

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 263 (Senator Edwards, *et al.*)

Budget and Taxation and Education, Health,
 and Environmental Affairs

Payment in Lieu of Taxes - State Forests, State Parks, and Wildlife Management Areas

This bill establishes an Open Space Incentive Program to make specified annual payments, beginning in fiscal 2018, to counties, based on the number of acres of land in a county that consists of State forests, State parks, and wildlife management areas. The payments replace existing revenue-sharing payments in the affected counties and are phased in so that they are only made to certain counties in fiscal 2018 and 2019.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$4.0 million in FY 2018 due to payments under the Open Space Incentive Program. Special fund expenditures for revenue-sharing payments decrease by \$564,944 in FY 2018. Future years reflect a phase-in of the program through FY 2020 and, in FY 2021, an adjustment in payments under the Open Space Incentive Program based on the Consumer Price Index (CPI). Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2018.**

(\$ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	4.0	7.8	15.0	16.2
SF Expenditure	0	(0.6)	(1.1)	(2.4)	(2.4)
Net Effect	\$0.0	(\$3.4)	(\$6.7)	(\$12.6)	(\$13.8)

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

Local Effect: Local government revenues increase by a net amount of at least \$3.4 million in FY 2018, \$6.7 million in FY 2019, and \$12.6 million in FY 2020 and future years, subject to adjustments based on the CPI.

Small Business Effect: None.

Analysis

Bill Summary: Under the Open Space Incentive Program, in fiscal 2018, the State pays each county that has at least seven “units of open space” \$250,000 for each unit of open space in the county. In fiscal 2019, the State pays each county that has at least four units of open space \$250,000 for each unit of open space in the county. In fiscal 2020 and future years, the State pays each county \$250,000 for each unit of open space in the county. A “unit of open space” is 10,000 acres of land within a county that consists of State forests, State parks, or wildlife management areas.

The payments are based on the number of units of open space in a county in the preceding fiscal year, rounding up to the nearest whole unit of open space (*e.g.*, 60,001 acres is rounded up to seven units of open space). Any portions of those lands that counties are able to generate revenue from, through property taxes, payments in lieu of taxes, or, in Garrett County, Deep Creek Lake State Park revenue sharing, are not included in the determination of a county’s number of units of open space.

The Governor must include in the annual budget bill the total amount to be paid to each county as certified by the Secretary of Natural Resources, and the payments are made to the counties in quarterly installments. Beginning in fiscal 2021, and every three years thereafter, the \$250,000 per unit of open space payment is adjusted based on the CPI.

The program may not be construed to prohibit the application or collection of a local tax on the extraction of natural resources.

Current Law/Background:

Revenue Sharing – Forest and Park Revenues

Counties in which State forests and parks comprise less than 10% of the total land area of the county receive 15% of the revenue derived from the State forests and parks in the county, including net revenue from concession operations. Counties in which State forests and parks comprise 10% or more of the total land area of the county receive 25% of the revenue derived from the State forests and parks, including net revenue from concession operations. The remaining revenue derived from State forests and parks is used primarily

to fund the Department of Natural Resources' (DNR) Forest Service and Maryland Park Service.

In fiscal 2010 through 2013 and fiscal 2015, this revenue sharing was reduced significantly through budget reconciliation legislation (Chapter 487 of 2009, Chapter 397 of 2011, and Chapter 489 of 2015), which limited the revenue sharing to revenue derived from timber sales (see **Exhibit 1**).

Exhibit 1
Total Revenue-sharing Payments to Counties
Fiscal 2010-2015
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Payments to Counties	\$0.3	\$0.2	\$0.2	\$0.2	\$2.4	\$0.2

Source: Department of Natural Resources

Applicability of Property Tax to State Land

Government-owned property devoted to a governmental use or purpose is generally not subject to property tax. The interest or privilege of a person to whom government-owned property is leased or otherwise made available to use in connection with a for-profit business, however, is subject to property tax as though the lessee or user were the owner of the property, unless the federal or State government owns the property and makes negotiated payments in lieu of tax. Most counties and municipalities have specified authority to authorize an exemption for such interests in government-owned property and to provide for a negotiated payment in lieu of tax. The bill excludes from the calculation of "units of open space" any such State-owned property from which counties receive property tax or payments in lieu of tax or for which counties have authorized property tax exemptions.

State Forests, State Parks, and Wildlife Management Areas

DNR's State Park System covers 138,015 acres, DNR's State Forest System covers 216,168 acres, and wildlife management areas cover 123,496 acres. Wildlife management areas are areas acquired by DNR to protect, propagate, or manage wildlife, or for hunting purposes.

State Expenditures: General fund expenditures increase by at least \$4.0 million in fiscal 2018, at least \$7.8 million in fiscal 2019, and at least \$15.0 million in fiscal 2020 and future years due to payments under the Open Space Incentive Program, subject to adjustments based on the CPI every three years beginning in fiscal 2021. Special fund expenditures decrease by \$564,944 in fiscal 2018, by \$1.1 million in fiscal 2019, and by \$2.4 million in fiscal 2020 and future years due to the elimination of existing revenue sharing payments. **Exhibit 2** shows, by county, the fiscal 2014 existing revenue-sharing payments, the number of units of open space and associated acreage in each county (accounting only for DNR-owned land, as discussed below), and the proposed Open Space Incentive Program payments for fiscal 2018 through 2020 based on current acreage. Fiscal 2014 payments are used since the full payments were not made in fiscal 2015 pursuant to budget reconciliation legislation. This estimate, which is based on information provided by DNR, assumes that:

- State forest and park revenues remain at the fiscal 2014 level through fiscal 2021; and
- payments to counties under the Open Space Incentive Program increase by 8% every three years beginning in fiscal 2021 due to the required increases based on the CPI.

It should be noted that the estimate only accounts for State forests, State parks, and wildlife management area lands that are owned by DNR. Based on the definition in the bill of “State forest,” forest land owned or leased by the State but not controlled by DNR also would be included in the calculation of “units of open space,” upon which payments under the program are based. It is not known at this time how much additional land that is not controlled by DNR might qualify under the bill as forest land owned or leased by the State or to what extent that might increase the fiscal impact of the bill.

In addition, to the extent the amount of land that consists of State forests, State parks, or wildlife management areas increases in future years, general fund expenditures increase to account for any additional units of open space.

DNR indicated in 2015 that it acquires, on average, 5,000 acres of land per year through Program Open Space (an existing and separate program from this bill’s proposed Open Space Incentive Program), much of which is added to DNR’s State parks, State forests, and wildlife management areas.

Exhibit 2
Existing and Proposed Payments to Counties

County	Proposed Payments (\$ in Millions)					
	Existing Payments	Acreage*	UOS	FY 2018	FY 2019	FY 2020
Allegany	\$230,454	67,073	7	\$1.75	\$1.75	\$1.75
Anne Arundel	277,463	4,568	1			0.25
Baltimore City	0	0	0			
Baltimore	176,922	21,495	3			0.75
Calvert	4,788	4,942	1			0.25
Caroline	59,193	7,223	1			0.25
Carroll	17,351	4,867	1			0.25
Cecil	82,891	13,590	2			0.50
Charles	19,663	20,519	3			0.75
Dorchester	8,281	46,660	5		1.25	1.25
Frederick	123,399	12,583	2			0.50
Garrett	334,490	82,470	9	2.25	2.25	2.25
Harford	126,937	6,933	1			0.25
Howard	78,712	9,790	1			0.25
Kent	0	5,209	1			0.25
Montgomery	94,796	12,688	2			0.50
Prince George's	13,418	6,780	1			0.25
Queen Anne's	13,021	4,607	1			0.25
St. Mary's	116,970	7,076	1			0.25
Somerset	50,621	47,984	5		1.25	1.25
Talbot	0	238	1			0.25
Washington	116,546	22,584	3			0.75
Wicomico	5,028	22,703	3			0.75
Worcester	467,691	40,386	5		1.25	1.25
Total	\$2,418,637	472,968	60	\$4.00	\$7.75	\$15.00

*The Deep Creek Lake Natural Resources Management Area (4,714 acres) is excluded from the Garrett County acreage shown in the exhibit to account for the bill's requirement that "the portion of Deep Creek Lake State Park that is attributable to payments required under § 5-215 of the Natural Resources Article" be excluded from the determination of the number of units of open space. The Department of Legislative Services notes, however, that it is unclear what land, specifically, is subject to that exclusion.

UOS: Units of Open Space

Source: Department of Natural Resources; Department of Legislative Services

Local Revenues: Local government revenues increase by a net amount of at least \$3.4 million in fiscal 2018, at least \$6.7 million in fiscal 2019, and at least \$12.6 million in fiscal 2020 and future years, subject to adjustments based on the CPI every three years beginning in fiscal 2021. This estimate reflects the Open Space Incentive Program payments less the existing revenue-sharing payments these counties receive in the absence of the bill.

To the extent the amount of land that consists of State forests, State parks, or wildlife management areas increases in future years, local government revenues increase to account for any additional units of open space.

Additional Information

Prior Introductions: SB 134 of 2015 passed in the Senate as amended and was referred to the House Rules and Executive Nominations Committee, but no further action was taken. Its cross file, HB 1091, received a hearing in the House Environment and Transportation Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Natural Resources; Department of Budget and Management; State Department of Assessments and Taxation; Dorchester, Garrett, and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2016
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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510