

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 5 (Senator Miller, *et al.*)

Education, Health, and Environmental Affairs and  
Budget and Taxation

Environmental Matters and  
Appropriations

**Agricultural Stewardship Act of 2006**

This bill generally implements the recommendations of the Agricultural Stewardship Commission. The bill modifies the existing agricultural land preservation certification program to include Priority Preservation Areas (PPAs); establishes an agricultural internship program; establishes a task force to study the tax structure related to farmers; establishes the intent of the General Assembly that the Governor provide additional funding for several existing programs; mandates funding for specified existing programs; and alters the distribution of certain bay restoration fees.

The bill takes effect June 1, 2006.

**Fiscal Summary**

**State Effect:** Costs to administer the modified certification program could total \$50,100 in general funds and \$46,100 in special funds in FY 2007; general fund expenditures could also increase to maintain a required septic program. Higher education expenditures could increase to administer the internship program and provide agricultural education enhancements. Discretionary funding increases over FY 2006 could total \$37.6 million in FY 2007, increasing to \$69.4 million in FY 2011; the FY 2007 budget includes \$3.6 million of that increase. Mandatory funding increases over FY 2006 total \$5.9 million in FY 2008, increasing to \$6.2 million in FY 2011; the FY 2007 budget includes \$1.5 million of that increase. Agricultural land transfer tax revenues could increase beginning in FY 2009.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	\$0	\$0	\$0	\$0	\$0
GF Expenditure	.05	.06	.07	.07	.07
SF Expenditure	.05	.06	.06	.06	.07
Higher Ed Exp.	-	-	-	-	-
Other Exp.	37.60	53.50	61.10	68.10	75.60
Net Effect	(\$37.70)	(\$53.62)	(\$61.23)	(\$68.23)	(\$75.74)

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

**Local Effect:** Beginning in FY 2009, certified counties would have to include a PPA element in their comprehensive plans in order to maintain certification; to the extent the bill results in a decrease in the number of certified counties, local agricultural land transfer tax revenues would decrease. Certified counties would be eligible for specified additional funding, if provided. The redistribution of bay restoration fee revenue would result in a decrease in financial assistance to local governments for septic system upgrades.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** Specifically, the bill:

- authorizes counties to include a PPA element in their local comprehensive plans;
- beginning in fiscal 2009, integrates the certification of PPA elements into the existing county agricultural land preservation certification program administered by the Maryland Department of Planning (MDP) and the Maryland Agricultural Land Preservation Foundation (MALPF);
- provides that, beginning in fiscal 2009, counties with certified agricultural land preservation programs, as modified by the bill, would be eligible for specified additional funds provided to MALPF;
- expands the allowable uses of the funds a certified county receives;
- makes other various changes to the certification program and related reporting requirements and requires MDP and MALPF to jointly adopt regulations regarding PPA certification by December 31, 2006;
- establishes an agriculture and natural resources internship program within the University of Maryland, College Park (UMCP);
- requires the Maryland Agricultural Commission to promote, and where possible, to establish internships with farms and businesses in their respective sectors;
- requires the Governor to include in the budget bill an appropriation to the Maryland Agricultural and Resource Based Industry Corporation (MARBIDCO) for rural development and assistance as follows: \$4.0 million in fiscal 2008 and \$3.5 million annually thereafter through fiscal 2020;
- clarifies the existing authority of the Governor to appropriate funds for MARBIDCO for rural business development and assistance;

- authorizes the Governor to include up to \$5.0 million annually each year in the budget bill for MARBIDCO for rural acquisition and easement programs, including programs to assist young and beginning farmers;
- authorizes MALPF to provide grants to MARBIDCO to facilitate the purchase of specified easements or for the Next Generation Farmland Acquisition Program;
- requires the Governor to include in the budget bill an appropriation for the 24 Soil Conservation Districts (SCDs) as follows: \$9.2 million in fiscal 2008; \$9.5 million in fiscal 2009 and 2010; and \$10.0 million in fiscal 2011 and annually thereafter;
- modifies the distribution of bay restoration fees collected from users of septic systems and sewage holding tanks to provide that 60% of those fees would be distributed to the Maryland Department of Agriculture (MDA) for cover crop activities and 40% of the fees would be deposited into the Septics Account of the Bay Restoration Fund within the Maryland Department of the Environment (MDE);
- establishes the intent of the General Assembly that the Governor increase funding for several programs, including the Maryland Agricultural Water Quality Cost Share Program (MACS), the Cover Crop Program, the Manure Transport Program, MALPF, MARBIDCO, the Maryland Cooperative Extension (MCE), and the Maryland Agricultural Education and Rural Development Assistance Fund (MAERDAF);
- encourages the Governor to provide additional funding for MDE's Linked Deposit Program for agricultural conservation and water quality improvement;
- requires agencies receiving additional funding under the bill to report to specified committees of the General Assembly on the impact of such increased funding;
- establishes the intent of the General Assembly that MDA modify the Cover Crop Program to allow farmers to harvest small grains for biofuels;
- encourages UMCP to provide a greater focus on agriculture/extension education and establish a unique major;
- requires MDA to review the condition of its agricultural marketing program and information technology structure and, by September 29, 2006, submit a report to the Governor and the General Assembly on additional funding that may be needed;
- requires MDE and MDA to jointly review the status of MDE's Linked Deposit Program and, by September 29, 2006, submit a report to the Governor and the General Assembly on additional funding that may be needed; and
- establishes an Incentives for Agriculture Task Force to review and evaluate the overall State tax structure as it impacts agriculture and to identify any modifications to the tax structure that would help farmers be better stewards of the

land while maintaining economic viability. The Department of Legislative Services (DLS) would provide staff support. The task force must report its preliminary findings and recommendations by December 1, 2006 and its final findings and recommendations by October 1, 2007.

**Current Law:** Current law provides for various agricultural and resource-based industry programs, most of which are administered by MDA. Some of the existing programs addressed in the bill are administered under general authority; others are codified in statute. Funding for the existing programs addressed in the bill comes from a variety of sources and varies from year to year. Under Article 66B, counties are required to develop comprehensive plans; these plans are required to include several specified elements.

Current law provides for the assessment of an agricultural land transfer tax on agricultural land transferred within the State. The tax is collected by each county. In general, each county retains one-third of the total collections and transfers two-thirds via the Comptroller to MALPF. Counties that have their agricultural land preservation programs certified by MDP and MALPF generally retain three-quarters and transfer one-quarter to MALPF. Certified counties are also eligible for certain additional funding from MALPF.

Chapter 428 of 2004 established the Bay Restoration Fund within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants to reduce nutrient pollution to the Chesapeake Bay. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks.

The fee is \$2.50 per month (\$30 annually) for each residential dwelling that receives an individual sewer bill and for each user of a septic system or sewage holding tank that receives a water bill. For a building or group of buildings under single ownership or management that contain multiple residential dwellings that do not receive an individual sewer bill, or for a nonresidential user, Chapter 428 establishes a sliding fee scale based on the volume of wastewater generated; the fee is \$2.50 per month (\$30 annually) for each “equivalent dwelling unit” (EDU), generally 250 gallons of wastewater effluent generated daily, up to 3,000 EDUs, and \$1.25 per month (\$15 annually) for each EDU exceeding that threshold and up to 5,000 EDUs. Based on that “cap,” the maximum fee is \$120,000 annually. The maximum fee for a single site is \$120,000. The fees described above, which are to be collected through water and sewer bills, took effect January 1, 2005. The fee for each user of a septic system or a sewage holding tank that does not receive a water bill is \$30 per year, effective October 1, 2005.

After a deduction by billing authorities for administrative costs, 60% of the fee revenue collected from users of septic systems and sewage holding tanks must be deposited into a separate account within the Bay Restoration Fund to provide grants and loans to septic system owners for upgrades of failing septic systems, while 40% must be transferred to MACS within MDA to provide financial assistance to farmers for cover crops.

**Background:** According to the Chesapeake Bay Program, in 2003, agriculture contributed 37% of Maryland's nitrogen loads, 42% of Maryland's phosphorus loads, and 70% of Maryland's sediment loads to the Chesapeake Bay. Other sources of nutrient and sediment pollution include point sources and urban/suburban lands. The General Assembly addressed the point source contribution with the creation of the Bay Restoration Fund in 2004. Agriculture is seen as one of the next greatest opportunities to improve bay water quality. Although recent changes to the Water Quality Improvement Act of 1998 have increased farmer compliance with the development and implementation of nutrient management plans, runoff from agricultural lands remains a concern.

During the 2005 interim, the Presiding Officers formed a joint legislative commission to examine and identify incentives to help farmers implement sound agricultural practices while helping to enhance the viability of farming in the State. The commission was charged with developing recommendations to be considered during the 2006 session. The commission's final report, released in January 2006, summarizes its findings and recommendations. The bill as introduced was a direct result of those recommendations.

### **State Fiscal Effect:**

#### *Funding Provisions*

**Exhibit 1** illustrates the bill's mandatory and discretionary funding provisions as compared to the fiscal 2006 and fiscal 2007 legislative appropriations. Once fully phased in, the bill's intended funding levels represent an increase of \$75.6 million over fiscal 2006 legislative appropriations. The fiscal 2007 budget contains increases in funding for several of these programs.

#### *Mandatory Funding*

The mandatory funding provisions, which would begin in fiscal 2008, relate to MARBIDCO and the SCDs. The mandated increases over the fiscal 2006 legislative appropriations would total \$5.9 million in fiscal 2008, increasing to \$6.2 million in fiscal 2011. The fiscal 2007 budget includes approximately \$1.5 million of that increase.

**Exhibit 1**  
**Intended Annual Increases in Funding Over FY 2006 Levels**  
**(\$ in Millions)**

<u>Program (Agency)</u>	<u>FY 2006 Legislative Appropriation</u>	<u>FY 2007 Legislative Appropriation</u>	<u>Intended Increases in Annual Funding Over FY 2006</u>				
			<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
<i>Mandatory</i>							
MARBIDCO (capitalization)	\$0	\$1.0	n/a	\$4.0	\$3.5	\$3.5	\$3.5
SCDs (MDA)	\$7.3	\$7.8 <sup>a</sup>	n/a	\$1.9	\$2.2	\$2.2	\$2.7
<i>Subtotal</i>				<b>\$5.9</b>	<b>\$5.7</b>	<b>\$5.7</b>	<b>\$6.2</b>
<i>Discretionary</i>							
MACS (MDA)	\$5.5	\$4.6	\$7.0	\$14.0	\$21.0	\$28.0	\$35.0
Cover Crop (MDA) <sup>b</sup>	\$4.0	\$8.3 (includes \$3.15 in GFs)	\$3.0	\$6.0	\$6.8	\$6.8	\$6.8
Manure Transport (MDA) <sup>c</sup>	\$0.3	\$0.7	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4
MALPF (MDA) <sup>d</sup>	\$42.2	\$89.6	\$20.0	\$20.0	\$20.0	\$20.0	\$20.0
MARBIDCO (rural/young farmers)	\$0	\$0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0
MAERDAF (MDA)	\$0	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15
MCE (UMCP)	\$17.4	\$18.4 <sup>e</sup>	\$2.0	\$2.0	\$2.0	\$2.0	\$2.0
Linked Deposit (MDE) <sup>f</sup>	\$3.0	\$3.0 - 4.0	\$0.0	-	\$0.0	\$0.0	\$0.0
<i>Subtotal</i>			<b>\$37.6</b>	<b>\$47.6</b>	<b>\$55.4</b>	<b>\$62.4</b>	<b>\$69.4</b>
<b>Total</b>			<b>\$37.6</b>	<b>\$53.5</b>	<b>\$61.1</b>	<b>\$68.1</b>	<b>\$75.6</b>

<sup>a</sup> Includes increase of \$0.2 million in GFs for six new field staff.

<sup>b</sup> The FY 2006 legislative appropriation includes a \$1.0 million GF deficiency appropriation. Total funding for FY 2006 is estimated at \$5.0 million, since \$1.0 million will be carried over from FY 2005. Total funding from Bay Restoration Fund is estimated at \$7.2 million annually under the bill, due to redistribution of fee revenues. The increases in the out-years are based on the original FY 2006 legislative appropriation, which did not include any GFs.

<sup>c</sup> Amounts shown do not include poultry company matching funds.

<sup>d</sup> No GFs in FY 2006 or FY 2007 budgets; intended increases would be GFs.

<sup>e</sup> FY 2007 legislative appropriation does not include any additional funds for purposes specified in bill.

<sup>f</sup> The bill encourages the Governor to include additional funding in FY 2008 but does not specify an amount. The program is funded through MDE's Water Quality Revolving Loan Fund. Amounts included as FY 2006 and FY 2007 legislative appropriations reflect anticipated allocations.

Source: Maryland Department of Agriculture, Maryland Department of the Environment, Department of Legislative Services

### *Discretionary Funding*

In addition to the bill's mandated appropriations, the bill provides that, to the extent funds are available, it is the intent of the General Assembly that the Governor provide additional funding for several existing programs. The bill does not *require* the Governor to increase funding for these programs. The discretionary increases over the fiscal 2006 legislative appropriations would total \$37.6 million in fiscal 2007, increasing to \$69.4 million in fiscal 2011. The fiscal 2007 budget includes approximately \$3.6 million of that increase.

It is assumed that affected agencies could handle the bill's reporting requirements relating to any increase in funding using existing budgeted resources.

Legislative Services notes that, if the Governor provides additional funding in accordance with the bill's intent, the administrative expenditures of some of the affected programs could increase. For example, MDA advises that, if the Governor were to provide additional funds for MACS and MALPF, additional staff would likely be needed to handle the increased workload.

### *Redistribution of Bay Restoration Fees*

In addition to recommending additional funding for MDA's Cover Crop Program and for MACS, as shown in Exhibit 1, the bill also would provide additional funding for cover crop activities within MDA by reversing the existing distribution of bay restoration fees collected from users of septic systems and sewage holding tanks. Currently, 60% of such funds are distributed to MDE's Septics Account and 40% are transferred to MACS for cover crop activities. By reversing the current distribution, the bill would redistribute funding from MDE to MDA. Based on anticipated out-year estimates of fee collections, and accounting for the deduction of local administrative costs, the bill would redistribute an estimated \$2.4 million annually in special fund revenues from MDE to MDA. (The actual impact on MDE revenues in fiscal 2007 may be greater because MDE assumes that fiscal 2007 revenues will be higher than in the out-years due to the fact that three counties are expected to collect fees from fiscal 2006 in 2007.)

Legislative Services notes that, under current law, MDE may use up to 8% of the fees deposited into the Septics Account for administrative costs; by reducing the annual revenue stream to this account by \$2.4 million, the amount MDE would be allowed to spend for such administrative costs would decrease by approximately \$192,000 annually. If MDE is expected to continue performing these functions at the level currently anticipated, general funds may be needed to offset the reduction in special funds.

***Mandatory Policy Provisions***

*Maryland Department of Planning:* General fund expenditures within MDP could increase by an estimated \$50,100 in fiscal 2007, which assumes an implementation date of October 1, 2006. This estimate reflects the cost of hiring one planner to administer the PPA portion of the certification program within MDP and review PPA elements in local comprehensive plans. It includes the salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$44,905
Equipment/Operating Expenses	<u>5,195</u>
<b>Total FY 2007 MDP Expenditures</b>	<b>\$50,100</b>

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 Department of Agriculture:* Special fund administrative expenditures within MALPF could increase by an estimated \$46,103 in fiscal 2007, which assumes an implementation date of October 1, 2006. This estimate reflects the cost of hiring one administrative officer to certify PPAs in conjunction with MDP. It includes the salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$40,533
Equipment/Operating Expenses	<u>5,570</u>
<b>Total FY 2007 MALPF Admin. Expenditures</b>	<b>\$46,103</b>

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.

The bill provides that, beginning in fiscal 2009, counties with certified programs would be eligible for specified additional funding provided to MALPF. Although the bill establishes the intent of the General Assembly that \$20 million in general funds be provided to MALPF and that MALPF could use any portion of that additional funding for a PPA program, among other things, the bill does not mandate such funding. In the absence of additional funds, funding for such easements would simply compete under MALPF's existing easement acquisition program.



Because certified counties retain a greater portion of the agricultural land transfer tax than uncertified counties, to the extent any counties that are currently certified cannot meet the bill's requirements regarding PPAs, State agricultural land transfer tax revenues would increase.

It is assumed that MDA could handle the bill's reporting requirements with existing budgeted resources.

*University System of Maryland/University of Maryland, College Park:* The bill establishes an agriculture and natural resources internship program within UMCP. The bill does not specify how many students would be required to participate in the program. UMCP advises that costs could increase to administer the internship program and to reimburse students for travel and housing expenses. Because the number of students that would participate in the program is unknown, however, a reliable estimate of any increase in costs cannot be made at this time.

*Incentives for Agriculture Task Force:* Any expense reimbursements for task force members and staffing costs for DLS are assumed to be minimal and absorbable within existing budgeted resources.

*Maryland Department of the Environment:* It is assumed that MDE could handle the bill's reporting requirement regarding its Linked Deposit Program with existing budgeted resources.

### ***Discretionary Policy Provisions***

The bill establishes the intent of the General Assembly that MDA modify its Cover Crop Program to allow farmers to harvest small grains for biofuels; the bill specifies that participants that harvest such crops should receive a reduced cost share payment per acre. According to MDA, it plans on implementing such a cover crop harvest program in fiscal 2007.

The bill also establishes the intent of the General Assembly that UMCP provide a greater focus on agriculture and extension education and establish a unique major in this area. USM advises that, if UMCP were to implement this provision, it would cost approximately \$300,000 in fiscal 2007 to implement the new academic major, which includes the cost to hire three faculty members and one administrative assistant. Future year expenses would reflect annualization, inflation, and ongoing operating expenses. The Maryland Higher Education Commission advises that it could handle the review and approval of the new program proposal with existing resources.

**Local Fiscal Effect:** According to MDP and the Maryland Association of Counties, counties already have extensive land preservation policies and programs; in fact, several already have de facto preservation areas. Accordingly, counties that choose to include PPA elements in their local comprehensive plans should be able to do so using existing resources.

Beginning in fiscal 2009, counties that already have certified agricultural land preservation programs would have to include a PPA element in their comprehensive plans in order to remain certified; likewise, any counties wishing to become certified would also have to meet this new requirement. According to MDP, currently, the following counties have certified programs: Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Kent, Montgomery, Queen Anne's, St. Mary's, Talbot, Washington, Wicomico, and Worcester. The impact of the bill's changes on the total number of certified counties cannot be predicted. However, according to MDP, the number of certified counties is more likely to decrease under the bill than increase. Because certified counties are allowed to retain a greater portion of the agricultural land transfer tax for local easement purchases, to the extent any counties that are currently certified cannot meet the bill's requirements regarding PPAs, local agricultural land transfer tax revenues would decrease.

Beginning in fiscal 2009, counties with certified programs would be eligible for specified additional funding provided to MALPF. In the absence of any additional funds, funding for such easements would simply compete under MALPF's existing easement acquisition program.

In addition, certified counties would be able to use their certification funds for additional uses, including the purchase of easements in their PPAs, a critical farms program approved by MALPF, an installment purchase agreement program approved by MALPF, or the Next Generation Farmland Acquisition Program approved by MALPF.

The redistribution of bay restoration fee revenue would result in a decrease in financial assistance to local governments for septic system upgrades in their jurisdictions.

**Small Business Effect:** Most farms are small businesses. According to the 2002 Census of Agriculture, there were 12,198 farms in Maryland covering just over 2 million acres of land. In 2002, the market value of agricultural products sold in Maryland totaled nearly \$1.3 billion. While Maryland farms contribute greatly to the economy, the viability of Maryland agriculture is currently threatened. Decreasing farm profitability and skyrocketing property values in the region are putting farmers under more pressure than ever to sell their farms to developers. This bill is intended to help farmers be better stewards of the land while maintaining economic viability.

MDP advises that the PPA provisions are intended to help protect farmers from conflicts created by suburban development. According to MDA, PPAs have the potential to benefit farming operations by instituting better land preservation policies to help support long-term success at preservation efforts. The establishment of an internship program is intended to help maintain and create resource-based businesses. Any additional funding provided for the various agricultural and resource-based industry programs will also help farmers maintain viability and encourage new farmers to enter into the industry. This, in turn, will benefit small businesses that supply goods and services to farmers as well as those involved in agri-tourism.

The redistribution of bay restoration fee revenue would result in a decrease in financial assistance available for septic system upgrades and an increase in financial assistance available for farmers for cover crop activities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 2 (The Speaker, *et al.*) – Environmental Matters and Appropriations.

**Information Source(s):** Maryland Department of Agriculture, Maryland Department of Planning, University System of Maryland, Maryland Department of the Environment, Maryland Agricultural and Resource Based Industry Development Corporation, Maryland Higher Education Commission, Maryland Association of Counties, U.S. Department of Agriculture, Department of Legislative Services

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