

SENATE BILL 56

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2lr1071

(PRE-FILED)

By: **Senator Ellis**

Requested: October 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Program Open Space – Local Plans and Programs – General Assembly Approval**

3 FOR the purpose of requiring approval through legislation enacted by the General
4 Assembly before any local annual or revised program under Program Open Space
5 takes effect or any grant agreement based on the annual or revised program is
6 executed; requiring approval through legislation enacted by the General Assembly
7 before any revised local land preservation and recreation plan under Program Open
8 Space takes effect; and generally relating to Program Open Space.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 5–905(a) and (b)(2) and 5–906(d)
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2021 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Natural Resources**

17 5–905.

18 (a) (1) On or before May 1 of each year, the Department shall notify each local
19 governing body of its allocation of local acquisition and development funds for the next
20 fiscal year within the limits imposed by the formula developed for the apportionment of the
21 annual appropriations for Program Open Space.

22 (2) (i) By the first of July each year, a participating local governing body
23 shall submit an annual program of proposed acquisition and development projects, together
24 with a list of projects submitted by any municipal corporation to the local governing body

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and not included in the local governing body's annual program, to the Department of
2 Planning for review and to the Department for approval.

3 (ii) A municipal corporation may submit an annual program through
4 its local governing body.

5 (iii) A subdivision, for each proposed project under this subsection,
6 shall consider whether it is feasible to provide public access to the proposed project.

7 (iv) When considering whether it is feasible to provide public access
8 to a proposed project under this paragraph, a subdivision may consider:

9 1. The availability of funds available under this program or
10 from other sources to provide public access to the proposed project;

11 2. Public safety and liability issues if public access were
12 provided to the site;

13 3. Whether the site for the proposed project was acquired as
14 a part of a larger recreational and open space project that is not yet completed and ready
15 for public access; and

16 4. The existence of a contractual commitment on the site for
17 a proposed project that would limit public access for a period of time, including a home,
18 agricultural, or hunting lease.

19 (3) (i) **[Upon] SUBJECT TO SUBPARAGRAPH (III) OF THIS**
20 **PARAGRAPH, ON** review by the Department of Planning and approval by the Department
21 and the Board of Public Works, the allocated funds shall be encumbered for the purposes
22 of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article, and the
23 annual program shall become the basis for a grant agreement for the total allocation to
24 each of the local governing bodies.

25 (ii) **[Prior to] BEFORE** approval of a local annual program, or any
26 revision thereof, the Department shall provide the legislators from the district within which
27 any part of the local jurisdiction is located the opportunity to review and comment on the
28 annual program or its revisions.

29 **(III) APPROVAL THROUGH LEGISLATION ENACTED BY THE**
30 **GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY LOCAL ANNUAL PROGRAM**
31 **TAKES EFFECT OR ANY GRANT AGREEMENT BASED ON THE PROGRAM IS EXECUTED.**

32 (4) (I) **[Any] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
33 **PARAGRAPH, ANY** program may be revised by the local governing body and the revised
34 program, after the Department of Planning reviews and the Department approves it, shall
35 be substituted for the original program in the grant agreement.

1 **(II) APPROVAL THROUGH LEGISLATION ENACTED BY THE**
2 **GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY REVISED PROGRAM TAKES**
3 **EFFECT OR ANY GRANT AGREEMENT BASED ON THE PROGRAM IS EXECUTED.**

4 (5) (i) In accordance with the Department's regulations, upon receipt of
5 evidence from the local governing body of a county or municipal corporation that funds have
6 been spent on a project that is approved in the grant agreement, the Department shall
7 cause the requested amount of funds from the local governing body's allocation to be
8 reimbursed to the local governing body.

9 (ii) Any municipal corporation may submit evidence of expenditures
10 for approved projects through its local governing body to the Department.

11 (b) (2) **(I)** A local governing body shall prepare a local land preservation
12 and recreation plan with acquisition goals based upon the most current population data
13 available from the Department of Planning and submit it to the Department and to the
14 Department of Planning for joint approval according to the criteria and goals set forth in
15 guidelines prepared by the Department and the Department of Planning.

16 **(II)** A local governing body shall revise its local land preservation and
17 recreation plan at least every 5 years and submit the revised local plan to the Department
18 and to the Department of Planning for joint approval 1 year prior to the revision of the
19 Maryland Land Preservation and Recreation Plan. [Prior to]

20 **(III) 1. BEFORE** approval of a revised local plan, the Department
21 shall provide the legislators from the district within which any part of the local jurisdiction
22 is located the opportunity to review and comment on the revised local plan.

23 **2. APPROVAL THROUGH LEGISLATION ENACTED BY THE**
24 **GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY REVISED LOCAL PLAN**
25 **TAKES EFFECT.**

26 5-906.

27 (d) As provided in § 5-905(a) of this subtitle[, beginning on December 1, 1973,]
28 local projects [shall] **MAY** not be considered or approved for a grant until [the]:

29 **(1) THE** annual program of the subdivision has been submitted; **AND**

30 **(2) THE GENERAL ASSEMBLY HAS ENACTED LEGISLATION**
31 **APPROVING THE ANNUAL PROGRAM.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
33 1, 2022.