

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 459 (Delegate Stocksdales, *et al.*)
Environmental Matters

Maryland Agricultural Land Preservation Foundation - Easements - Funds and Released Lots

This bill increases, from \$1 to \$2 million, the maximum amount of funds available from the Maryland Agricultural Land Preservation Foundation (MALPF) for matching county funds. The bill also modifies existing restrictions governing the maximum size of released lots to provide greater discretion to local governments.

Fiscal Summary

State Effect: Potential significant increase in special fund revenues for MALPF from local matching funds due to the increase in the cap. The bill's changes regarding lot sizes of released lots could result in a minimal increase in reimbursements from landowners for additional acreage released. Special fund expenditures would increase correspondingly for additional easement purchases and related costs. It is assumed that MALPF could handle any increase in workload with existing staff.

Local Effect: Potential significant increase in local funds committed to MALPF due to the increase in the cap. The bill's changes relating to the restrictions governing the maximum size of released lots could result in administrative savings.

Small Business Effect: Potential meaningful. To the extent the bill results in an increase in local matching funds committed under the State matching program, farmers wishing to sell an easement to MALPF could benefit from an overall increase in available funding for easement purchases.

Analysis

Current Law:

Cap on 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.

Lot Releases

Except under specified conditions, upon written application, MALPF is required to release free of easement restrictions only for the landowner who originally sold an easement, one acre or less for the purpose of constructing a dwelling house for the use of that landowner or child of the landowner, up to a maximum of three lots. A landowner may reserve the right to exclude one unrestricted lot from an easement in lieu of all owner’s and children’s lots under specified conditions. Except under specified conditions, upon request, an owner may exclude from the easement restrictions one acre per each single dwelling that existed at the time of the sale of the easement as an owner’s, children’s, or unrestricted lot; before such an exclusion is granted, an owner must agree not to subdivide further for residential purposes any acreage allowed to be released.

If a landowner’s easement option contract was approved by the Board of Public Works before October 1, 2003, the landowner retains the following lot rights: (1) the landowner who sold the easement reserves the right to exclude from the easement one acre or less to construct a dwelling house for the use of the landowner or child of the landowner, up to a maximum of 10 lots at a density of one dwelling per 20 acres; (2) the landowner who sold the easement or any subsequent landowner may exclude from the easement up to one acre per each single dwelling that existed at the time of the sale of the easement, subject to the condition that the lot cannot be subdivided further for residential purposes; and (3) no unrestricted lot right is available to landowners whose easement option contract was approved by the Board of Public Works before October 1, 2003.

The maximum lot size for all lots released from easement restrictions may be greater than one acre, but no more than two acres, if: (1) regulations adopted by the Maryland Department of the Environment require a minimum lot size for a dwelling house of not less than two acres in specified areas; or (2) regulations adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than one acre.

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.

State Fiscal Effect: The Governor's proposed fiscal 2007 budget for MALPF includes \$84.6 million in special and federal funds; this includes \$13 million in local matching funds.

Increasing Cap for Matching County Funds

Increasing the cap from \$1 million to \$2 million could result in a significant increase in local matching funds deposited into the Maryland Agricultural Land Preservation Fund. MALPF advises that, in the past, due to funding limitations, MALPF has not even come close to making the full match to county commitments in its matching funds program. Even in fiscal 2002, when MALPF had a record \$37.5 million available for easement purchases, MALPF did not make a full match. However, due to a significant increase in funding anticipated for fiscal 2007, MALPF will likely provide a full match of \$1 million for counties committing \$666,666 in local funds. Under the existing statutory cap, any unmatched State funds would roll over into the statewide Round 2 for potential offers.

By increasing the cap to \$2 million, the bill increases how much a county would have to commit (to \$1.33 million) to obtain a full match from the State. According to MALPF, this will provide an incentive for counties to increase their matching funds commitment in order to leverage the additional State funds. Although this would not be mandatory, MALPF advises that at least four or five counties would likely double their matching funds as a result of this bill. Special fund revenues from local matching funds would increase correspondingly.

It is assumed that MALPF could handle any increase in workload with existing staff. To the extent the bill results in additional applications, administrative expenditures (for appraisals, settlement costs, title work, etc.) would increase. Any additional funds resulting from the bill's changes that are not used for administrative costs would be used by MALPF for additional easement purchases.

Modifications Regarding Restrictions on Maximum Size of Released Lots

Under current law, an owner requesting a lot release must reimburse MALPF for the acreage released at the per-acre price paid for the easement. Accordingly, if the bill's changes regarding restrictions on sizes of released lots results in an increase in the number of acres released, special fund revenues from reimbursements would increase accordingly. MALPF advises that, in fiscal 2005, per-acre easement costs averaged approximately \$2,600 statewide. Projected per-acre easement costs for fiscal 2007 average \$3,500 statewide. Any increase in revenues would likely not be significant, however.

Local Fiscal Effect: The increase in the State matching cap from \$1 million to \$2 million would likely result in an increase in county funds committed under the matching program, as discussed above. According to MALPF, relatively wealthy heavy users of MALPF (such as Baltimore and Carroll counties) will likely gain a relatively greater share of MALPF resources relative to less wealthy heavy users (such as Caroline, Dorchester, and Worcester counties) because they would likely be more able to leverage additional matching funds. The more matching funds that are retained in Round 1, the more funds will go for offers in wealthy heavy use counties; the more matching funds that roll over into Round 2, the more funds will go for offers in less wealthy heavy use counties that have traditionally relied on second round discounting to meet their demand for offers.

It should be noted that the matching funds program has traditionally not required counties to commit any funds beyond what the State matches unless they choose to do so for 100% county-funded offers. The difference between the county commitment and the part of the commitment actually matched by the State does not need to remain in the matching funds program but can be retained by the county.

According to MALPF, local agricultural land preservation staff have had difficulties creating workable lots within the existing statutory requirements regarding maximum lot size. The bill's changes regarding maximum size of released lots could ease this administrative burden by providing greater discretion to local governments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Maryland Department of Planning, Department of Legislative Services

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