assumed to cover the two additional positions under the Land and Property Management Program and the new positions resulting from budget requests, pursuant to the bill, presumably special fund expenditures may further increase in fiscal 2027 and future years due to the use of POS State land acquisition fund balance for additional operating costs described in the bill; however, the extent of any such additional increase in special fund expenditures cannot be reliably estimated. (DLS notes that these increases in special fund expenditures (to cover the Land and Property Management Program positions, new positions resulting from the bill’s budget request requirement, and any other operating costs) may, to an extent, reflect spending of fund balance that is spent, even in the absence of the bill, but in a later fiscal year for land acquisition; however, it is difficult to determine how much of any increased spending occurs even in the absence of the bill in later years, and how much may represent spending of funds that, in the absence of the bill, are maintained as fund balance year after year, without being spent in the immediate foreseeable future.)
- **Modification to the Maryland Public Ethics Law** – General fund expenditures increase by \$35,000 in fiscal 2026 only, for the State Ethics Commission to pay for modifications to its online training program (for State officials and employees) that

result from modifications the bill makes to the Maryland Public Ethics Law to exempt DNR officials or employees who serve as a director or official of an affiliated foundation from the law's conflict-of-interest provisions.

This analysis assumes that the bill's authorization for DNR to establish one or more affiliated foundations does not directly affect State finances, since, under the bill, (1) a foundation may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose and (2) a financial obligation or liability of an affiliated foundation may not be considered a debt or an obligation of the State or DNR. It is assumed that the foundation's (or foundations') finances are maintained separately from DNR's finances, as non-State funds.

**Local Fiscal Effect:** The bill does not change the amount of POS local funding allocated to the counties overall or individually; however, counties that have met their land acquisition goals may benefit from the ability to use a greater portion of their funding for parks and recreation development projects.

**Small Business Effect:** DLS disagrees with DNR's assessment that the bill has no economic impact on small businesses. The bill may have a meaningful positive impact on small businesses involved in any development or activities funded by affiliated foundations or that result from local governments' increased ability to use POS local funding for development projects. The bill may also negatively impact small businesses that provide services associated with land acquisition (*e.g.*, title work, surveys, and appraisals) to the extent the bill reduces State and/or local land acquisition to any extent, now or in the future.

**Additional Comments:** While not reflected in the above analysis, DLS notes that the bill's changes to provisions governing local use of POS funding for development projects appear to limit Garrett and Allegany counties' use of funding for "capital renewal" (defined as renewal of a capital project for which an improvement is necessary to ensure the physical integrity of (1) a facility; (2) fixed equipment; or (3) an existing physical improvement). Under the bill, the counties may use only up to 20% of their allocation for capital renewal, whereas currently it appears there is no limit. DNR indicates, however, that this change is unintended.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; Office of the Attorney General; Department of Budget and Management; Department of Natural Resources; Maryland Department of Planning; Board of Public Works; State Ethics Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2025  
js/lgc

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## **ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

**TITLE OF BILL:** Natural Resources - Public Lands - Acquisition, Staffing, Operations, and Funding

**BILL NUMBER:** HB 717

**PREPARED BY:** Dylan Behler

### **PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

**WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS**

**OR**

**WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES**

### **PART B. ECONOMIC IMPACT ANALYSIS**

This bill will have no economic impact on small businesses.