

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 620

(Delegate Luedtke, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

County Agricultural Land Preservation Programs - Recertification and
Remittance of Unexpended Funds - Extensions

This bill allows for a recertification of an effective county agricultural land preservation program to be effective for five years rather than three years and provides counties six years rather than three years in which to use revenue received from the agricultural land transfer tax before it must be remitted to the State if not spent or committed. The bill requires that a recertification of a program that is recertified for five years pursuant to the bill be reviewed if a county makes specified changes to a priority preservation area. The bill allows for the recertification to be revoked if the changes are inconsistent with statutory requirements. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances, as discussed below.

Local Effect: County revenues and expenditures may increase minimally.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill allows – under the program administered by the Maryland Department of Planning (MDP) and Maryland Agricultural Land Preservation Foundation (MALPF) for certification of effective county agricultural land preservation programs – for a recertification of a county program to be effective for five years instead of three years if MDP and MALPF determine that the county program is consistently effective in the

achievement of preservation goals. MDP and MALPF, however, must review such a recertification when a county (1) revises the boundary of a priority preservation area; (2) subtracts land from a priority preservation area; or (3) adopts a comprehensive rezoning policy that increases the allowable nonagricultural land uses, density, or intensity of development within a priority preservation area. MDP and MALPF may revoke a county program recertification on a finding that such an action is inconsistent with specified statutory requirements applicable to priority preservation areas.

The bill also increases – from three years to six years – the amount of time counties have to spend money received from the agricultural land transfer tax before it must be remitted to the Comptroller for deposit in the Maryland Agricultural Land Preservation Fund.

Current Law/Background: State law establishes a process through which a county may apply to MDP and MALPF for certification (subject to various criteria) as having established an effective county agricultural land preservation program. Certification makes the county eligible for additional agricultural land preservation funding, primarily the ability to retain a greater share (75% rather than 33.3%) of agricultural land transfer tax revenue collected in the county from nonwoodland transfers. (The agricultural land transfer tax is imposed on an instrument of writing that transfers title to agricultural land, subject to exemptions, and is in addition to transfer tax applicable to transfers of land in general.)

Sixteen counties are currently certified by MDP and MALPF as having an effective county agricultural land preservation program: Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Frederick, Harford, Kent, Montgomery, Prince George’s, Queen Anne’s, St. Mary’s, Talbot, Washington, and Worcester counties.

In order for a county to initially become certified by MDP and MALPF as having established an effective county agricultural land preservation program, MDP and MALPF must determine that (1) the proposed program is likely to be successful; (2) the county has committed to spend additional local funds on the program in an amount equal to or exceeding the amount of additional funds that will be available as a result of certification; and (3) the county has established a specified “priority preservation area” (the area or areas of the county that are targeted for agricultural land preservation) and has included a specified priority preservation area element in the county’s comprehensive plan.

Certifications are effective for three years and a county may become recertified subject to specified criteria, generally that the county has maintained a successful program and has demonstrated significant progress toward achievement of preservation goals in the priority preservation area.

A county may use the additional funding available to it as a result of certification for various purposes, including the purchase of easements, administrative costs, and to serve as local matching funds used in conjunction with State funding to purchase easements under MALPF's easement acquisition program.

If revenue a county receives from the agricultural land transfer tax (whether the 75% share for certified counties or the 33.3% share for noncertified counties) has not been spent or committed within three years of the county receiving the revenue, the county collector must remit that revenue to the Comptroller for deposit in the Maryland Agricultural Land Preservation Fund.

State/Local Fiscal Effect: Providing counties six years rather than three years in which to use revenue received from the agricultural land transfer tax may help counties avoid any remittance of that revenue to the State, if they are unable to use it within three years of its receipt. Therefore, effectively, county revenues and expenditures may increase minimally (as a result of retention of revenue that otherwise would be remitted, and subsequent spending of that revenue). MALPF does not expect significant amounts to be remitted going forward, even in the absence of the bill (the most recent remittance received, in November 2017, was \$1,400 from Allegany County).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Maryland Department of Planning; State Department of Assessments and Taxation; Anne Arundel, Baltimore, and Montgomery counties; Department of Legislative Services

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