HB 1272

Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1272 (Delegate Smigiel, *et al.*)
Environmental Matters

Maryland Agricultural Land Preservation Foundation and Rural Legacy Program - Priority Preservation Areas - Protecting Public Investment in Land Preservation

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This bill provides for the certification of county priority preservation areas (PPAs) by the Maryland Agricultural Land Preservation Foundation (MALPF) and the Maryland Department of Planning (MDP), beginning in fiscal 2008. The bill also modifies the distribution of specified MALPF funds to reward those counties with certified PPAs. Finally, the bill establishes various provisions regarding the award of funds by the Rural Legacy Board under the Rural Legacy Program within the Department of Natural Resources (DNR); these changes relate to the classification of Rural Legacy Areas as "primary" or "secondary" investment areas based on the evaluation of zoning and land use policies.

Fiscal Summary

State Effect: Expenditures for the PPA certification program could total $50,100 in general funds for MDP and $46,100 in special funds for MALPF in FY 2007. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating costs. Potential decrease in federal funding for MALPF beginning in FY 2008.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
FF Revenue	$0	(-)	(-)	(-)	(-)
GF Expenditure	50,100	61,900	65,400	69,300	73,400
SF Expenditure	46,100	56,500	59,800	63,300	67,100
Net Effect	($96,200)	($118,400)	($125,200)	($132,600)	($140,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would result in a redistribution of funds provided to counties under MALPF and Rural Legacy. Counties with certified PPAs stand to gain additional funding under MALPF at the expense of those without certified PPAs. Counties classified as "primary investment areas" stand to gain additional funding under Rural Legacy at the expense of those classified as "secondary investment areas".

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Priority Preservation Areas

The bill modifies the distribution of general allotted funding provided by MALPF so that counties with certified PPAs receive more funding than those without certified PPAs. The bill establishes criteria that MALPF and MDP must use in determining if a PPA should be certified. The bill establishes several other provisions governing the certification program. MALPF and MDP must jointly adopt regulations for administration of certification procedures. The bill also requires MALPF, in its annual report, to include a section, produced jointly with MDP, that identifies certified PPAs and areas that have been denied certification and explains the reasons for those decisions.

Rural Legacy Areas

The bill provides that the Rural Legacy Board must award funds according to specified procedures. The board, assisted by MDP, must evaluate the ability of local zoning, related land use tools, and other preservation programs in each established and proposed Rural Legacy Area to accomplish specified goals. Based on those considerations, supporting programs and development pressure in each area must be classified in one of three ways: "strong supporting programs", "low development pressure", or "weak supporting programs." The bill establishes provisions regarding investment priority based on those classifications, beginning in fiscal 2008. In its annual report, the board must include a section, produced jointly with MDP, that identifies primary and secondary investment areas; identifies the amount of funds awarded to each area; and explains the reasons for those decisions.

The bill also requires MDP, in its annual report, to include a summary of the department's findings and conclusions about the effectiveness of State land and resource conservation expenditures in accordance with its responsibilities under the bill regarding PPAs and Rural Legacy Areas.

Current Law/Background: MALPF was created by the Maryland General Assembly in 1977 to preserve productive agricultural land and woodland. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for at least five years. Landowners who agree to place their farms within an agricultural preservation district may sell a development rights easement on that property to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development. As of June 30, 2005, MALPF had protected approximately 242,822 acres through the purchase of 1,757 easements. The Governor's proposed fiscal 2007 budget includes $84.6 million in special and federal funds for MALPF; this includes $13 million in local matching funds.

The total funds available to MALPF for the purchase of easements are divided equally between general allotted funds and State matching funds. The half devoted to general allotted funds is divided equally among the 23 counties. The half devoted to State matching funds is allocated on the basis of a match of 60¢ of State funds for every 40¢ of county funds committed up to $1 million in State funds. "Round 1" offers are made based on competition for funds by applications within individual counties. General allotted funds are applied first to make Round 1 offers until depleted, and the matching funds are then applied to make Round 1 offers until either all the funds are depleted or all of the possible offers within a county are made. When Round 1 offers are completed, the remaining easement applications compete statewide in "Round 2" based on unused general allotted and State matching funds.

The purpose of the Rural Legacy Program, established in 1997 and administered by DNR, is to supplement State land preservation programs in order to preserve key areas before escalating land values render protection impossible or before the land is lost to development. The program provides funding to local governments and conservation organizations to purchase property and conservation easements within designated Rural Legacy Areas. There are 29 Rural Legacy Areas in 21 counties. As of February 1, 2006, the program had preserved 51,772 acres. The Governor's proposed fiscal 2007 budget includes $31.05 million in special funds and general obligation bonds for the Rural Legacy Program.

MDP advises that the goals of MALPF and Rural Legacy are compromised when development occurs on lands adjacent to those protected by the State under these programs. The intent of the bill is to protect the State's investment by focusing the purchase of easements or property in areas where protective zoning policies are in place.

State Fiscal Effect:

Maryland Department of Planning: General fund expenditures within MDP could increase by an estimated $50,100 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one planner to develop and administer the PPA certification program within MDP and develop the required reports. It includes the salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	$44,905
Equipment/Operating Expenses	5,195
Total FY 2007 MDP Expenditures	**$50,100**

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Maryland Agricultural Land Preservation Foundation: Special fund administrative expenditures within MALPF could increase by an estimated $46,103 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one administrative officer to certify PPAs in conjunction with MDP and include information regarding PPA certifications in its annual report. It includes the salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	$40,533
Equipment/Operating Expenses	5,570
Total FY 2007 MALPF Admin. Expenditures	**$46,103**

Future year administrative expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

With respect to general allotted funding provided by MALPF to counties for easement purchases, according to MALPF, if counties with certified PPAs have enough applications for the additional funds available to them under the bill, they would gain substantially at the expense of uncertified counties. MALPF advises that some of the counties most likely to be certified are high-cost counties (such as Baltimore, Frederick, Montgomery, Harford, and Calvert). This suggests that, under the bill, MALPF could end up paying a higher average per-acre cost to acquire easements than it would under current law. On the other hand, MALPF advises that if counties with certified PPAs do not have enough applications to use the additional funds, any remaining funds would roll over into Round 2. In this case, funds would be redistributed back to the uncertified counties based on the discounting behavior of their applications (rather than the first round criteria based on the quality of the properties). Under this scenario, MALPF could end up paying on average less per acre to acquire easements than under current law.

MALPF advises that it is possible that the bill could have an impact on federal matching funds, as the bill might make it more difficult to ensure that properties selected by the Federal Farm and Ranch Lands Protection Program would receive offers.

Department of Natural Resources: Overall funding for the Rural Legacy Program would not be affected; funds would merely be redistributed based on the classification of areas as primary or secondary investment areas. DNR could handle the bill's changes with existing budgeted resources.

Local Fiscal Effect: The bill would have an impact on the distribution of MALPF and Rural Legacy funds provided to counties, as discussed above. The bill could, therefore, create an incentive for local governments to improve their zoning ordinances and/or create PPAs around Rural Legacy Areas in order to be eligible for more funding.

With respect to MALPF, in general, those that have certified PPAs stand to benefit significantly at the expense of those that do not have certified PPAs. According to MALPF, three counties (Baltimore, Carroll, and Frederick) are most likely to benefit from the bill's changes. These counties already devote substantial resources to land preservation to fund the demand in their counties to sell easements. If demand does not increase proportionately in these counties, the counties may be able to reduce their commitment of local funds to land preservation as a result of the bill.

With respect to Rural Legacy, those that have "strong supporting programs" or "low development pressure" would be considered "primary investment areas" and would therefore gain over those that have "weak supporting programs", which would be considered "secondary investment areas" under the bill. MDP advises that, based on policies currently in place, the following counties with Rural Legacy Areas might be considered primary investment areas under the bill: Baltimore, Calvert, Caroline, Carroll, Dorchester, Frederick, Garrett, Kent, Montgomery, Talbot, and Worcester. MDP advises that, based on policies currently in place, the following counties might be considered secondary investment areas: Anne Arundel, Cecil, Charles, Harford, Howard, Prince George's, Queen Anne's, St. Mary's, and Wicomico. MDP advises that Washington County would likely be on the cusp.

Montgomery County advises that the bill could provide an opportunity for additional preservation funds. St. Mary's County, on the other hand, advises that the bill would likely hinder its preservation efforts.

Small Business Effect: The bill could have an impact on farmers, other resource-based businesses, and developers. Farmers and resource-based businesses in counties that receive additional funding under the bill could benefit at the expense of farmers and resource-based businesses in other counties. MDP advises that the PPA concept is intended to help protect farmers from conflicts created by suburban development. According to MALPF, the PPA concept has the potential to benefit farming operations by instituting better land preservation policies to help support long-term success of preservation efforts. To the extent the bill results in the creation of PPAs with more protective zoning, developers in those areas could be negatively impacted.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Department of Natural Resources, Cecil County, Harford County, Montgomery County, Prince George's County, St. Mary's County, Department of Legislative Services

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