

SENATE BILL 35

M1

2lr1072

(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 **Charles County – Program Open Space – General Assembly Approval**

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

10 BY repealing and reenacting, with amendments,
11 Article – Natural Resources
12 Section 5–905(a) and (b)(2) and 5–906(d)
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2021 Supplement)

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

17 **Article – Natural Resources**

18 5–905.

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

23 (2) (i) By the first of July each year, a participating local governing
24 body shall submit an annual program of proposed acquisition and development projects,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 together with a list of projects submitted by any municipal corporation to the local
2 governing body and not included in the local governing body's annual program, to the
3 Department of Planning for review and to the Department for approval.

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

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

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

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

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

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

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

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

26 (ii) 1. **[Prior to] BEFORE** approval of a local annual program, or
27 any revision thereof, the Department shall provide the legislators from the district within
28 which any part of the local jurisdiction is located the opportunity to review and comment
29 on the annual program or its revisions.

30 2. **APPROVAL THROUGH LEGISLATION ENACTED BY THE**
31 **GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY CHARLES COUNTY ANNUAL**
32 **PROGRAM TAKES EFFECT OR ANY GRANT AGREEMENT BASED ON THE ANNUAL**
33 **PROGRAM IS EXECUTED.**

34 (4) (I) **[Any] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
35 **PARAGRAPH, ANY** program may be revised by the local governing body and the revised

1 program, after the Department of Planning reviews and the Department approves it, shall
2 be substituted for the original program in the grant agreement.

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

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

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

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

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

23 **(III) 1.** [Prior to] **BEFORE** approval of a revised local plan, the
24 Department shall provide the legislators from the district within which any part of the local
25 jurisdiction is located the opportunity to review and comment on the revised local plan.

26 **2.** **APPROVAL THROUGH LEGISLATION ENACTED BY THE**
27 **GENERAL ASSEMBLY SHALL BE REQUIRED BEFORE ANY REVISED CHARLES**
28 **COUNTY PLAN TAKES EFFECT.**

29 5-906.

30 (d) As provided in § 5-905(a) of this subtitle[, beginning on December 1, 1973,
31 local]:

32 **(1) LOCAL** projects [shall] **MAY** not be considered or approved for a grant
33 until the annual program of the subdivision has been submitted; **AND**

34 **(2) A PROJECT IN CHARLES COUNTY MAY NOT BE APPROVED FOR A**

1 GRANT UNTIL IT RECEIVES APPROVAL THROUGH LEGISLATION ENACTED BY THE
2 GENERAL ASSEMBLY.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2022.