

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1402 (Delegate Stein)
Environmental Matters

**Agricultural Transfer Tax - Distribution to Mel Noland Woodland Incentives
Fund**

This bill increases from \$200,000 to \$300,000 the amount of agricultural land transfer tax proceeds from specified land transfers that must be deposited in the Mel Noland Woodlands Incentive Fund (MNWIF) each year. The bill also requires that the agricultural land transfer tax imposed on transfers of land that are at least 90% woodland must be deposited in MNWIF. Under current law, only the tax on transfers of parcels of land that are *entirely* woodland are distributed to the fund.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: Overall agricultural land transfer tax revenues are not affected. However, the bill affects the distribution of the tax revenues. Special fund revenues may increase for MNWIF in the Department of Natural Resources (DNR). The amount of the increase depends on the number of parcels subject to the agricultural land transfer tax and the amount of tax paid, but it is not anticipated to be significant. Potential minimal special fund revenue decrease for the Maryland Agricultural Land Preservation Foundation (MALPF). State expenditures are not directly affected.

Local Effect: Potential minimal decrease in local revenues. Local expenditures are not directly affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Agricultural Land Transfer Tax

The agricultural land transfer tax was created in 1981 and is collected by each county. Agricultural land transfer taxes are paid by any person or business conveying title to agricultural land that is subject to the tax. Either the buyer or the seller, as determined by the contract of sale, may pay the tax. Agricultural land transfer tax includes a specified surcharge on an instrument of writing that transfers title to agricultural land. In general, of the total collections, each county (except Montgomery) retains one-third of the funds and transfers the balance to the Comptroller. Counties with certified agricultural land preservation programs retain three-quarters of the funds and transfer the balance to the Comptroller. Funds retained by each county are generally used for approved county agricultural preservation programs.

Agricultural land transfer tax revenues remitted to the Comptroller by counties must be distributed as follows:

- up to \$200,000 annually from land that is entirely woodland to MNWIF;
- \$2.76 million, plus 5% over the amount distributed for the preceding fiscal year, to MALPF;
- 37.5%, up to a maximum of \$4.0 million annually, to the Maryland Agricultural and Resource-Based Industry Development Corporation's (MARBIDCO) Next Generation Farmland Acquisition Program; and
- any remaining amount to MALPF.

The rates assessed are (1) 5% for transfers of 20 acres or more of agricultural land; (2) 4% for transfers of less than 20 acres assessed for agricultural use or as unimproved agricultural land; or (3) 3% for transfers of less than 20 acres of agricultural land assessed as improved agricultural land or agricultural land with certain site improvements.

The transfer tax is reduced by 25% for each consecutive full taxable year before the transfer was made if the assessment was based on other than farm or agricultural use. Beginning in fiscal 2009, a 25% surcharge is imposed on an instrument of writing transferring title of certain agricultural land. The surcharge does not apply to transfers of agricultural land to a child or grandchild of the owner.

Funds received by the Maryland Agricultural Land Preservation Fund after a specified date can only be used in Priority Preservation areas, and the Maryland Agricultural Land

Preservation Fund also has additional flexibility in using resources to purchase agricultural land easements.

The counties must spend or encumber all agricultural transfer tax revenues within three years from the date of receipt or remit the unspent or unencumbered portion to the Comptroller for deposit into the Maryland Agricultural Land Preservation Fund.

In 1990, the General Assembly created a program giving counties the ability to retain a larger share of the agricultural land transfer tax revenues if certain requirements were met. A qualifying county can receive 75% of the agricultural transfer tax revenues collected by that county (rather than 33%) and a portion of any surplus funds held by MALPF at the end of the fiscal year. In order to become certified to receive the additional funds, counties must develop effective farmland preservation programs that are approved by MALPF and the Maryland Department of Planning. Certification lasts for two years, and for a county to be recertified, the success of its program must be demonstrated.

Mel Noland Woodland Incentives Fund

MNWIF was created to help fund a variety of forest-related programs. Among other things, MNWIF revenues must be used to (1) provide cost-share assistance to private forest land owners for tree planting, site preparation, and timber stand improvement; (2) provide annual grants to forest conservancy district boards; (3) establish a forest health emergency contingency program; and (4) provide financial assistance for the administration of an urban and community forestry program.

MNWIF revenue sources include up to \$200,000 annually in agricultural land transfer tax revenue from land that is entirely woodland; DNR charges imposed for assisting with implementation of approved practices; and, subject to specified approval, revenues derived from forestry practices on specified DNR lands. In addition, the BayStat Subcabinet is authorized to distribute funds from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to MNWIF, in accordance with its work and expenditure plan.

State Fiscal Effect: Special fund revenues to MNWIF may increase beginning in fiscal 2015 to the extent more parcels of woodland are subject to the agricultural land transfer tax that is distributed to MNWIF. The amount of any such increase depends on the number of parcels sold, the size of each parcel, and the tax imposed, none of which can be reliably estimated. Special fund revenues to MNWIF may also increase due to the increase in the cap (from \$200,000 to \$300,000) on the amount of the tax from woodland transfers that are distributed to MNWIF.

DNR conducted a GIS exercise in several counties to estimate the number of parcels that might be subject to agricultural land transfer taxes distributed to MNWIF under the bill. DNR examined parcels that were at least five acres in size. There are 4,095 parcels in Allegany County, of which 940 (23%) are completely forested and an additional 1,594 (39%) are between 90% and 99% forested. There are 10,175 parcels in Baltimore County, of which 736 (7%) are entirely forested and an additional 2,048 (20%) are between 90% and 99% forested. Wicomico County has 5,203 parcels, of which 418 (8%) are entirely forested and an additional 834 (16%) are between 90% and 99% forested. However, there is no way to determine if any of these parcels will be sold and/or subject to agricultural transfer taxes in any given year.

DNR reports that the five-year average agricultural land transfer tax revenue for MNWIF, from fiscal 2009 through 2013, is \$26,810. DNR reports that the \$200,000 cap has only been exceeded twice since the fund was started. As a point of reference, based on the average revenue reporting by DNR, a 100% increase in revenue for the fund totals only \$26,800.

As noted, MALPF receives a portion of agricultural land transfer tax revenues. Because the bill alters the types of parcels for which tax revenues are distributed to MNWIF, and because the bill increases the maximum amount of funds that may transfer to MNWIF, MALPF funds may decrease under the bill. First, tax revenues for parcels that are between 90% and 99% woodland go to MNWIF under the bill rather than MALPF. Second, in years where tax revenues for the fund exceed \$200,000, these funds remain in MNWIF under the bill rather than being distributed to MALPF. The amount of any decrease cannot be reliably estimated; however, if current collection trends continue, the revenue loss for MALPF is likely to be minimal. MARBIDCO may be similarly affected.

Local Fiscal Effect: Local revenues may decrease to the extent parcels that are between 90% and 99% woodland are transferred, as the agricultural land transfer tax revenue resulting from those transfers is deposited into MNWIF; under current law a portion of those revenues are retained by the county. Based on current collections, any decrease in local revenues is assumed to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, State Department of Assessments and Taxation, Department of Natural Resources, Comptroller's Office, Department of Legislative Services

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