

Legislation – 2004 Legislative Session Relating to Agricultural Land Preservation Issues

Task Force recommended legislation is indicated with an asterisk (*).

Task Force inspired legislation (at least some part of the bill) is indicated with a cross (†).

House of Delegates legislation only:

HB 001 – Public School Construction Assistance Act of 2004

Sponsors: The Speaker and Delegates Hixson, Conway, Healey, Barkley, Benson, Bobo, Bromwell, Bronrott, Busch, Cadden, Cane, G. Clagett, V. Clagett, Conroy, Cryor, D. Davis, DeBoy, Doory, Dumais, Franchot, Goldwater, Griffith, Harrison, Howard, Hurson, James, Jones, Kaiser, Kelley, King, Kirk, Krysiak, Lee, Love, Madaleno, Malone, Mandel, Marriott, McHale, McIntosh, Menes, Minnick, Moe, Montgomery, Pendergrass, Proctor, Quinter, Ramirez, Rosenberg, Sophocleus, Taylor, V. Turner, Vallario, Vaughn, Aumann, Edwards, Hammen, Stocksdale, F. Turner, and Hubbard.

Department position: no position.

Legislative result: unsuccessful: passed the House of Delegates, but was not reported out of the Senate Budget and Taxation Committee.

This bill would impose recordation and transfer taxes on the transfer of controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$1,000,000. Further, local recordation tax revenues and State transfer tax revenues for fiscal years 2005 through 2008 would be dedicated to public school construction and renovation, as specified in the bill. This bill proposes to close a number of loopholes in the payment of real estate transfer taxes and to use the increased tax revenues to fund public school construction. This bill proposes to alter the funding formula for Program Open Space so that, if tax revenues devoted to public school construction fall below a certain level, the difference will be made up by taking funding away from other programs dependent on the real estate transfer tax, such as the Maryland Agricultural Land Preservation Foundation.

HB 098 – MALPF – Arbitration of Easement Values

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: unsuccessful: passed the House of Delegates with minor amendments, but was not reported out of the Senate Education, Health, and Environmental Affairs Committee.

This bill would establish a deadline for appealing for arbitration of the appraised fair market value of a property for applicants to the Maryland Agricultural Land Preservation Program.

HB 164 – MALPF [– Resale of Released Lot]

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This legislation would require a statement on specified agricultural land preservation easement releases that an owner's or owner's child's lot on an easement may not be transferred to an unrelated third party until after five years unless approved by the Foundation's Board of Trustees, unless the lot is subject to *bona fide* foreclosure proceedings.

HB 317 – MALPF – Income Tax Check-off

Sponsor: Delegate Rudolph.

Related bill: HB 470.

Department position: support.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would require the Comptroller to include a check-off on individual income tax return forms for voluntary contributions to the Maryland Agricultural Land Preservation Fund. The Comptroller would be required to include information in each individual income tax return package concerning the Maryland Agricultural Land Preservation Fund and would be required to collect and account for contributions made through the check-off system and credit the proceeds to the Fund after deducting the amount necessary to administer the check-off.

HB 470 – Income Tax Check-offs – MALPF and Rural Legacy

Sponsors: Delegates Jennings, Boteler, Boutin, Cane, Cluster, Elmore, Frank, Glassman, Hogan, Impallaria, James, McComas, McConkey, McDonough, McKee, Myers, O'Donnell, Owings, and Shank.

Related bill: HB 317.

Department position: support.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would require the Comptroller to include a check-off on individual income tax return forms for voluntary contributions to the Maryland Agricultural Land Preservation Fund or the Rural Legacy Program. The Comptroller would be required to include information in each individual income tax return package regarding the Maryland Agricultural Land Preservation Fund and the Rural Legacy Program and to collect and account for contributions made through the check-off system.

HB 606 – MALPF – Installment Purchase Agreements and Termination of Easements

Sponsors: Delegates Glassman, Barkley, Bartlett, Bobo, Boutin, Cadden, Cane, V. Clagett, Eckardt, Edwards, Frush, Hogan, Impallaria, James, Jennings, Kach, McComas, Owings, Parrott, Rudolph, Shank, Sossi, Stull, Weir, and Weldon.

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This bill would authorize the Maryland Agricultural Land Preservation Foundation to purchase agricultural easements through installment purchase agreements. The installment purchase agreement would be created so that the Foundation would make annual payments of interest on the outstanding balance and pay the balance at the end of the term. Easements purchased under an installment purchase agreement would be perpetual.

HB 607 – Income Tax – Gain Recognized on Sale of Agricultural Land Preservation Easement

Sponsors: Delegates Smigiel, Boteler, Cluster, Costa, Dwyer, Eckardt, Haddaway, Kach, Shank, Sossi, and Stocksdale.

Department position: support.

Legislative result: unsuccessful: the bill received an unfavorable report from the House Ways and Means Committee.

This proposed bill creates a subtraction modification under the Maryland income tax for income resulting from the gain realized on the sale of an agricultural land easement to MALPF. This bill would apply to all taxable years after December 31, 2003.

HB 625 – MALPF – Grants – Installment Purchase Programs

Sponsors: Delegates Glassman, Barkley, Bartlett, Bobo, Boutin, Cadden, Cane, V. Clagett, Eckardt, Edwards, Frush, Hogan, Impallaria, James, Jennings, Kach, McComas, Owings, Parrott, Rudolph, Shank, Sossi, Stull, Weir, and Weldon.

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This bill would authorize the Maryland Agricultural Land Preservation Foundation to make grants to purchase easements on specified properties to counties with approved installment purchase programs. The Foundation's Board of Trustees would review and approve only installment purchase programs that purchase easements using installment purchase agreements with specified characteristics, including that such an easement purchased using a specified grant may not terminate. Any easements purchased under this grants program must be at least co-held with the Maryland Agricultural Land Preservation Foundation.

HB 849 – Tax Incentives and Benefits – Credits and Subtraction Modifications

Sponsors: Delegates Gordon, Hixson, Goodwin, Healey, Heller, Kaiser, and Ross.

Department position: no position.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would repeal a range of tax credits allowed against specified State taxes and would alter those tax benefits provided under law by converting them to income tax subtraction modifications in determining Maryland taxable income. This bill would modify the income tax credit to which landowners who donate or offer bargain sales of easements to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation may be entitled to an income tax deduction based on subtraction modifications, significantly reducing tax benefits from the donation of development rights or restrictive easements to the State land preservation programs.

HB 880 – Transfer Tax Special Fund – Repayment of Transfers to the General Fund

Sponsors: Delegates James, Barkley, Bobo, Cardin, G. Clagett, Conroy, Heller, Howard, Hubbard, Kaiser, Leopold, Madaleno, Mandel, Nathan-Pulliam, Ramirez, Ross, Rudolph, and F. Turner.

Department position: no position.

Legislative result: unsuccessful: not reported out of the House Appropriations Committee.

This bill would require the repayment of State transfer tax revenues that were diverted from special funds to the General Fund in fiscal years 2004 and 2005. Beginning in fiscal year 2006, the annual repayment must be the lesser of \$20 million or an amount equal to the difference between the cumulative amount of the repayments and the total amount of State transfer tax revenues diverted to the General Fund. In addition, beginning in fiscal year 2006, the General Assembly must approve a repayment schedule prior to diverting special fund revenues to the General Fund.

Senate legislation only:

SB 713 – State Finance - State Projects or Programs – Funding

Sponsor: Senator Middleton.

Companion bill: none.

Department position: support.

Legislative result: successful: passed by the Senate and the House of Delegates and signed by the Governor.

This bill would provide that State projects or programs funded by Program Open Space, the Agricultural Land Preservation Fund, the Rural Legacy Program, or the Heritage Conservation Fund are not subject to specified provisions of law (HB444 – 2003) terminating the authority to spend appropriations by the State.

SB 930 – Agricultural Land Preservation – Termination of Agricultural Districts

Sponsor: Senator Klausmeier.

Department position: oppose.

Legislative result: unsuccessful: not reported out of the Senate Education, Health, and Environmental Affairs Committee.

This bill would authorize a landowner to terminate the landowner's property from an agricultural district after 30 months (2½ years) if the Maryland Agricultural Land Preservation Foundation has not purchased an agricultural preservation easement on the property and the landowner provides a 30-day notice of the intent to terminate to the Foundation, providing that a specified termination is not effective until the landowner executes and records the termination.

House of Delegates and Senate legislation (cross-listed bills):

HB 121/SB 144 – Office of Legislative Audits Audit Requirements

Sponsor: Delegate Mitchell (Chairman, Joint Audit Committee).

Senator McFadden (Chairman, Joint Audit Committee) and Senators Astle, Hafer, Hogan, Kramer, Lawlah, and Stoltzfus.

Department position: support.

Legislative result: unsuccessful: the bill passed the House of Delegates, but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

In conjunction with similar changes for several State agencies, these cross-listed bills would alter the period of the Maryland Agricultural Land Preservation Fund audit conducted by the Office of Legislative Audits; authorizing the Office of Legislative Audits to conduct its audit every two years, rather than each year.

HB 300 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2004, the Maryland Consolidated Capital Bond Loans of 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1999, 2002, and 2003, the General Construction Loan of 1989, the Water Quality Loans of 1974 and 1975, and the Chesapeake Bay Water Quality Loans of 1986, 1987, 1988, and 1989

SB 191 – Creation of a State Debt – MCCBL of 2004 and other Consolidated Capital and Bond Loans

Sponsors: The Speaker and the Minority Leader of the House of Delegates (by request of the Administration).

The President and the Minority Leader of the Senate (by request of the Administration).

Department position: support the MALPF bond proposal.

Legislative result: successful: SB 191 passed with amendments by the Senate and then passed with incompatible amendments by the House of Delegates; agreement was reached in conference committee; SB 191 was signed by the Governor; HB 300 received an unfavorable report from the House Appropriations Committee, so did not pass out of committee.

These cross-listed bills would authorize the creation of a State Debt in the amount of \$624,792,000 for the purposes specified in the bill; altering provisions of prior capital budgets. Specific to farmland preservation, this bill would authorize \$5,000,000 in bonds for FY 2005 for MALPF to replace the real estate transfer tax revenues that are being diverted to the General Fund through the Budget Reconciliation and Finance Acts. This legislation also authorizes \$3,000,000 in GreenPrint funds, of which 25%, or \$750,000 will be used to purchase easements on agricultural districts under MALPF.

HB 768/SB 479 – Income Tax Credit for Preservation and Conservation Easements – Transferability

Sponsors: Delegates Bobo, V. Clagett and Glassman.

Senators Dyson, Munson, and Stoltzfus.

Department position: support.

Legislative result: unsuccessful: the bills received unfavorable reports from the House Ways and Means Committee and the Senate Budget and Taxation Committee.

These cross-listed bills would allow an individual to transfer tax credits for preservation and conservation easements to another individual under limited circumstances and would authorize an individual to whom a credit for preservation or conservation easements is transferred to claim a credit against the Maryland income tax under limited circumstances.

***HB 770/SB 367 – MALPF – Tenant Houses – Construction**

*Sponsors: Delegates Cane, Stull, Conway, Eckardt, Glassman, Rudolph, and Sossi.
Senators Dyson and Middleton.*

Department position: support.

Legislative result: successful: HB 770 passed the House of Delegates and the Senate and was signed by the Governor; SB 367 passed the Senate and the House of Delegates, but was vetoed by the Governor who signed the cross-listed bill, HB 770.

These cross-listed bills would make the construction of tenant houses on farms subject to an agricultural land preservation easement subject to the review and approval of the Maryland Agricultural Land Preservation Foundation. The legislation would also require that a property have a full one-hundred acres per tenant house on the property and would authorize the Foundation to grant an exception to this acreage requirement, based on the landowner showing a compelling need.

***HB 777/SB 327 – MALPF – Easement Termination**

*Sponsors: Delegates Cane, Stull, Conway, Eckardt, Glassman, Rudolph, and Sossi.
Senators Dyson and Middleton.*

Department position: support.

Legislative result: successful: HB 777 passed the House of Delegates and the Senate with amendments and was signed by the Governor; SB 327 passed the Senate and the House of Delegates, but was vetoed by the Governor who signed the cross-listed bill, HB 777.

These cross-listed bills would require that the Maryland Agricultural Land Preservation Foundation provide a landowner with the opportunity for a public hearing before deciding on a request for termination of an agricultural land preservation easement whose purchase is approved by the Board of Public Works on or before September 30, 2004, and would require that easements whose purchase is approved by the Board of Public Works on or after October 1, 2004, be held by the Foundation in perpetuity.

HB 871/SB 510 – Budget Reconciliation Act of 2004

*Sponsors: The Speaker and the Minority Leader of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: SB 510 passed the Senate with amendments, and passed the House with incompatible amendments; differences were reconciled in conference committee; SB 510 was signed by the Governor; HB 871 did not pass the House because it received an unfavorable report from the House Appropriations Committee.

These cross-listed bills would alter grants and programs, alter the permissible uses of funds, repeal required appropriations, and transfer funds to the General Fund, as specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the real estate transfer tax revenues dedicated to the purchase of agricultural conservation easements would be transferred to the General Fund. Those revenues would be, to some extent, offset by bonds authorized in SB 191 (2004).

HB 1086/SB 481 – Income Tax Credit for Preservation and Conservation Easements – County Tax Credit Authorized

*Sponsors: Delegates James, Bobo, Heller, McComas, and McIntosh.
Senators Dyson, Currie, Munson, and Stoltzfus.*

Department position: support.

Legislative result: unsuccessful: passed the Senate, but was not reported out of the House Ways and Means Committee.

These cross-listed bills would authorize the governing body of a county to permit a credit against the county income tax for preservation and conservation easements. Each county governing body would be authorized to determine the amount of that credit and to place any limitations determined to be appropriate on the credit. Any county that adopts a credit against the county income tax for preservation and conservation easements must notify the Comptroller prior to the taxable year in which the credit is applicable.

HB 1106/SB 480 – Property Tax – Assessment of Conservation Property

*Sponsors: Delegates James, Bobo, Cardin, Elmore, and Stull.
Senators Dyson and Munson.*

Department position: no position.

Legislative result: unsuccessful: the bill passed the Senate, but received an unfavorable report from the House Ways and Means Committee.

These cross-listed bills would alter the valuation and assessment for property tax purposes of property subject to specified perpetual conservation easements. The legislation would provide for a new subclass of real property for assessment purposes; and would provide for the application of the Act to taxable years beginning after June 30, 2004. While this legislation is primarily important to properties preserved by the Maryland Environmental Trust, it could have applied to a small number of early MALPF easements, keeping them in agricultural assessment, even if the landowner ceased to qualify.