

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 319 (Garrett County Delegation and Allegany County Delegation)
Environmental Matters

**Maryland Agricultural Land Preservation Foundation - Allegany County and
Garrett County - Coal Rights**

This bill modifies the applicability of regulations and procedures adopted by the Maryland Agricultural Land Preservation Foundation (MALPF) for the establishment and monitoring of agricultural districts. Specifically, MALPF may not require, in Allegany or Garrett counties, a coal rights owner or lessee to subordinate its interest to MALPF's interest if MALPF determines that the exercise of those rights will not interfere with an agricultural operation conducted on the land. MALPF must submit a report to the Governor and the General Assembly on the impact of the bill by October 1, 2010.

Fiscal Summary

State Effect: Although the bill could result in a marginal increase in workload for MALPF, the bill is not anticipated to have a significant impact on State operations or finances.

Local Effect: The bill would not directly affect Allegany or Garrett counties' finances. MALPF advises, however, that the bill would likely make the counties better able to market their land preservation programs.

Small Business Effect: Potential meaningful impact on coal rights owners/lessees and farmers in Allegany and Garrett counties.

Analysis

Current Law: Regulations and criteria developed by MALPF relating to land which may be included in an agricultural district must: (1) require land to meet productivity,

acreage, and locational criteria determined by MALPF to be necessary for the continuation of farming; (2) as long as all other criteria are met, qualify land that is at least 50 acres in size for inclusion in an agricultural district; (3) attempt to preserve the minimum number of acres in a given district that may reasonably be expected to promote the continued availability of agricultural suppliers and markets for agricultural goods; (4) authorize land within the boundaries of a 10-year water and sewer service district to be included in an agricultural district only if that land is outstanding in productivity and is of significant use; and (5) authorize land to be included in an agricultural district only if the county regulations governing the land permit specified activities.

Regulations and procedures adopted by MALPF for the establishment and monitoring of agricultural districts may not require, in Garrett or Allegany counties, a natural gas rights owner or lessee to subordinate its interest to MALPF's interest if MALPF determines that exercise of the natural gas rights will not interfere with an agricultural operation conducted on land in the agricultural district.

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 a specified number of 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, 2006, MALPF had protected approximately 250,370 acres through the purchase of 1,816 easements.

According to the *2002 Census of Agriculture*, there are 278 farms in Allegany County and 634 farms in Garrett County. According to MALPF, in the entire history of the program, Allegany County has only had one property enroll in the program. Accordingly, there is no recent history of farmland values derived from the program for that county. With respect to Garrett County, MALPF reports that, in 2006, two easements were purchased, with the average acquisition costs totaling \$1,975 per acre.

MALPF reports that the need for the MALPF board to approve the purchase of an easement without subordinated gas rights only occurs once every year or two.

Small Business Effect: To the extent any coal rights owners or lessees in Allegany or Garrett counties are small businesses, the bill could have a meaningful impact on them by allowing them to continue mining on land that becomes part of an agricultural district under MALPF under certain conditions. However, MALPF reports that it is unlikely that the MALPF board would approve purchasing an easement on a property where active surface coal mining is taking place or is likely to take place without subordination. In

any event, under the bill, certain farms that otherwise would not be able to sell their easements could qualify to do so and could obtain up to the full easement value of their properties to use for improving their farming operation or any other purpose. According to MALPF, given that these farms may be able to do this without the subordination of third-party interests in the coal rights on the property, they would risk losing their investment in the farming operation should the owner of those coal rights choose to exercise them. In some cases, surface mining on farmland could result in a decrease in farm productivity.

Additional Information

Prior Introductions: None.

Cross File: SB 273 (Senator Edwards) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Allegany County, Garrett County, U.S. Department of Agriculture (National Agricultural Statistics Service), Department of Legislative Services

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