

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 383

(The President, *et al.*) (By Request - Administration)

Budget and Taxation

State Transfer Tax - Distribution of Revenue

This Administration bill reduces amounts authorized to be transferred from the special fund into which transfer tax revenues are deposited (transfer tax special fund) to the general fund by \$20 million in fiscal 2017 and by \$40 million in fiscal 2018. The bill also requires \$20 million in fiscal 2017 and \$40 million in fiscal 2018 to be distributed from the transfer tax special fund, in specified amounts, to specified land preservation and capital development programs/purposes.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund revenues decrease by \$20.0 million in FY 2017 and by \$40.0 million in FY 2018. Special fund revenues and expenditures increase correspondingly, reflecting the availability of those funds for distribution from the transfer tax special fund for land preservation and capital development programs/purposes. The Governor's proposed FY 2017 budget includes pay-as-you-go (PAYGO) special fund appropriations totaling \$20 million that are contingent on the enactment of legislation to increase funding for land preservation programs. **This bill establishes mandated appropriations in FY 2017 and 2018.**

(\$ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	(\$20.0)	(\$40.0)	\$0	\$0	\$0
SF Revenue	\$20.0	\$40.0	\$0	\$0	\$0
SF Expenditure	\$20.0	\$40.0	\$0	\$0	\$0
Net Effect	(\$20.0)	(\$40.0)	\$0.0	\$0.0	\$0.0

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

Local Effect: Local government revenues increase collectively by \$5.0 million in FY 2017 and by \$11.0 million in FY 2018 due to increased Program Open Space (POS) – Local funding. In addition, Baltimore City revenues increase by \$4.0 million due to a direct grant for Eager Park which the proposed FY 2017 budget bill indicates is the intended purpose of the POS – State distribution in FY 2017 (see below).

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: Exhibit 1 shows the required distributions from the transfer tax special fund. The distributions may not be utilized or considered for the purposes of calculating any allocation or appropriation under existing provisions addressing transfer tax revenue over- or under-attainment and repayment of certain funds transferred from the special fund to the general fund.

Exhibit 1 Required Distributions in Fiscal 2017 and 2018

<u>Program/Purpose</u>	<u>FY 2017</u>	<u>FY 2018</u>
Program Open Space – State	\$4,000,000*	\$3,412,000
Program Open Space – Local	5,000,000	11,000,000
Rural Legacy	4,862,000	9,000,000
Critical Maintenance	2,000,000	2,000,000
Natural Resources Development Fund	138,000	5,088,000
Ocean City Beach Maintenance	500,000	500,000
Maryland Agricultural Land Preservation Fund	3,500,000	9,000,000
Total	\$20,000,000	\$40,000,000

*The proposed fiscal 2017 budget bill indicates that this distribution is intended to be used for a Baltimore City direct grant for Eager Park.

Current Law:

Allocation of Transfer Tax Revenue

Revenue from the transfer tax, after payment of any debt service on outstanding bonds secured by a pledge of the State transfer tax and deduction of costs of administering the transfer tax, is paid to the Comptroller for deposit in a special fund.

Chapter 425 of 2013 (Budget Reconciliation and Financing Act of 2013), notwithstanding any other law, authorized the Governor to transfer specified amounts from the transfer tax special fund to the general fund in each fiscal year from fiscal 2014 through 2018 (the fiscal 2015 and 2016 amounts were increased by subsequent budget reconciliation legislation). The amounts authorized to be transferred in fiscal 2017 and 2018 are \$82,771,000 and \$86,028,000, respectively.

Of remaining amounts in the special fund not transferred to the general fund under Chapter 425, up to 3% may be appropriated in the State budget for salaries and related expenses in the Department of General Services, Department of Natural Resources (DNR), and the Maryland Department of Planning (MDP) necessary to administer POS. Remaining funds are distributed as follows:

- 75.15% – POS (for purposes under the program, including land acquisition);
- 1% – POS (land acquisition);
- 17.05% – Agricultural Land Preservation Fund;
- 5% – Rural Legacy Program; and
- 1.8% – Heritage Conservation Fund.

The POS allocations are subject to further allocation among the State and local components of the program and other purposes, including funding to operate State forests and parks. The POS allocations for State land acquisition and the Agricultural Land Preservation Fund allocation are subject to reductions equal to any debt service paid on outstanding bonds attributable to those purposes.

Revenue Over- or Under-attainment and Future Repayment of Previous Transfers

Provisions governing the transfer tax special fund specify how revenue collections that are above or below revenue estimates used as the basis for appropriations from the fund in a given fiscal year are spent or reconciled. Other provisions also establish a process for certain funds transferred from the special fund to the general fund to be repaid to the fund beginning in fiscal 2019, under specified conditions. Due to exemptions of recent transfers

from those provisions, the provisions apply only to a \$90 million transfer in fiscal 2006. The bill clarifies that the required distributions under the bill do not affect those provisions.

Background:

Use of Transfer Tax Revenues to Balance Operating Budget

A significant amount of transfer tax funding that otherwise would have been distributed among POS and other land preservation programs has been transferred in recent years to help balance the State's operating budget. Those funds have been partially replaced with general obligation bond funding. **Appendix 1** shows a history of the transfers and replacement funding.

Affected Programs

Program Open Space (including Critical Maintenance, Natural Resources Development Fund, and Ocean City Beach Maintenance)

POS acquires and improves outdoor recreation and open space areas for public use. The program also preserves unique natural areas that are home to rare and endangered species. The State's goal is to conserve these lands before unaffordable land prices or development makes the task impossible. POS consists of a State and a local component.

The State component includes land acquisition funding, a direct grant of at least \$1.5 million to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS) and capital development funding. Capital development under the POS State component consists of DNR maintenance and repair projects at public use facilities (Critical Maintenance Projects), design and construction of development projects on DNR property (Natural Resource Development Fund), and Ocean City beach replenishment (the costs of which are shared with the federal government, Worcester County, and Ocean City). While the bill's distributions refer to POS – State and Critical Maintenance, Natural Resources Development Fund, and Ocean City Beach Maintenance as separate programs or purposes, those capital development efforts are funded through the State's share of POS funding. Allocations of the contingent special fund appropriations in the proposed fiscal 2017 budget bill indicate that a Baltimore City direct grant for Eager Park is the intended purpose of the POS – State allocation of \$4.0 million.

Under the local component of POS, DNR allocates funds among the counties according to a formula established in 1982 that is based on past grant amounts, population change, and transfer tax revenue collections in each jurisdiction. To participate in the grant process, a county submits an annual program of proposed acquisition and development projects to

DNR for approval. The annual program becomes the basis for a grant agreement for the county's total annual allocation. A municipality may receive POS funds through its county. The municipality must apply to its county for consideration of proposed municipal projects along with other county projects.

Rural Legacy

The Rural Legacy Program preserves large blocks of working rural lands for future generations. The program protects natural, cultural, agricultural, forest, and environmental resources from urban sprawl and development and promotes land conservation statewide by granting funds to local governments and conservation organizations (such as land trusts) to conserve land through the purchase of easements within designated rural legacy areas.

Maryland Agricultural Land Preservation Foundation (Agricultural Land Preservation Fund)

The Maryland Agricultural Land Preservation Foundation's (MALPF) mission is to preserve productive agricultural land and woodland, curb the expansion of random urban development, curb the spread of urban blight and deterioration, and protect agricultural land and woodland as open space. MALPF also has an ancillary mission to protect wildlife habitat and enhance the quality of the Chesapeake Bay and its tributaries. To these ends, MALPF purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity.

Review of Land Preservation and Easement Acquisition Programs

In the 2015 *Joint Chairmen's Report*, the budget committees of the General Assembly requested an evaluation of the State's land preservation and easement acquisition programs and all capital and operating programs funded with the transfer tax. The review was conducted by a workgroup consisting of DNR, the Maryland Department of Agriculture (MDA), MDP, the Department of Budget and Management, representatives from county parks and recreation departments, and other interested stakeholders. While this bill's actions are not a part of the workgroup's recommendations in its December 2015 report, the report contains other proposals, and views of the Administration, regarding the funding of the State's land preservation and easement acquisition programs. For more information, see [Maryland's Land Preservation Programs: Report to the Chairmen of the Senate Budget and Taxation Committee and House Appropriations Committee](#) (December 2015).

State Fiscal Effect: General fund revenues decrease by \$20.0 million in fiscal 2017 and by \$40.0 million in fiscal 2018 due to the reduction in the amounts the Governor is authorized to transfer from the transfer tax special fund to the general fund. This assumes that, in the absence of the bill, the Governor otherwise transfers those amounts.

Special fund revenues increase by \$20.0 million in fiscal 2017 and by \$40.0 million in fiscal 2018, reflecting the availability of the funding that is no longer transferred to the general fund to be spent from the transfer tax special fund. PAYGO special fund expenditures increase correspondingly, in accordance with the bill's required distributions for land preservation and capital development purposes in fiscal 2017 and 2018.

The Governor's proposed fiscal 2017 budget includes a \$16.5 million PAYGO special fund appropriation under DNR and a \$3.5 million PAYGO special fund appropriation under MDA, which are both contingent on the enactment of legislation to increase funding for land preservation programs.

Appendices 2 and 3 show the transfer tax distribution by program under current law and under the bill for fiscal 2017 and 2018, respectively.

Local Fiscal Effect: Local government revenues increase collectively by \$5.0 million in fiscal 2017 and by \$11.0 million in fiscal 2018, reflecting the distributions to POS – Local, which are allocated among the counties by formula. **Exhibit 2** shows the allocation among the counties for fiscal 2017.

In addition, as mentioned above, the proposed fiscal 2017 budget bill indicates that the intended purpose for the POS – State distribution under the bill is a Baltimore City direct grant for Eager Park. Therefore, Baltimore City revenues further increase by \$4.0 million in fiscal 2017. That funding is not reflected in Exhibit 2.

Exhibit 2
POS Local Allocation in Fiscal 2017

<u>County</u>	<u>Allocation</u>
Allegany	\$55,214
Anne Arundel	587,614
Baltimore City	526,942
Baltimore	664,734
Calvert	58,230
Caroline	25,851
Carroll	131,967
Cecil	68,030
Charles	119,732
Dorchester	22,059
Frederick	136,489
Garrett	27,184
Harford	195,522
Howard	46,627
Kent	16,445
Montgomery	873,065
Prince George's	751,202
Queen Anne's	35,134
St. Mary's	66,221
Somerset	15,901
Talbot	36,848
Washington	103,974
Wicomico	69,459
Worcester	65,558
Total	\$5,000,000

Source: Department of Budget and Management

Additional Information

Prior Introductions: None.

Cross File: HB 462 (The Speaker, *et al.*) (By Request - Administration) - Appropriations.

Information Source(s): Department of Natural Resources, Department of Budget and Management, Maryland Department of Agriculture, Maryland Department of Planning, Worcester County, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2016
md/lgc

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**Appendix 1 – Transfer Tax Revenue Transfers and
General Obligation Bond Replacement
Fiscal 2002-2016
(\$ in Millions)**

<u>Fiscal Year</u>	<u>Transfers</u>	<u>Replacement</u>	<u>Difference</u>
2002	\$29.2	\$0.0	-\$29.2
2003	60.5	0.0	-60.5
2004	102.8	53.3	-49.5
2005	189.3	22.0	-167.3
2006	90.0	0.0	-90.0
2007	0.0	0.0	0.0
2008	0.0	0.0	0.0
2009	136.5	0.0	-136.5
2010	188.5	130.6	-57.9
2011	23.5	156.3	132.7
2012	94.5	45.8	-48.7
2013	96.9	86.6	-10.3
2014	89.2	59.4	-29.8
2015	154.7	67.1	-87.6
2016	115.4	80.2	-35.2
Total	\$1,371.0	\$701.1	-\$669.8

Source: Department of Budget and Management; Department of Legislative Services

**Appendix 2 –Transfer Tax Distribution for Land Preservation Programs
Under Current Law and Under the Bill
Fiscal 2017**

<u>Program</u>	<u>BRFA of 2013 General Fund Transfer</u>	<u>Budget Before Bill</u>	<u>Bill</u>	<u>Budget After Bill</u>
DNR – Land Acquisition and Planning Program Open Space – State Share	-\$23.6	\$15.4	\$4.0	\$19.4
Program Open Space – Local Share	-22.9	16.7	5.0	21.7
Rural Legacy Program	-9.2	7.8	4.9	12.7
Natural Resources Development Fund	-7.2	2.9	0.1	3.1
Critical Maintenance Program	-2.0	4.0	2.0	6.0
Ocean City Beach Maintenance	-0.5	0.0	0.5	0.5
 Maryland Department of Agriculture Maryland Agricultural Land Preservation Foundation	 -17.4	 12.7	 3.5	 16.2
Distribution for Programs	-\$82.8	\$59.5	\$20.0	\$79.5

BRFA: Budget Reconciliation and Financing Act
DNR: Department of Natural Resources

Note: The Program Open Space – State share fiscal 2017 \$4,000,000 allocation is for a grant to the Eager Park project as part of the East Baltimore Development Initiative.

Source: Department of Budget and Management; Department of Legislative Services

**Appendix 3 – Transfer Tax Distribution for Land Preservation Programs
Under Current Law and Under the Bill
Fiscal 2018**

<u>Program</u>	<u>BRFA of 2013 General Fund Transfer</u>	<u>Estimated Budget Before Bill</u>	<u>Bill</u>	<u>Estimated Budget After Bill</u>
DNR – Land Acquisition and Planning				
Program Open Space – State Share	-\$24.8	\$17.0	\$3.4	\$20.4
Program Open Space – Local Share	-23.7	17.9	11.0	28.9
Rural Legacy Program	-9.4	8.1	9.0	17.1
Natural Resources Development Fund	-7.6	3.0	5.1	8.1
Critical Maintenance Program	-2.0	4.0	2.0	6.0
Ocean City Beach Maintenance	-0.5	0.5	0.5	1.0
 Maryland Department of Agriculture Maryland Agricultural Land Preservation Foundation	 -18.1	 13.7	 9.0	 22.7
Distribution for Programs	-\$86.0	\$64.1	\$40.0	\$104.1

BRFA: Budget Reconciliation and Financing Act
DNR: Department of Natural Resources

Source: Department of Budget and Management; Department of Legislative Services

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Transfer Tax – Distribution of Revenue

BILL NUMBER: SB0383/HB0462

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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

Enhanced funding for land preservation and improving State and local park facilities will have an indirect positive impact on small businesses. Park visitors increase economic activity near parks as they purchase fuel, food, etc. Agricultural land preservation encourages small scale farming operations in Maryland. Additionally, capital development projects in State and local parks create business opportunities for construction contractors.