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MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: February 19, 2020

BILL NUMBER: SENATE BILL 460

SHORT TITLE: STATE GOVERNMENT - OFFICE OF THE ENVIRONMENTAL AND
NATURAL RESOURCES OMBUDSMAN - ESTABLISHMENT
(ENVIRONMENTAL ACCOUNTABILITY AND TRANSPARENCY ACT)

MDA POSITION: CONCERN

EXPLANATION:

SB 460 will establish an Ombudsman in the Office of the Attorney General who will receive and process complaints addressing suspected environmental and natural resource violations. The Ombudsman will consult with Departments of Environment (MDE), Natural Resources (DNR), and Agriculture (MDA) to develop and maintain a website with certain information related to the complaint including personal identifying information.

BACKGROUND INFORMATION:

MDA, MDE and the State Soil Conservation Committee developed their first memorandum of understanding (MOU) for Addressing Agricultural Water Quality Complaints around 1999 for the purpose of ensuring that any inspections conducted on farms would include someone knowledgeable of typical agricultural practices. This bill would divert that authority to an Ombudsman that may not have that knowledge.

Complaints are already received by MDA, MDE, County and local agencies and referred to staff with knowledge of how to address the complaint. The Ombudsman would be one more person involved in the process, make coordination more difficult and add confusion about who has the responsibility to follow-up with action when farms are involved.

The tracking and enforcement are too detailed and too personal. The type of public notice and tracking outlined in the bill are similar to public businesses. Most farms are family run businesses located at their home address and should not be posted on a website. Public

access to a website with a list of complaints, violations, and locations of small family farms can expose the family, maybe with children, to safety concerns and harmful public reaction. SB 460 potentially publicly opens up confidential nutrient management information protected by MDA by law.

The record keeping, tracking and reporting are far too detailed and will be very time consuming. The Ombudsman would be contacting the agencies involved for updates which will be double work for agency staff.

Currently, MDA has an agreement with MDE that will work to resolve problems when complaints are received. Typically, MDA will respond and either find a temporary solution to stop a source of pollution or refer them to the SCD for a permanent solution through the construction of a Best Management Practice (BMP), or both. The MOU between MDA and MDE allows time to correct the problem. In some cases where stream pollution has resulted in a fish kill, the farmer has been fined. There have been a number of complaints of animals in the stream where the MDA Nutrient Management Program has successfully had the farmer install fencing and take other steps to keep animals from the stream. The goal is to address the resource concern by stopping the eminent threat to water quality.

An Ombudsman will add a layer of bureaucracy that is not needed, and can and will negatively impact MDA's ability to work cooperatively with farmers, negatively impacting the MOU set in place.

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