

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 89

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Environmental Matters

**Maryland Agricultural Land Preservation Foundation - Imposition of Civil
Penalties by Board of Trustees - Authorization**

This departmental bill authorizes the Board of Trustees of the Maryland Agricultural Land Preservation Foundation (MALPF), after an opportunity for a hearing and a reasonable amount of time to correct the alleged violation, to impose a civil penalty on specified property owners of up to \$2,500 per violation for specified violations, but not more than \$50,000 per administrative hearing. Penalty revenue is directed to the Maryland Agricultural Land Preservation Fund. MALPF must adopt regulations to implement the bill.

The bill applies prospectively.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues from any penalties assessed. State expenditures are not significantly affected.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small businesses (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: To accomplish its mission, MALPF has the statutory power to sue, contract, restrict the use of specified agricultural land, adopt regulations and procedures, and promote the dissemination of information. However, MALPF does not currently have authority to impose civil penalties for violations. In practice, MALPF seeks to address violations informally and in collaboration with landowners. When this is unsuccessful, MALPF seeks legal remedies in the court.

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 have increased. MALPF advises that having the ability to impose civil penalties would be useful in seeking cooperation from program participants and avoiding litigation.

State Revenues: Maryland Agricultural Land Preservation Fund special fund revenues may increase due to the imposition of penalties. Any such increase would depend upon future violations and actual penalties assessed, which cannot be predicted, but are not anticipated to be significant.

State Expenditures: The bill may result in additional MDA and MALPF administrative costs dedicated to processing penalty warnings, implementing and monitoring violations, and conducting administrative hearings. However, the extent of any workload increase cannot be reliably estimated at this time, as it depends on the number of violations and how quickly they are resolved. Furthermore, these costs may be offset by a reduction in

litigation costs. Therefore, the bill is not expected to have a significant net effect on State expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Legislative Services

Fiscal Note History: First Reader - January 14, 2009
mam/ljm Revised - Senate Third Reader - March 30, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Agricultural Land Preservation Foundation – Imposition of Civil Penalties - Authorization

BILL NUMBER: SB 89

PREPARED BY: Maryland Department of Agriculture

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.