



MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: February 21, 2017

BILL NO.: HB 863

SUBJECT: STATE AGRICULTURAL AND CONSERVATION PROPERTY INTERESTS –
SOLAR FACILITIES (RIGHT TO SOLAR FARM)

COMITTEE: ENVIRONMENT AND TRANSPORTATION

MDA POSITION: OPPOSE

EXPLANATION: For the purpose of exempting a certain facility that generates electricity by utilizing solar energy from certain development restrictions under an agricultural land preservation easement; altering the limitation on the percentage of the land subject to an agricultural land preservation easement that may be used for the generation of electricity from solar energy; authorizing the Maryland Environmental Trust to lease property for the generation of electricity by a facility utilizing solar energy subject to a certain limitation; authorizing the Rural Legacy Board to use or sell certain interests in land for the generation of electricity by a facility utilizing solar energy subject to a certain limitation; making certain stylistic changes; and generally relating to State agricultural and conservation property interests.

COMMENT:

The purpose of MALPF easements is 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, MALPF easements restrict agricultural land from commercial, industrial and residential development. The Program has easements on more than 2,218 properties, covering over 300,000 acres at a public investment of more than \$682 million.

In some cases, landowners are paid more than 90 percent of the fair market value of their property to restrict commercial development. Therefore, if landowners are permitted to regain this development potential by being allowed to build solar utilities, they will receive a financial benefit at the expense of the taxpayers.

Should HB 863 pass, the legislative intent of the establishment of the Maryland Agricultural Land Preservation Foundation would be undermined, as would the public trust. Of Maryland's 2,000,000 agricultural acres of land, more than 547,000 acres have been preserved with public funds. The remaining 1,483,000 acres of agricultural land not protected with public funds should be targeted for commercial development. Neighboring landowners will likely protest the location of solar farms regardless of whether they are placed on MALPF properties. However, neighboring landowners will be fighting the program when protesting commercial installations located on MALPF properties.

If enacted into law, HB 863 would increase development pressure for solar energy production. It is anticipated that such pressure will significantly lower land rent values and trigger a downward spiral of prime agricultural land giving way to commercially-developed land. While land rent values would decrease, there would be an increase in appraised land values, which will drive up the costs of purchasing easements, and result in less preserved farmland acreage. The loss of conservation values preserved by public funding would be an injustice from which the public trust and the land may never recover. “Solar Farm” is a made-up term. What we are really discussing is a solar energy generation facility. Due to the change in use of the land, the matter of the agricultural use assessment requirement for easement properties would need to be addressed. Changing the use of land from active agriculture to commercial solar facilities should cause the local assessments office to reassess the land for commercial use. This would be incongruent with the program’s tax assessment requirements.

This bill proposes to allow commercial solar projects on up to 3% of the total acres preserved in the MALPF program. That would be more than 9,000 acres of prime and productive farmland that could potentially be covered with solar panels. With no sunset provision in the proposed legislation, it is likely that these projects will reach their build-out potential.

MALPF ASKS FOR AN UNFAVORABLE REPORT FOR HB 863.