Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 796 (Senators Middleton and Klausmeier)
Education, Health, and Environmental Affairs and Finance

Agriculture - Easements - Renewable Energy Generation Facilities

This bill authorizes a landowner, after submitting a written request to the Maryland Agricultural Land Preservation Foundation (MALPF), to use land subject to an agricultural easement to generate electricity with a facility utilizing a Tier 1 or Tier 2 renewable source if (1) the facility occupies less than 5% of the total surface area of the land subject to the easement and (2) MALPF determines that the use does not interfere significantly with the agricultural use of the land subject to the easement and does not interfere with State or federal restrictions placed on funds used by MALPF to purchase the easement. MALPF must adopt implementing regulations.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Agricultural Easement Land Uses

The following uses are permitted on MALPF easement properties:

- any farm use;

- the operation of any machinery used in farm production or primary processing of agricultural products; and

- all normal agricultural operations performed with good husbandry practices that do not cause bodily injury or directly endanger human health, including but not limited to, sale of farm products produced on the farm where such sales are made.

MALPF easement properties may not be used for commercial, industrial, or residential purposes unless MALPF determines the purposes are farm and forest-related uses and home occupations. Commercial agricultural uses MALPF allows include the growing of field crops, vegetables, and fruit; dairy and livestock operations, including chickens; and managing land for forest resources.

Maryland's Renewable Energy Portfolio Standard

Maryland's Renewable Energy Portfolio Standard requires that renewable sources generate specified percentages of Maryland's electricity supply each year, increasing to 20%, including 2% from solar power, by 2022. A "Tier 1 renewable source" includes solar energy; wind; qualifying biomass; methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents, and thermal differences; a fuel cell that produces electricity from a Tier 1 renewable source; a small hydroelectric plant of less than 30 megawatts; poultry litter-to-energy; and waste-to-energy. A "Tier 2 renewable source" is hydroelectric power other than pump storage generation.

Net Energy Metering

Net metering is an electricity policy for consumers who own (generally small) renewable energy facilities. In Maryland, net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period. An "eligible customer-generator" is a customer that owns and operates, or leases and operates, a biomass, solar, fuel cell, wind, or micro-combined heat and power electric generating facility located on the customer's premises or contiguous property; interconnected and operated in parallel with an electric company's transmission and distribution facilities; and intended primarily to offset all or part of the customer's own electricity requirements. The generating capacity of an eligible customer-generator for net metering may not exceed two megawatts.

Background: MALPF, which was established by the General Assembly in 1977 and is part of the Maryland Department of Agriculture, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, local matching funds, and the U.S. Department of Agriculture's Federal Farmland Protection Program. MALPF settled on its first purchased easement in October 1980. As of the end of fiscal 2012, MALPF had cumulatively purchased 2,078 farms covering 282,957 acres.

The federal government prohibits commercial solar and wind energy generation on federally funded agricultural easements. However, noncommercial wind and solar energy production does occur on easement properties. While MALPF does not have an official policy concerning on-site alternative energy uses, the MALPF board has approved on-farm solar use for up to 125% of the landowner's annual usage and landowner compensation for any energy generated above their yearly average usage, up to 125%.

Small Business Effect: To the extent small businesses have MALPF easement land and develop renewable energy generation projects on that land, the bill has a meaningful impact. The benefits depend on how much power is generated and the extent to which that generation reduces their electricity costs or results in payments for net excess generation. However, the bill's changes may reduce the agricultural value of an affected property, as less land may be available for agricultural purposes.

Additional Information

Prior Introductions: None.

Cross File: HB 1091 (Delegate Jameson) - Environmental Matters.

Information Source(s): Baltimore City, Maryland Department of Agriculture, Public Service Commission, Department of Legislative Services

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