

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 769

(Delegate Jennings, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Maryland Agricultural Land Preservation Foundation - Easements - Program
Requirements

This bill makes various changes to the provisions governing the Maryland Agricultural Land Preservation Foundation (MALPF). These changes generally relate to the maximum amount of funding available from MALPF for matching county funds (increased from \$1 million to \$2 million); the length of time required for inclusion of land into an agricultural preservation district; and the ability to reapply to sell an easement to MALPF after a previous application has been rejected. The bill also encourages counties to provide property tax credits for agricultural districts and establishes a reporting requirement for MALPF.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: Potential significant increase in special fund revenues for MALPF from local matching funds due to the increase in the cap on funding available from MALPF for matching county funds. Special fund expenditures would increase correspondingly for additional easement purchases and related costs. Supplemental Budget No. 1 includes an additional \$5 million in special funds for MALPF from local matching funds, partly in anticipation of an increase in the cap. The bill's other changes would not materially affect State finances.

Local Effect: Potential significant increase in local funds committed to MALPF due to the increase in the cap. County property tax revenues could be affected by the bill's provisions that modify the length of time required for inclusion of land into an

agricultural district and that encourage counties to provide property tax credits for districts. The bill's other changes would not materially affect local finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: This bill increases, from \$1 million to \$2 million, the maximum amount of funds available from MALPF for matching county funds. The bill also repeals the five-year time requirement that a landowner must agree to in order to be eligible for inclusion into an agricultural preservation district under the Maryland Agricultural Land Preservation Program. Instead, the bill provides that, in the ordinance that establishes a district, the county governing body must establish the length of time required for a district agreement. In addition, the bill provides that the time period of the district agreement must be from 3 to 10 years. The bill also modifies the existing provision regarding the ability to sell an easement that has been rejected by MALPF; a landowner who rejects an offer from MALPF for two consecutive years for a reason other than insufficient funds may not reapply to sell an easement on the same land for the following two consecutive years.

By January 31, 2007, MALPF must submit a report to the General Assembly that outlines procedures, laws, and regulations MALPF determines to be necessary in order to implement the elimination of agricultural districts from the program.

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.

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.

Time Requirement for District Eligibility

MALPF advises that some believe that the existing five-year requirement is an impediment to program participation, especially during years of limited MALPF funding.

Minimum Time for Reapplying

A landowner whose application has been rejected for a reason other than insufficient MALPF funds may not reapply to sell an easement on the same land on the same terms until two years after the date of the original application. According to MALPF, the purpose of this provision is to get applicants to take offers seriously. MALPF advises that, in normal years, the rate of rejection of full offers is approximately 10%. In the fiscal 2005 easement acquisition cycle, however, the rate of rejection was approximately 30%. While each rejection has its own unique explanation, MALPF advises that the higher rate of rejection seems most related to the rapid increase in property values over the last few years. (An applicant’s offer is made approximately 9 or 10 months after the date of the appraisal; thus, if property values increase during that time period, an applicant is more likely to reject even a full offer.)

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. Supplemental Budget No. 1 includes an additional \$5 million in local matching funds for fiscal 2007; this brings the total proposed funding for the program to \$89.6 million, including \$18 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. Supplemental Budget No. 1 includes an additional \$5 million in special funds for MALPF from local matching funds; the Maryland Department of Agriculture advises that the additional funds are partly in anticipation of an increase in the cap.

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.

The bill's other changes are not anticipated to materially affect State finances. MALPF could handle the bill's reporting requirement with existing budgeted resources.

Local Fiscal Effect:

Increasing Cap for Matching County Funds

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.

Time Requirement for District Eligibility

Because some counties offer property tax credits for land within agricultural preservation districts, property tax revenues could be affected to the extent a county chooses to increase or decrease the length of time required for a district agreement. Although a reliable estimate of any such impact cannot be made at this time, based on information provided by MALPF, the overall impact would likely be a decrease in the number of years required for district agreements, resulting in an increase in program participation and a decrease in property tax revenues. Property tax revenues could also decrease to the extent any counties establish property tax credits for agricultural districts as a result of the bill's language that encourages counties to do so.

The bill's other changes would not materially affect local finances.

Small Business Effect: Most farms are small businesses. 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. The bill's changes regarding the time requirement for district eligibility have the potential to modify the incentive structure for landowners entering agricultural districts and applying to sell easements to MALPF. While counties could increase or decrease the number of years required for district agreements under the bill, based on information provided by MALPF, the most likely result would be an overall decrease. Any reduction in the number of years required for district agreements could encourage additional farmers to enter into the program.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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