HB 140

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 140 (St. Mary’s County Delegation)
Environmental Matters Education, Health, and Environmental Affairs

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St. Mary's County - Agricultural Land Preservation Program - General Obligation Installment Purchase Agreements

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This bill authorizes St. Mary’s County to enter into “installment purchase agreements” (IPAs) for an aggregate purchase price of up to $20 million plus interest to acquire the development rights for agricultural or forestry land. Under such an agreement, St. Mary’s County will acquire development rights from landowners of agricultural or forestry land located in St. Mary’s County. In doing so, the county will be required to pay the purchase price for that land either in installments or at the maturity of the agreement, and interest on the unpaid balance.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: The bill would not materially affect State finances.

Local Effect: To the extent that St. Mary’s County exercises its authority to acquire development rights through IPAs, county expenditures could increase by an indeterminate amount based on the purchase of U.S. Treasury STRIPs, interest payments, and legal fees.

Small Business Effect: Potential meaningful impact for farmers in St. Mary’s County. Most farms are small businesses. This bill would enable farmers to sell development rights to the county.

Analysis

Bill Summary: The bill authorizes St. Mary's County to select the tract or parcels of agricultural or forestry land for which development rights are to be acquired, and negotiate with the owners of the land for the purchase price of development rights and other conditions or terms as may be necessary to acquire these rights. St. Mary's County is further authorized to purchase and set aside in a segregated fund or account U.S. Treasury STRIPs or other obligations specified under current law and county guidelines, and to apply those funds to the payment of the balance of the purchase price. Moreover, the county may apply to the payment of the purchase price and interest any funds received from the State, the federal government, or any other source under specified conditions. Additionally, it exempts any income derived from development rights acquired through IPAs from State, county, municipal, or other taxation. The bill also provides that any debt executed or guaranteed by the county, payable from investments purchased by the county, that are guaranteed to yield proceeds equal to or exceeding the amount of the debt are exempt from the county's debt limitations.

Current Law: In St. Mary's County, the aggregate amount of bonds and other outstanding debt at any time may not exceed 5% of the county's assessable base. Tax anticipation notes with a maturity less than 12 months; bonds issued or guaranteed by the county payable from taxes levied in special taxing districts; and bonds payable from proceeds of charges for special benefits or services are exempt from the county's debt limitation.

Background: Local governments have a variety of tools at their disposal to preserve agricultural and forestry land; among these are zoning, subdivision, and development procedures. Additionally, local jurisdictions might use land preservation techniques such as transferable development rights (TDRs) the purchase of development rights (PDRs), and innovative financing methods called IPAs.

Under TDR programs, residents who occupy certain areas in a county (sending areas) are precluded from selling their land to developers. In exchange, these landowners are awarded TDRs which may be sold on the open market to developers. These rights are applied by developers to designated receiving areas (areas where the county is attempting to foster development). Generally, developers who purchase TDRs are allowed an increased density in these areas.

Sometimes paired with TDR programs, PDR and easement acquisition programs allow local jurisdictions to purchase development rights from landowners and then retire or extinguish those rights.

An IPA is an innovative payment plan that helps jurisdictions stretch available funds while offering benefits to landowners. In general, IPAs spread out payments so that landowners receive semiannual, tax-exempt interest over a term of years (typically 20 to 30). The principal is due at the end of the contract term. Landowners can sell or securitize IPA contracts at any point to realize the outstanding principal.

According to the American Farmland Trust (AFT), as of January 2003, nine counties in Maryland (Anne Arundel, Baltimore, Calvert, Carroll, Frederick, Harford, Howard, Montgomery, and Washington) had farmland PDR programs. AFT also reports that as of 2000, nine counties (Calvert, Caroline, Charles, Harford, Howard, Montgomery, Queen Anne's, St. Mary's, and Talbot) had farmland TDR programs. According to the Maryland Department of Agriculture, Anne Arundel, Calvert, Carroll, Frederick, Harford, and Howard counties already have IPA programs in place. Washington County is developing an IPA program, and Baltimore County is considering developing one.

In 1997, St. Mary's County had 621 farms with a total of 71,890 acres devoted to agriculture; by 2002 the number of farms had decreased to 577 with 68,153 acres devoted to agriculture – a loss of 3,737 acres of agricultural lands. In 2002, the average farm in St. Mary's County was comprised of 118 acres with an average market value (land and buildings) of $409,009.

Local Fiscal Effect: To the extent that St. Mary's County exercises its power to acquire development rights through IPAs, county expenditures could increase by an indeterminate amount based on the purchase of U.S. Treasury STRIPs, interest payments, and legal fees.

In September 2001, the county passed an ordinance increasing the county recordation tax, and allocating $0.35 per $4.00 collected to the conservation of agricultural lands. The county advises that any debt related to the acquisition of development rights would be supported by this funding source. In fiscal 2004, the county received $726,751 in revenue from this special tax.

Chapter 190 of 2004 created a program allowing the Maryland Agricultural Land Preservation Foundation to give grants to eligible counties to purchase easements using IPAs. To the extent that St. Mary's County qualifies for these grants, revenues could increase.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): St. Mary’s County, Maryland Department of Agriculture, U.S. Department of Agriculture, Department of Legislative Services

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