



# Maryland Department of Agriculture

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## MARYLAND DEPARTMENT OF AGRICULTURE

### LEGISLATIVE COMMENT

**DATE:** February 27, 2020

**BILL NUMBER:** HOUSE BILL 1146

**SHORT TITLE:** FOREST CONSERVATION - MEL NOLAND WOODLAND INCENTIVES  
FUND - DISTRIBUTION OF AGRICULTURAL LAND TRANSFER TAX  
REVENUE

**MDA POSITION:** OPPOSITION

#### EXPLANATION:

This bill would adversely affect the Maryland Agricultural Land Preservation Foundation (MALPF) by increasing the portion of the Agricultural Land Transfer Tax (ATT) allocable for disbursement to the Mel Noland Woodland Incentives Fund (Woodland Fund) managed by the Department of Natural Resources (DNR) and increasing the amount of ATT funds that are to be disbursed to DNR for the Woodland Fund, thereby decreasing the amount of ATT funds to be disbursed to MALPF for its operating funds. This change in disbursement occurs in two ways: (1) the bill increases the maximum amount of the ATT that DNR receives for the Woodland Fund, from \$200,000 to \$500,000, and (2) the bill expands the pool of properties which will generate the ATT to be allocated to the Woodland Fund, from being limited to those properties which are entirely woodland to properties that are at least 80% woodland.

#### BACKGROUND INFORMATION:

##### *MALPF:*

The MALPF program purchases agricultural easements on properties to preserve productive farmland and woodland for the continued production of food and fiber for all of Maryland's citizens. To accomplish this and other statutory and ancillary goals (e.g., Chesapeake Bay, land preservation, etc.), MALPF easements restrict agricultural land from commercial, industrial and residential development. To date, the program has easements on almost 2,400 properties, covering over 322,000 acres at a public investment of more than \$766 million.

MALPF is funded primarily through two sources: the ATT, which funds the majority of its operational budget; and Program Open Space, which funds the majority of the MALPF capital budget (easement purchases). HB 1146 would drastically decrease the amount of ATT funding that MALPF receives.

MALPF's acquisition of easements is based on an established easement application cycle. From FY09 through FY18, applications were accepted every other year resulting in a two-year application cycle (i.e., two fiscal years of capital funding were combined into a single application cycle). With the return of full funding through the Program Open Space Fund, MALPF returned to the accepting of applications annually resulting in a one-year application cycle. Returning to an annual application cycle doubles the workload volume of new easement acquisitions not only for MALPF, but also the Department of General Services (DGS) attorneys and appraisers that support MALPF

In anticipation of the return to the annual application cycle, when the MALPF-DGS Memorandum of Understanding was renewed in FY19, MALPF agreed to increase the number of assistant attorneys generals and appraisers that MALPF funds to support the increase in workload. MALPF agreed to fund two new full-time assistant attorneys general and two new appraisers (splitting the funding of one of the appraisers with DGS). Starting with the FY19 MOU, which is planned to be revised in the FY21 budget, MALPF increased funding to DGS by \$446,400 to manage the increase workload of the annual easement cycle.

*Impact of HB 1146 on MALPF:*

If HB 1146 passes, the ATT funds available to fund the MALPF operating budget would potentially be reduced by \$300,000 annually. A reduction in the amount of ATT funds available to MALPF would have a significant negative impact on the MALPF operating budget when the volume of new easement acquisitions has doubled. To make up for the shortfall in the operating budget, MALPF may need to use funds planned for new easement acquisitions, or possibly amend the MOU with DGS to eliminate the newly created positions.

If easement acquisition funds were used to meet the operational needs, the overall funds available to purchase new easements would be reduced. Terminating the recently created attorney and appraiser positions would significantly impact the length of time it takes MALPF to complete new easement acquisitions as well as continue all other ongoing easement requests and transactions.

With the return of the single year easement application cycle, the MALPF operating budget went from \$1.5 million in FY18 to a requested \$2.1 million in FY21. The vast majority of the increase in the operating budget stems from the \$446,400 increase in the MOU with DGS, but also additional transactional expenses associated with the annual application cycle. There is no simple solution to manage a decrease of hundreds of thousands of dollars to the MALPF operating budget.

*Forest Preservation Woodland Incentive Workgroup:*

While the current statute provides a \$200,000 maximum amount of the ATT to go toward the Woodland Fund, the maximum has only been reached three times in the history of the fund, and just once over the last 10 years (2019). After the 2014 legislative session, a Forest Preservation Woodland Incentive Workgroup was established and asked to produce recommendations on how to increase the funding available to improve the health and sustainability of Maryland's privately-owned forests through the Mel Noland Woodland Incentives Fund. The workgroup was asked to review existing and new sources of revenue, including regulatory fees, taxes, and private partnerships.

In December 2016 the workgroup "concluded that efforts to increase funding for the Woodland Incentive Fund should first pursue more thorough implementation of existing rules and procedures before considering changing the funding base or other legislative action. Specifically, the workgroup recommends that DNR collaborate closely with the Department of Taxation and Assessment and the State Comptroller to ensure uniform compliance in the county tax assessment of forested lands."

After the recommendation was issued, the amount of funds allocated to the Woodland Fund increased both in absolute numbers and as a percentage of the total ATT over the past three fiscal years, with the maximum funding level of \$200,000 allocated in 2019 (the first time since 2007).

This bill would not create a new source of funding, it would result in a reallocation of a significant portion of the ATT from MALPF to the Woodland Fund.

If you have additional questions, please contact Cassie Shirk, Director of Legislation and Governmental Affairs, at [cassie.shirk@maryland.gov](mailto:cassie.shirk@maryland.gov) or 410-841-5886.