

January 23, 2025

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East Miller Senate Office Building  
Annapolis MD 21401

***Re: Letter of Opposition – Senate Bill 189 – Eminent Domain – Agricultural and Conservation Easements – Prohibited Taking***

Dear Chair Smith and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes Senate Bill 189 and offers the following information for the Committee's consideration.

SB 189 would prohibit the state or any of its instrumentalities or political subdivisions from taking, by eminent domain, privately owned property that is subject to a perpetual agricultural or conservation easement.

As drafted, SB 189 will likely preclude or at a minimum result in greater expense<sup>1</sup> to complete public infrastructure projects for a transportation facility<sup>2</sup> or a transportation facilities project<sup>3</sup> that are in the public interest. This could include projects such as new transit facilities intended to address congestion and meet the state's climate goals by shifting Marylanders out of personal automobiles and containment facilities for dredge material pulled from the Chesapeake Bay to maintain the economic benefits of the Port of Baltimore. Rather than make the state prove an alternative use is in the public interest and provide just compensation for a use inconsistent with the agricultural or conservation easement, SB 189 simply forecloses the opportunity to assess beneficial alternatives by way of a broad, categorical ban on these takings.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant Senate Bill 189 an unfavorable report.

Respectfully submitted,

Matthew Mickler  
Director of Government Affairs  
Maryland Department of Transportation  
410-865-1090

---

<sup>1</sup> While the bill does not prevent acquisition of lands subject to the identified easements, it does prohibit the use of eminent domain for this purpose. As a result, the Department may need to pay an amount far in excess of just compensation for land necessary to complete important public infrastructure projects. Where this land must be obtained to complete these projects, project costs increase, and projects may be abandoned if no alternative exists.

<sup>2</sup> Article – Transportation, § 3-101.

<sup>3</sup> Article – Transportation, § 4-101.