



**Larry Hogan**, Governor  
**Boyd Rutherford**, Lt. Governor  
**Mark Belton**, Secretary  
**Joanne Throwe**, Deputy Secretary

**Maryland Department of Natural Resources  
Fiscal Year 2016 Capital Budget  
Response to Department of Legislative Services Analysis**

Senate Budget and Taxation Committee  
Senate Capital Budget Subcommittee  
Senator James E. DeGrange, Sr., Chair  
March 1, 2016

House Appropriations Committee  
House Capital Budget Subcommittee  
Delegate Adrienne A. Jones, Chair  
March 2, 2016

**PAYGO Recommended Actions**

1. Concur with the following language on the special fund appropriation: Provided that \$16,500,000 of this appropriation is contingent on the enactment of legislation to increase funding for land preservation programs as follows:

Program Open Space – State Acquisition .....	\$2,638,000
Program Open Space – Direct Grant for Eager Park ...	\$4,000,000
Program Open Space – Local Share .....	\$5,000,000
Rural Legacy .....	\$4,862,000
Total .....	\$16,500,000

***Agency Response:*** Concur

2. Concur with the Governor’s allowance of \$500,000 in special funds for the Ocean City Maintenance program.

***Agency Response:*** Concur

3. Concur with the Governor’s allowance of \$10,500,000 in special funds and \$2,100,000 in federal funds for the Waterway Improvement Program.

***Agency Response:*** Concur

**Go Bond Recommended Actions**

1. Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds to provide grants to local governments to design and construct capital-eligible park and playground improvement projects.

**Agency Response:** Concur

2. Reduce the Rural Legacy Program general obligation bond authorization.

KA05B	Rural Legacy Program .....	\$ 0
Allowance	Change	Authorization
5,000,000	-5,000,000	0

**Agency Response:** The Department respectfully requests that the subcommittee reject the DLS recommendation for the reasons outlined below.

Demand for Rural Legacy Program funding from farmers consistently exceeds available funding – people waiting to sell easements in order to permanently preserve Maryland’s working farms and forests must be turned away simply because there is not enough funding available. Since the start of the Program, the Department has been only able to fund 16% of requests. The Department has received on average \$100 million every year in requests for an average of \$16 million in funding annually. The Program is also extremely efficient – encumbering all of the money within the fiscal year it’s appropriated and expending that money in a correspondingly timely fashion.

The Department has already received applications for the FY 2017 Rural Legacy Program totaling \$76.7 million. Our ability to preserve working farms and forests via Rural Legacy easements is directly tied to funding. The DLS recommendation to reduce funding for the Rural Legacy Program by \$5.0 million will result in a direct decrease of 1,400 acres of working farms and forests protected. This directly impacts those in Maryland's rural areas who provide locally-available food and fiber in strategically targeted and locally-managed Rural Legacy Areas; and who are willing and waiting to place their farms and forests into permanent protection for the greater good. It will also negatively impact those with whom we partner at the local level including the sponsors of the 31 Rural Legacy Areas across the State – either land trusts and/or local governments; as well as those with whom they do business locally for due diligence incidental work such as surveys and title work.

Funding directly impacts the Program’s ability to meet land preservation goals including the statewide goal to triple the existing number of acres of productive agricultural land preserved by programs such as the Maryland Agricultural Land Preservation Foundation (MALPF), Rural Legacy and the local preservation programs by the year 2022 that was established via Joint Resolution 10 of 2002. The Department is also working diligently toward the 2014 Chesapeake Watershed Agreement goal of protection of an additional two million acres. These are ambitious goals that, without consistent and adequate funding, will not otherwise be met by Maryland.

Maryland's land conservation and recreation programs do a wonderful job of leveraging federal dollars and partners. Since 2010, Rural Legacy Program funds have leveraged over \$4.4 million in federal funds through the United States Department of Defense's Readiness and Environmental Protection Integration (REPI) program administered through the Navy. REPI funds are used to secure permanent protection of lands surrounding Navy property and flyways in order to buffer these areas from incompatible encroachment. Funding for the Program directly impacts the ability to leverage federal funds.

DLS states that with their recommendation the program will still receive a 25% increase in funding over FY 2016. Due to budget constraints, recent funding levels for the Rural Legacy Program have not reflected statutory requirements, demand for funding, and the Program's contributions to State land preservation goals. Since FY11 the Rural Legacy Program has seen a cut of about 40% when comparing the budget as proposed to the budget as enacted. The FY 2016 amount was reduced by 45% - a significant reduction from the budget as proposed compared to what was enacted.

The Rural Legacy Program has the ability and nimbleness to spend every dollar in the Governor's FY 2017 budget in order to meet the extraordinary demand by our farmers and rural landowners to willingly place their land into permanent protection.

3. Approve the \$3,300,000 general obligation bond authorization for the Oyster Restoration Program to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects.

*Agency Response:* Concur

**Issues:**

**DLS recommends that DNR comment on the plans for the remaining \$72,780 of funding restricted for the purpose of dredging Deep Creek Lake (page 24).**

DNR has just recently decided to limit the sediment study to one year, at a cost of \$88,610. If the remaining \$161,390 of the designated \$250,000 funding restricted for the purpose of dredging Deep Creek Lake is not allocated by April 1, 2016, the funds revert back to the Waterway Improvement Funds. The current funding (\$88,610) is allocated for one year of sediment cove monitoring necessary to characterize, prioritize and document sediment sources. Deep Creek Lake dredging projects will require an application by Garrett County. DNR will work with the County to ensure any dredging application meets the necessary requirements.

**DLS recommends that DNR comment on the rationale for each of the three oyster shell use ratios and whether there is an intent to return to a public and private fishery in favor of the sanctuary model for oyster restoration (page 26).**

Maryland remains committed to the Sanctuary Program and to completing restoration efforts in five tributaries by 2025. The various ratios for shells from Man O'War Shoals do not suggest a

shift away from the five tributary commitment or the Sanctuary Program. Maryland's oyster restoration strategy has three priorities: a) sanctuaries, b) the public fishery, and c) aquaculture. The State is committed to each priority and provides funding and resources (such as shells).

Man O'War Shoals represents a potential new source of shells. Though the shoal is large and shells are abundant, the proposed dredging is limited in both volume and time (only two years), making the shells a limited resource. The three ratios are simply different allocation options for this limited resource. The ratios aim to balance the needs of the various user groups who need shell. A ratio will be selected based up on input from the public and the user groups.

Additionally, a decision to use less than 100% allocation to sanctuaries would not suggest a policy shift away from sanctuaries or any reduction in commitment to the sanctuary program, because shells are not the only material that can be used in sanctuaries. Rocks, clam shells, and out of state oyster shells and other materials can be used. The lack of a 100% allocation of Man O'War shells only means that other materials could be used in sanctuaries in addition to shells from Man O'War Shoals, were they to become available.

**DLS recommends that DNR comment on how it plans on handling the statutory requirement that the Governor appoint a committee to review the POS – Local apportionment formula annually and the request by local governments for greater flexibility in how POS – Local funding may be used (page 28).**

The committee to review the POS Local apportionment formula last met in 1982, and established the allocation formula that has been used since then. After this allocation formula was established in 1982, the formula was used in place of convening the committee each year. As recommended in the report to the Joint Chairmen, DBM, DNR, MDP, representatives from the Maryland Association of County Park and Recreation Administrators (MACPRA), and representatives from the Maryland Municipal League (MML) will meet to review the apportionment formula that determines the percentage of POS Local funds each subdivision will receive. This group will also review the statutory requirement that a committee meet annually to review and update the apportionment formula. Based on the recommendations of this group, the statute may need to be updated. It is anticipated that the group will begin meeting after the legislative session.

The workgroup also recommended that the statute be revised to give counties greater flexibility in how they spend their POS Local funding by removing the current restriction on POS Local funding that sets aside a percentage only for acquisition. This recognizes that projects funded through POS Local should be based on the needs identified in the counties' Land Preservation, Parks and Recreation Plans (LPPRP) using an analytical methodology that includes multiple factors (user demand, population density, land and facility distribution). The Department is available to work with legislators and/or local representatives to discuss how best to implement this recommendation.