

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 105

(Chair, Appropriations Committee)(By Request -  
Departmental - Natural Resources)

Appropriations

Education, Health, and Environmental Affairs

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**Program Open Space - Apportionment Formula and Committee**

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This departmental bill repeals provisions requiring a specified committee to prepare and adopt an apportionment formula for Program Open Space (POS) local funding and meet at least annually to review and update the formula. Instead, the Department of Natural Resources (DNR) is responsible for preparing and adopting the apportionment formula in consultation with a newly established committee. The new committee must meet by December 1, 2017, and every five years thereafter, or at the request of the Secretary of Natural Resources, to review and update the apportionment formula. The committee must also take into account specified factors in determining the apportionment formula.

The bill takes effect July 1, 2017.

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**Fiscal Summary**

**State Effect:** None. POS State funding is not affected, and the bill can be implemented with existing resources.

**Local Effect:** The bill does not affect the amount of POS local funding allocated to local governments overall, but depending on any changes made to the apportionment formula, the amount of funding available to individual local governments may increase or decrease.

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

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## **Analysis**

**Bill Summary:** The new committee consists of (1) the Secretaries of Natural Resources, Budget and Management, and Planning, or their designees; (2) a representative of the Maryland Association of Counties; (3) a representative of the Maryland Association of County Park and Recreation Administrators (MACPRA); and (4) a representative of the Maryland Municipal League (MML).

In determining the apportionment formula, the committee must take into account for each county and Baltimore City (1) current population; (2) transfer tax revenue collections; and (3) other factors the committee deems desirable.

The bill repeals provisions allowing for the existing committee to consider underutilization and to reallocate funding. The bill also repeals a provision requiring the committee to notify the governing bodies of the counties and Baltimore City and afford an opportunity for hearings before adopting an apportionment formula and before allocating funds for any year.

**Current Law:** A committee, appointed by the Governor, must prepare and adopt an apportionment formula relating to the percent of the total POS local funding each county and Baltimore City will receive. The committee consists of two members of the Senate, three members of the House of Delegates, and four members of the public. The Secretaries of Planning and Natural Resources serve as advisors to the committee.

The committee must meet at least annually to review and update the apportionment formula, and in determining the formula, must take into account for each county and Baltimore City (1) current population; (2) projected population; and (3) other factors it deems desirable.

In determining the apportionment formula for any year, the committee may consider underutilization of available funds and may transfer or advance unused allocations that have not been utilized within a given period. The committee may reallocate funds; however, over a 10-year period, any county or Baltimore City must be allocated in aggregate the funds it would have been entitled to receive if able to utilize them.

The committee must notify the governing bodies of the counties and Baltimore City and afford an opportunity for hearings before adopting an apportionment formula and before allocating funds for any year.

## **Background:**

### *POS, in General*

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. Transfer tax revenue is the primary source of funding for POS and other land preservation programs, supplemented by general obligation bond funding in recent years. POS consists of a State and a local component.

The State component includes land acquisition funding, capital development funding, and a direct grant of \$1.5 million in fiscal 2017, increasing to \$6.0 million in fiscal 2020 and following years, to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS).

### *POS Local Component and Formula*

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.

DNR indicates that the existing committee last met in 1982, when it established the current apportionment formula. The formula has continued to be used instead of convening the committee each year.

In response to a request in the *2015 Joint Chairmen's Report*, a report on the State's land preservation programs was submitted to the budget committee chairmen by DNR and other agencies, which discussed the requirement to evaluate the POS local apportionment formula annually by committee. The report recommended that DNR, the Department of Budget and Management, the Maryland Department of Planning, and representatives of MACPRA and MML meet to review the formula and the statutory requirement that a committee meet annually to review and update the formula. The report indicated that statute should be updated based on the recommendations of that group. This bill is based on the group's recommendations.

**Local Fiscal Effect:** The bill does not affect the amount of POS local funding allocated to local governments overall. However, if changes are made to the current apportionment formula, the amount of funding allocated to a given county or Baltimore City (and, by extension, funding available to individual municipalities within a given county) may increase or decrease. **Appendix 1** shows the POS local funding allocations for the local governments under the Governor's proposed fiscal 2018 budget.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources; Maryland Department of Planning; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2017  
fn/lgc Third Reader - March 23, 2017

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## Appendix 1 – POS Local Allocations under Proposed Fiscal 2018 Budget

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<u>County</u>	<u>Allocation</u>
Allegany	\$410,938
Anne Arundel	4,373,406
Baltimore City	3,921,847*
Baltimore County	4,947,383
Calvert	433,387
Caroline	192,397
Carroll	982,183
Cecil	506,327
Charles	891,122
Dorchester	164,178
Frederick	1,015,843
Garrett	202,318
Harford	1,455,204
Howard	2,579,824
Kent	122,393
Montgomery	6,497,925
Prince George's	5,590,935
Queen Anne's	261,490
St. Mary's	492,863
Somerset	118,344
Talbot	274,246
Washington	773,841
Wicomico	516,957
Worcester	487,928
<b>Total</b>	<b>\$37,213,279</b>

POS: Program Open Space

\*Does not include POS State funding that Baltimore City also receives.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: POS – Local Apportionment Formula Committee - Revisions

BILL NUMBER: HB 105

PREPARED BY: Hilary Bell

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

The mechanism by which funding is allocated for Program Open Space – Local via the transfer tax allocation formula will not change as a result of this legislation, and so this bill will not have an effect on small businesses.