

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Revised

House Bill 895

(Delegates Hecht and Stull)

Environmental Matters

Education, Health, and Environmental Affairs

Natural Resources - Forest Retention Banks - Pilot Program

This bill requires the Department of Natural Resources (DNR) to establish a two-year pilot program that allows a landowner to use forested stream buffer established under the federal Conservation Reserve Enhancement Program (CREP) to create a forest retention bank under specified conditions. Carroll and Frederick counties must administer the pilot program. DNR must inspect banks, evaluate the effectiveness of the pilot program, and report to specified committees of the General Assembly on the effectiveness of the program by December 31, 2004.

The bill takes effect July 1, 2002 and sunsets June 30, 2005.

Fiscal Summary

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

Local Effect: While the bill could result in an increase in workload in Carroll and Frederick counties to administer the pilot program, it is assumed that any increase in workload could be handled with existing local resources.

Small Business Effect: Potential meaningful impact in Carroll and Frederick counties.

Analysis

Bill Summary: The stated goals of the pilot program are to increase the number of forested stream buffers in the State, to enhance their quality, and to ensure their permanent protection. A landowner may create a forest retention bank if the land is not

protected by an existing conservation easement and the landowner grants a conservation easement to DNR that protects the forest retention bank in perpetuity. Mitigation through creation of a forest retention bank must be credited at a rate of 2.5 acres per each acre of mitigation required.

Current Law: The Forest Conservation Act provides that before an application for sediment and erosion control or a subdivision is approved, a forest conservation plan must be approved for the site. This plan provides for forest retention on the site consistent with the established land use or through payment made into a local fund for afforestation or reforestation. If afforestation or reforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then it must be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank. DNR must develop standards and adopt regulations for the creation and use of forest mitigation banks, including criteria for tracking, crediting, maintaining, bonding, and reporting mitigation bank activities. A local jurisdiction may develop procedures for establishing forest mitigation banks as part of its forest conservation program. Mitigation banks are only allowed in specified priority areas or as identified in a local comprehensive plan.

The federal Conservation Reserve Enhancement Program is a State-federal conservation partnership program targeted to specific State and nationally significant water quality, soil erosion, and wildlife habitat issues related to agricultural use. The program uses financial incentives to encourage farmers and ranchers to voluntarily enroll in contracts of 10 to 15 years to remove lands from agricultural production.

Background: According to DNR, Carroll County has about 40-50 forest mitigation banks and Frederick County has about 50 banks. The majority of these banks are sold out, which means that there are no available acres left because easements have been purchased on all available acres.

Small Business Effect: This bill allows farmers and other property owners to use forested stream buffers established under CREP to establish forest retention banks. The property owner could then sell credit for each acre of bank established. Accordingly, small businesses (such as farmers) that participate in CREP could benefit. However, those property owners would have to meet a 2.5:1 mitigation ratio while other existing banks in the area only have to meet a 1:1 mitigation ratio.

Additional Information

Prior Introductions: HB 1343 of 2001 would have required that DNR standards relating to forest mitigation banks allow a person to use funds from CREP or any other federal funds in order to create a forest mitigation bank. The bill received an unfavorable report by the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Agriculture, U.S. Department of Agriculture, Frederick County, Carroll County, Department of Legislative Services

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