

Department of Legislative Services  
 Maryland General Assembly  
 2009 Session

FISCAL AND POLICY NOTE

House Bill 491 (Delegate Aumann, *et al.*)  
 Environmental Matters

Maryland Agricultural Land Preservation Foundation - Easements - Inspection Requirements

This bill requires the Maryland Agricultural Land Preservation Foundation (MALPF) to submit an annual report on the percentage of easements inspected; withhold specified MALPF funding for certified county agricultural land preservation programs until compliance with easement inspection requirements is certified; and adopt regulations and procedures requiring each local jurisdiction to inspect all of its easements at least once every five years, with at least 20% of its easements being inspected annually. Upon MALPF’s request, the Attorney General and Maryland Department of Agriculture (MDA) must assist with certifying local jurisdiction compliance with easement inspection requirements.

Fiscal Summary

**State Effect:** MDA special fund expenditures increase by \$146,000 in FY 2010 for program administration. Future year expenditures reflect annualization and inflation. MALPF revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	146,000	186,000	194,700	203,800	213,400
Net Effect	(\$146,000)	(\$186,000)	(\$194,700)	(\$203,800)	(\$213,400)

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

**Local Effect:** Local expenditures increase to comply with easement monitoring requirements. **The bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

## Analysis

**Current Law:** On or before November 1 of each year, MALPF is required to submit a report to the Governor and General Assembly summarizing its proceedings and activity for the preceding fiscal year. This report must include an inventory of all easements or other interests in agricultural land and woodland acquired during that time as well as a report on the condition of the Maryland Agricultural Land Preservation Fund.

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 \$2.0 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.

While current law authorizes allocation of remaining MALPF funds at the end of each fiscal year to certified counties, no funds are ever available, as all funds are distributed in accordance with law as described above.

**Background:** MALPF, which was established by the General Assembly in 1977 and is part of MDA, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, local matching funds, and the U.S. Department of Agriculture’s Federal Farmland Protection Program. MALPF settled on its first purchased easement in October 1980. As of January 2009, MALPF had cumulatively purchased or had a pending contract to purchase conservation easements on 2,005 farms covering 274,950 acres.

In 1983, the MALPF Board of Trustees approved a policy to inspect 10% of the State’s conservation easements annually. In October 2007, a staff person was hired to implement a formal MALPF easement inspection and monitoring program to ensure compliance with easement requirements. MALPF conservation easements purchased with federal Farmland Protection Program funds must be inspected annually or MALPF risks the loss of federal funds and easements.

MALPF is finding more violations on easement properties as the program matures and properties in the program are assumed by new owners. MALPF advises that, while there

have been only a few willful violations, violation-related litigation and the seriousness of violations has increased.

**State Fiscal Effect:** The Governor’s proposed fiscal 2010 budget for MALPF includes \$25.6 million in special and federal funds; this includes \$14.0 million in local matching funds.

Currently, MALPF’s monitoring and enforcement coordinator oversees inspection of 200 easements annually. The bill increases the current inspection requirement by 100%; it requires inspection of approximately 400 easements – 20% of all MALPF easements – in fiscal 2010.

Special fund expenditures increase by \$145,961 in fiscal 2010, which accounts for the bill’s October 1, 2010 effective date. This estimate reflects the cost of hiring an attorney and administrative officer to oversee and certify inspection of an additional 200 easements annually. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$133,061
Equipment and Operating Expenses	<u>12,900</u>
<b>MALPF FY 2010 Administrative Expenditures</b>	<b>\$145,961</b>

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

**Local Fiscal Effect:** The bill affects local jurisdiction agricultural land preservation programs differently. Local jurisdictions with fewer easements can handle the bill’s changes with existing resources. For example, Montgomery County reports it can absorb the costs of inspecting 2.5 additional easements. However, in local jurisdictions with a significant number of easements and/or limited staff, the bill’s changes may result in additional monitoring and inspection costs.

Legislative Services contacted several counties for their perspective on the bill’s potential impacts. Some counties report the potential for additional costs:

- Carroll County, which has approximately 351 easements, reports that up to \$80,000 may be required for an additional staff person to perform inspections and provide required information;

- St. Mary's County indicates that approximately \$4,300 is required for staff and travel costs; and
- Harford County advises that at least \$2,800 is required, likely more, to monitor additional easements.

As drafted, the bill does not affect the provision or amount of MALPF funding provided to local jurisdictions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 674 (Senator Greenip) - Education, Health, and Environmental Affairs.

**Information Source(s):** Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Office of the Attorney General; Maryland Department of Agriculture; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2009  
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