

HOUSE BILL 1282

M4, L6, N1

3lr1570

By: **Delegates Eckardt, Beidle, Jacobs, McDermott, Otto, and Smigiel**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agricultural Land Condemnation Board**

3 FOR the purpose of establishing the Agricultural Land Condemnation Board;
4 specifying the membership of the Board and terms of membership; authorizing
5 the Secretary of Agriculture to remove a member under certain circumstances;
6 requiring the Board to elect officers in a manner determined by the Board;
7 authorizing the Board to determine the times and places of its meetings;
8 prohibiting a member of the Board from receiving certain compensation, but
9 authorizing the reimbursement of certain expenses; requiring the State or a
10 local entity to notify the Board in writing of its intent to condemn certain land
11 for certain purposes; requiring the Board to hold a public meeting and issue a
12 written decision under certain circumstances; prohibiting the State or a local
13 entity from initiating condemnation of certain land for certain purposes without
14 receiving approval from the Board; requiring the State or a local entity to
15 present certain information to the Board; authorizing a property owner of a
16 proposed condemnation site to present certain information to the Board;
17 requiring the Board to approve the proposed condemnation if the Board
18 determines that there is no reasonable and prudent alternative; authorizing the
19 Board to waive the State or a local entity's presentation under certain
20 circumstances; defining certain terms; and generally relating to the
21 establishment, membership, and duties of the Agricultural Land Condemnation
22 Board.

23 BY adding to

24 Article – Agriculture

25 Section 2–1301 through 2–1308 to be under the new subtitle “Subtitle 13.

26 Agricultural Land Condemnation Board”

27 Annotated Code of Maryland

28 (2007 Replacement Volume and 2012 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article 24 – Political Subdivisions – Miscellaneous Provisions
2 Section 1–113
3 Annotated Code of Maryland
4 (2011 Replacement Volume and 2012 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Agriculture**

8 **SUBTITLE 13. AGRICULTURAL LAND CONDEMNATION BOARD.**

9 **2–1301.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) “BOARD” MEANS THE AGRICULTURAL LAND CONDEMNATION
13 BOARD.

14 (C) “ENVIRONMENTAL MITIGATION PURPOSE” MEANS A PROJECT
15 UNDERTAKEN TO COMPLY WITH:

16 (1) THE FOREST CONSERVATION ACT UNDER TITLE 5, SUBTITLE
17 16 OF THE NATURAL RESOURCES ARTICLE;

18 (2) THE NONTIDAL WETLANDS PROTECTION ACT UNDER TITLE
19 5, SUBTITLE 9 OF THE ENVIRONMENT ARTICLE; OR

20 (3) A STATE OR COUNTY WATERSHED IMPLEMENTATION PLAN
21 ACTIVITY INTENDED TO MEET THE GOALS OF THE TOTAL MAXIMUM DAILY
22 LOAD FOR THE CHESAPEAKE BAY.

23 (D) “LOCAL ENTITY” MEANS A COUNTY, MUNICIPAL CORPORATION,
24 BICOUNTY OR MULTICOUNTY AGENCY, PUBLIC AUTHORITY, SPECIAL TAXING
25 DISTRICT, OR ANY OTHER POLITICAL SUBDIVISION OR UNIT OF A POLITICAL
26 SUBDIVISION OF THE STATE.

27 (E) “STATE ENTITY” MEANS A DEPARTMENT, A BOARD, A COMMISSION,
28 AN AGENCY, OR A SUBUNIT IN THE EXECUTIVE BRANCH OF STATE
29 GOVERNMENT.

30 **2–1302.**

1 **THERE IS AN AGRICULTURAL LAND CONDEMNATION BOARD.**

2 **2-1303.**

3 **(A) THE BOARD CONSISTS OF FIVE MEMBERS.**

4 **(B) OF THE FIVE MEMBERS OF THE BOARD, THREE SHALL BE**
5 **REPRESENTATIVES OF THE FARM COMMUNITY.**

6 **(C) THE SECRETARY SHALL APPOINT THE MEMBERS.**

7 **(D) (1) (I) EXCEPT FOR THE INITIAL TERMS OF THE BOARD, THE**
8 **TERM OF A MEMBER SHALL BE 3 YEARS.**

9 **(II) THE TERMS OF MEMBERS ARE STAGGERED AS**
10 **REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON**
11 **OCTOBER 1, 2013.**

12 **(III) THE TERMS OF THE INITIAL MEMBERS SHALL BE**
13 **STAGGERED AS FOLLOWS:**

14 **1. 2 YEARS FOR ONE FARM COMMUNITY MEMBER**
15 **AND ONE NONFARM COMMUNITY MEMBER, AS DETERMINED BY THE BOARD;**
16 **AND**

17 **2. 3 YEARS FOR TWO FARM COMMUNITY MEMBERS**
18 **AND ONE NONFARM COMMUNITY MEMBER, AS DETERMINED BY THE BOARD.**

19 **(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
20 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

21 **(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
22 **SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
23 **APPOINTED AND QUALIFIES.**

24 **(E) THE SECRETARY MAY REMOVE A MEMBER FOR INCOMPETENCE OR**
25 **MISCONDUCT.**

26 **2-1304.**

27 **(A) THE BOARD ANNUALLY SHALL ELECT A CHAIR, A VICE CHAIR, AND A**
28 **SECRETARY FROM AMONG THE MEMBERS OF THE BOARD.**

1 **(B) THE MANNER OF ELECTION OF OFFICERS SHALL BE AS THE BOARD**
2 **DETERMINES.**

3 **2-1305.**

4 **(A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE BOARD IS A**
5 **QUORUM.**

6 **(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF THE**
7 **MEETINGS OF THE BOARD.**

8 **(C) A MEMBER OF THE BOARD:**

9 **(1) MAY NOT RECEIVE COMPENSATION; BUT**

10 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
11 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
12 **BUDGET.**

13 **2-1306.**

14 **(A) EXCEPT AS PROVIDED IN § 2-1308 OF THIS SUBTITLE, THE STATE**
15 **OR A LOCAL ENTITY SHALL NOTIFY THE BOARD IN WRITING OF THE INTENT OF**
16 **THE STATE OR LOCAL ENTITY TO CONDEMN PRIME AND PRODUCTIVE**
17 **FARMLAND FOR ENVIRONMENTAL MITIGATION PURPOSES.**

18 **(B) THE STATE OR A LOCAL ENTITY MAY NOT INITIATE CONDEMNATION,**
19 **INCLUDING QUICK-TAKE CONDEMNATION, OF PRIME AND PRODUCTIVE**
20 **FARMLAND FOR ENVIRONMENTAL MITIGATION PURPOSES WITHOUT RECEIVING**
21 **APPROVAL FROM THE BOARD.**

22 **2-1307.**

23 **THE BOARD SHALL:**

24 **(1) HOLD A PUBLIC MEETING TO CONSIDER ANY PROPOSED**
25 **CONDEMNATIONS BY THE STATE OR A LOCAL ENTITY OF PRIME AND**
26 **PRODUCTIVE FARMLAND FOR ENVIRONMENTAL MITIGATION PURPOSES; AND**

27 **(2) ISSUE A WRITTEN DECISION ON WHETHER TO APPROVE THE**
28 **PROPOSED CONDEMNATION WITHIN A REASONABLE TIME OF THE PUBLIC**
29 **MEETING.**

1 **2-1308.**

2 (A) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
3 STATE OR A LOCAL ENTITY SHALL PRESENT TO THE BOARD INFORMATION ON
4 THE PROPOSED CONDEMNATION, INCLUDING:

5 (1) LOCATION AND RATIONALE FOR THE PROPOSED
6 CONDEMNATION SITE;

7 (2) MITIGATION MEASURES TO BE TAKEN;

8 (3) ALTERNATIVE MITIGATION LOCATIONS; AND

9 (4) ANY OTHER INFORMATION THE BOARD REQUIRES.

10 (B) THE PROPERTY OWNER OF THE PROPOSED CONDEMNATION SITE
11 MAY PRESENT INFORMATION TO THE BOARD ON THE PROPOSED
12 CONDEMNATION.

13 (C) THE BOARD SHALL APPROVE THE PROPOSED CONDEMNATION IF
14 THE BOARD DETERMINES THAT THERE IS NO REASONABLE AND PRUDENT
15 ALTERNATIVE.

16 (D) (1) THE PRESENTATION BY THE STATE OR A LOCAL ENTITY TO
17 THE BOARD MAY BE WAIVED IF:

18 (I) THE STATE OR LOCAL ENTITY AND THE PROPERTY
19 OWNER OF THE PROPOSED CONDEMNATION SITE AGREE TO REASONABLE
20 TERMS FOR COMPENSATION IN EXCHANGE FOR THE PROPERTY; AND

21 (II) THE BOARD DETERMINES THE TERMS OF THE
22 AGREEMENT ARE REASONABLE.

23 (2) REASONABLE TERMS FOR COMPENSATION SHALL INCLUDE:

24 (I) SALE PRICE;

25 (II) EFFECTIVE DATE OF CONDEMNATION, TAKING INTO
26 CONSIDERATION ANY CROPS THAT HAVE ALREADY BEEN PLANTED;

27 (III) REISSUANCE OF PERMITS FOR ALTERNATIVE
28 IRRIGATION WELLS; AND

1 **(IV) REISSUANCE OF ANY OTHER PERMIT FOR WHICH THE**
2 **PERMITTED ACTIVITY:**

- 3 1. **WILL BE IMPACTED BY THE CONDEMNATION; AND**
4 2. **IS ESSENTIAL TO THE REMAINDER OF THE FARM**
5 **OPERATION.**

6 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

7 **1–113.**

8 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
9 **MEANINGS INDICATED.**

10 **(2) “LOCAL ENTITY” MEANS A COUNTY, MUNICIPAL**
11 **CORPORATION, BICOUNTY OR MULTICOUNTY AGENCY, PUBLIC AUTHORITY,**
12 **SPECIAL TAXING DISTRICT, OR ANY OTHER POLITICAL SUBDIVISION OR UNIT OF**
13 **A POLITICAL SUBDIVISION OF THE STATE.**

14 **(3) “STATE ENTITY” MEANS A DEPARTMENT, A BOARD, A**
15 **COMMISSION, AN AGENCY, OR A SUBUNIT IN THE EXECUTIVE BRANCH OF STATE**
16 **GOVERNMENT.**

17 **(B) A STATE ENTITY OR A LOCAL ENTITY SHALL FOLLOW THE**
18 **REQUIREMENTS UNDER TITLE 2, SUBTITLE 13 OF THE AGRICULTURE ARTICLE**
19 **WHEN CONDEMNING PRIME AND PRODUCTIVE FARMLAND FOR**
20 **ENVIRONMENTAL MITIGATION PURPOSES.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
22 **October 1, 2013.**