



Senate Bill 189

Eminent Domain – Agricultural and Conservation Easements – Prohibited Taking

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Judicial Proceedings and Education, Energy,
and the Environment Committees

Date: January 23, 2025

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS SB 189 WITH AMENDMENTS**. This bill prohibits counties and the State from using eminent domain to take lands under an agricultural or conservation easement.

The 2025 Maryland General Assembly is facing a historic number of complex generational challenges. One of the loudest issues to arise has been opposition to the Piedmont Reliability Project. The Project, which crosses Baltimore, Carroll, and Frederick Counties, effectively creates an extension cord across some of our state's prime agricultural lands, providing Pennsylvania-generated energy to Virginia-based data centers, with little direct benefit to Marylanders. As the General Assembly debates how to address this and other energy challenges, one of the biggest underlying issues will be how to prioritize now competing state priorities (i.e., energy demands & environmental goals).

Since the 1960s, counties and the State have invested hundreds of millions of dollars into conservation, and to date, counties have actively limited development in these preserved areas. The intent of SB 189 is to respond to the Piedmont Project by preventing the State and counties from using eminent domain on lands under agricultural or conservation easements, providing clarity to stakeholders as to the priorities of the State. As transmission infrastructure upgrades may uniquely be accomplished by upgrading existing lines or using existing land, counties join the sponsor in wanting to protect the finite number of conserved lands.

While counties are aligned with the intent of the legislation, there are concerns with the potential breadth of the language and unintended consequences on local critical infrastructure. Lands under agricultural or conservation easements are, by design, not ripe for development. However, there are very serious – though exceedingly rare and limited – circumstances where a county may need to use eminent domain on a land under easement for local critical infrastructure. These circumstances can be highly variable but mostly require a very limited taking of the preserved parcel, sometimes only a matter of feet.

MACo has engaged in productive conversations with the sponsor, and we are confident that amendment language which addresses county concerns and aligns with the intent of the sponsor is close at hand. MACo does offer the below amendments, but we remains open to further dialogue on alternative language that addresses counties' concern.

MACo Amendments:

- On Page 1, After line 15, Insert **“CRITICAL INFRASTRUCTURE INCLUDES THE PHYSICAL STRUCTURES OR FACILITIES NEEDED FOR THE OPERATION AND DELIVERY OF PUBLIC SERVICES. CRITICAL INFRASTRUCTURE DOES NOT INCLUDE THE PHYSICAL STRUCTURES OR FACILITIES USED FOR ENERGY GENERATION OR TRANSMISSION.”**
- On page 2, in line 1, before “The”, insert, **“EXCEPT FOR THE INSTALLATION OR MAINTENANCE OF CRITICAL INFRASTRUCTURE,”**

Counties thank the sponsor for being a partner to county governments and believe that with the amendments, this legislation will provide clarity to growing questions posed by our mutual constituents. For this reason, MACo urges the Committee to give SB 189 a **FAVORABLE WITH AMENDMENTS** report.