

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1241 (Delegate Stein, *et al.*)
Environmental Matters and Economic
Matters

Natural Resources - Rural Legacy Area - Prohibited Uses

This bill prohibits construction in a Rural Legacy Area if it (1) exceeds five acres; and (2) is for any nonagricultural use, including a shopping center or an electric power station or substation.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: To the extent the State is prevented from developing sites within a Rural Legacy Area, the bill has a potentially significant effect on State expenditures. To the extent economic development efforts in Rural Legacy Areas are prevented, the bill has a potentially significant effect on State tax revenues.

Local Effect: The bill has a meaningful effect to the extent it (1) prohibits local jurisdictions from constructing public facilities in Rural Legacy Areas; and (2) reduces local economic development.

Small Business Effect: Potential meaningful impact to the extent it prohibits small businesses from using land in Rural Legacy Areas for nonagricultural purposes that would have otherwise occurred.

Analysis

Current Law/Background:

Land Use Planning

Currently, the State entrusts local jurisdictions with land use planning authority. Current law authorizes a local government to guide growth and development; outlines the responsibilities, roles, and functions to the local planning commission; and sets the ground rules for operations.

Electric Generating Stations

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants in the State. In order to construct or modify an electric generating station in the State, PSC must grant a certificate of public convenience and necessity (CPCN). Prior to taking final action on a CPCN for construction of a generating station or overhead transmission lines, PSC must consider the stability and reliability of the electric system; economics; esthetics; historic sites; aviation safety; when applicable, air and water pollution; and the availability of means for the required timely disposal of wastes produced by a generating station. This process involves PSC and several other State agencies, *e.g.*, the Department of Natural Resources (DNR) and the Maryland Department of the Environment. During the CPCN application process, State agencies hold extensive discussions with interested parties and concerns are identified and incorporated into evaluations.

Prior to CPCN being issued, State agencies give PSC their evaluations and recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also recommend conditions that should be attached to CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, and land use.

PSC advises it has authority over substations that *are integral* to an electric generating station, but that local jurisdictions have authority over substations that *are not integral* to an electric generating station. PSC further advises that the CPCN process includes review and consideration of issues relating to agricultural concerns.

Rural Legacy Program

The Rural Legacy Program was established in 1997 to enhance natural resource, agricultural, forestry, and environmental protection while maintaining the viability of

resource-based land usage and proper management of tillable and wooded areas through accepted agricultural practices. The program provides funds to the local governments and land trusts to purchase interests in real property from willing sellers, including easements, transferable development rights, and fee estates, focused in designated Rural Legacy Areas. The Rural Legacy Program is administered by DNR and led by a board composed of the Secretaries of Natural Resources, Planning, and Agriculture. The program receives property transfer tax revenues, and the Governor is required to include at least \$5.0 million in the annual capital budget for the program.

A “Rural Legacy Area” is a region within or outside a metropolitan area designated by the Rural Legacy Board as rich in a multiple of agricultural, forestry, natural, and cultural resources. There are 31 Rural Legacy Areas located throughout the State that comprise 849,449 acres. Within these Rural Legacy Areas, 8.1% or 68,676 acres are protected via conservation easements.

Local governments, or land trusts with endorsements from local governments, may submit applications for designation of a Rural Legacy Area. An advisory committee appointed by the Governor and confirmed by the Senate reviews applications and makes recommendations to the Rural Legacy Board. The board may not approve or amend a Rural Legacy Area application without local government approval. The Board of Public Works designates Rural Legacy Areas and approves Rural Legacy grant funding.

The Rural Legacy Board considers the following criteria when evaluating proposed Rural Legacy Areas:

- the significance of the agricultural, forestry, and natural resources proposed for protection;
- the degree of threat to the resources and character of the area proposed for preservation;
- the significance and extent of the cultural resources proposed for protection through fee simple purchases;
- the economic value of the resource-based industries or services proposed for protection through land conservation;
- the overall quality and completeness of the Rural Legacy Plan;
- the strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan;

- the extent to which federal or other grant programs will serve as a funding match; and
- a sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the program.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Maryland Department of Agriculture; Department of Natural Resources; Public Service Commission; Maryland Department of Planning; Department of Legislative Services

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