

SB0259/174933/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 259

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with the comma in line 3 down through “easement,” in line 4; in line 4, after “easement” insert “approved for a certain purchase after a certain date”; in the same line, after “landowner” insert “to request approval”; in line 6, strike “requiring, on written request of a landowner,” and substitute “authorizing a written request of a landowner to be approved by”; in line 9, after “circumstances,” insert “altering the composition of the Maryland Agricultural Land Preservation Fund; prohibiting the Foundation from approving the use of land subject to an easement for renewable energy generation after a certain date; prohibiting the installation of certain wind turbines exceeding certain heights in certain areas of the State; requiring a facility owner to remit a certain percentage of a certain lease payment to the Maryland Agricultural Land Preservation Fund; requiring a certain lease executed by a landowner and a certain facility owner to include provisions related to the removal of a certain facility under certain circumstances;”; in line 12, after “Assembly,” insert “requiring the Foundation to make a certain report to certain committees of the General Assembly by a certain date;”; in the same line, strike “a certain term” and substitute “certain terms”; after line 14, insert:

“BY repealing and reenacting, with amendments,

Article - Agriculture

Section 2-505(b) and 2-513(c)

Annotated Code of Maryland

(2007 Replacement Volume and 2013 Supplement)”;

and strike in their entirety lines 25 through 28, inclusive.

On page 2, strike in their entirety lines 1 through 6, inclusive.

(Over)

AMENDMENT NO. 2

On page 2, after line 9, insert:

“2-505.

(b) The Maryland Agricultural Land Preservation Fund shall comprise:

(1) Any money made available to the Fund by general or special fund appropriations; [and]

(2) Any money made available to the Fund by grants or transfers from governmental or private sources; AND

(3) ANY MONEY RECEIVED UNDER § 2-513(C) OF THIS SUBTITLE.”.

AMENDMENT NO. 3

On page 5, strike beginning with “**IN**” in line 8 down through “**ARTICLE.**” in line 10 and substitute “**(I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**”

(II) “AUTHORIZED RENEWABLE ENERGY SOURCE” MEANS THE FOLLOWING ENERGY SOURCES:

- 1. SOLAR;**
- 2. WIND;**
- 3. ANAEROBIC DIGESTION OF POULTRY LITTER IF PLACED ON FALLOW LAND; AND**

**4. ANAEROBIC DIGESTION OF LIVESTOCK MANURE
IF PLACED ON FALLOW LAND.**

**(III) "REFERENCE POINT" MEANS A POINT ON THE
PATUXENT NAVAL AIR STATION CENTERED AT 38.29667N AND 76.37668W.**;

in line 11, strike "ANY" and substitute "SUBJECT TO PARAGRAPH (4) OF THIS
SUBSECTION, ANY"; strike beginning with "ACQUIRED" in line 11 down through
"RENEWABLE" in line 14 and substitute "APPROVED FOR PURCHASE BY THE
BOARD OF PUBLIC WORKS AFTER JUNE 30, 2014, SHALL AUTHORIZE THE
LANDOWNER TO REQUEST APPROVAL, WITH A FAVORABLE RECOMMENDATION
OF THE LOCAL AGRICULTURAL ADVISORY BOARD AND IF NOT PROHIBITED BY
FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, TO USE THE LAND
SUBJECT TO THE EASEMENT FOR THE GENERATION OF ELECTRICITY BY A
FACILITY UTILIZING AN AUTHORIZED RENEWABLE ENERGY"; strike beginning
with "AND" in line 16 down through "FACILITY" in line 17; in line 17, strike "EACH
PARCEL" and substitute "THE LAND"; in line 18, strike the semicolon and substitute a
colon; after line 18, insert:

**"1. INCLUDING PERMANENT ROADS OR STRUCTURES
THAT ARE NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE
PURPOSES; AND**

**2. NOT INCLUDING ANY TEMPORARY IMPACTS
NECESSARY FOR CONSTRUCTION OF THE FACILITY;**;

in line 21, strike "A TIER 1 RENEWABLE" and substitute "AN AUTHORIZED
RENEWABLE ENERGY"; and in line 29, strike "ARE NOT LOCATED"; and in line 30,
strike "IN" and substitute "ARE NOT LOCATED IN".

AMENDMENT NO. 4

On page 6, strike beginning with “**WITHIN**” in line 1 down through “**76.37668W**” in line 2 and substitute “**DO NOT EXCEED THE MAXIMUM HEIGHT ABOVE GROUND LEVEL WITHIN THE AREA SPECIFIED IN PARAGRAPH (5) OF THIS SUBSECTION**”; strike in their entirety lines 3 through 6, inclusive; after line 6, insert:

“(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A WRITTEN REQUEST OF A LANDOWNER, WITH A FAVORABLE RECOMMENDATION OF THE LOCAL AGRICULTURAL ADVISORY BOARD AND IF NOT PROHIBITED BY FEDERAL, STATE, AND LOCAL LAWS, MAY BE APPROVED BY THE FOUNDATION TO AMEND AN EXISTING EASEMENT TO AUTHORIZE THE LANDOWNER TO USE THE LAND SUBJECT TO THE EASEMENT FOR THE GENERATION OF ELECTRICITY BY A FACILITY UTILIZING AN AUTHORIZED RENEWABLE ENERGY SOURCE PROVIDED THAT:”;

in line 9, strike “**EACH PARCEL**” and substitute “**THE LAND**”; in line 13, strike “**A TIER 1 RENEWABLE**” and substitute “**AN AUTHORIZED RENEWABLE ENERGY**”; strike beginning with “**AND**” in line 8 down through “**FACILITY**” in line 9; in line 10, strike the semicolon and substitute a colon; after line 10, insert:

“1. INCLUDING PERMANENT ROADS OR STRUCTURES THAT ARE NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE PURPOSES; AND

2. NOT INCLUDING ANY TEMPORARY IMPACTS NECESSARY FOR CONSTRUCTION OF THE FACILITY;”;

in line 21, strike “**ARE NOT LOCATED**”; in line 22, strike “**IN**” and substitute “**ARE NOT LOCATED IN**”; strike beginning with “**WITHIN**” in line 25 down through

“76.37668W” in line 26 and substitute “DO NOT EXCEED THE MAXIMUM HEIGHT ABOVE GROUND LEVEL WITHIN THE AREA SPECIFIED IN PARAGRAPH (5) OF THIS SUBSECTION”; after line 26, insert:

“(4) (I) THE FOUNDATION MAY NOT APPROVE THE USE OF LAND SUBJECT TO AN EASEMENT FOR THE GENERATION OF ELECTRICITY BY A FACILITY UTILIZING AN AUTHORIZED RENEWABLE ENERGY SOURCE AFTER JUNE 30, 2019.

“(II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PROHIBIT THE USE OF LAND SUBJECT TO AN EASEMENT FOR THE GENERATION OF ELECTRICITY IN ACCORDANCE WITH THIS SUBSECTION THAT WAS APPROVED BY THE FOUNDATION BEFORE JULY 1, 2019.

“(5) A WIND TURBINE LOCATED ON LAND SUBJECT TO AN EASEMENT MAY NOT EXCEED THE SPECIFIED HEIGHT ABOVE GROUND LEVEL IN THE AREA DESCRIBED AS FOLLOWS:

“(I) EAST OF A LINE PASSING THROUGH THE REFERENCE POINT AND 39.0986N AND 76.5284W AND:

1. NOT MORE THAN 24 MILES FROM THE REFERENCE POINT, 0 FEET;

2. MORE THAN 24 MILES AND NOT MORE THAN 30 MILES FROM THE REFERENCE POINT, 100 FEET;

3. MORE THAN 30 MILES AND NOT MORE THAN 35 MILES FROM THE REFERENCE POINT, 200 FEET;

(Over)

4. MORE THAN 35 MILES AND NOT MORE THAN 39 MILES FROM THE REFERENCE POINT, 300 FEET;

5. MORE THAN 39 MILES AND NOT MORE THAN 43 MILES FROM THE REFERENCE POINT, 400 FEET;

6. MORE THAN 43 MILES AND NOT MORE THAN 46 MILES FROM THE REFERENCE POINT, 500 FEET;

7. MORE THAN 46 MILES AND NOT MORE THAN 49 MILES FROM THE REFERENCE POINT, 600 FEET; AND

8. MORE THAN 49 MILES AND NOT MORE THAN 56 MILES FROM THE REFERENCE POINT, 700 FEET; AND

(II) WEST OF A LINE PASSING THROUGH THE REFERENCE POINT AND 39.0986N AND 76.5284W AND:

1. SOUTH OF 38.4428N, 0 FEET;

2. NORTH OF 38.4428N AND NO FARTHER NORTH THAN 38.5711N, 100 FEET;

3. NORTH OF 38.5711N AND NO FARTHER NORTH THAN 38.5943N, 200 FEET;

4. NORTH OF 38.5943N AND NO FARTHER NORTH THAN 38.6366N, 300 FEET;

5. NORTH OF 38.6366N AND NO FARTHER NORTH THAN 38.6596N, 400 FEET;

6. NORTH OF 38.6596N AND NO FARTHER NORTH THAN 38.6873N, 500 FEET;

7. NORTH OF 38.6873N AND NO FARTHER NORTH THAN 38.7075N, 600 FEET; AND

8. NORTH OF 38.7075N AND NOT MORE THAN 56 MILES FROM THE REFERENCE POINT, 700 FEET.

(6) A FACILITY OWNER WHO USES LAND SUBJECT TO AN EASEMENT FOR THE GENERATION OF ELECTRICITY IN ACCORDANCE WITH THIS SUBSECTION SHALL, ON OPERATION OF THE FACILITY, REMIT AN ANNUAL PAYMENT OF 5% OF ANY LEASE PAYMENT PAID TO THE LANDOWNER TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND UNDER § 2-505 OF THIS ARTICLE.

(7) A LEASE EXECUTED BY A FACILITY OWNER AND A LANDOWNER FOR THE GENERATION OF ELECTRICITY IN ACCORDANCE WITH THIS SUBSECTION SHALL INCLUDE PROVISIONS TO REQUIRE A FACILITY OWNER TO REMOVE THE FACILITY IF THE FACILITY IS NO LONGER INTENDED TO BE USED TO GENERATE ELECTRICITY.

(8) A LANDOWNER WHO IS IN VIOLATION OF FEDERAL, STATE, OR LOCAL LAWS REGARDING THE OPERATION OF THE FACILITY IS IN VIOLATION OF THE EASEMENT AND IS SUBJECT TO A CIVIL PENALTY UNDER § 2-519 OF THIS SUBTITLE.”;

in line 27, strike “(4)” and substitute “(9)”; and in line 31, strike “(5)” and substitute “(10)”.

AMENDMENT NO. 5

On page 7, strike in their entirety lines 3 through 25, inclusive.

On page 8, strike beginning with “Tier” in line 3 down through “sources” in line 4 and substitute “an authorized renewable energy source”; in line 4, strike “§ 7-701(r)(4) and (9) of the Public Utilities” and substitute “§ 2-513(c)(1)(ii) of the Agriculture”; after line 5, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2018, the Maryland Agricultural Land Preservation Foundation shall report to the Senate Education, Health, and Environmental Affairs Committee, the Senate Finance Committee, the House Economic Matters Committee, and the House Environmental Matters Committee, in accordance with § 2-1246 of the State Government Article, on the implementation of this Act.”;

and in line 6, strike “4.” and substitute “5.”.