September 21, 2000

The Honorable John Maitland, Chairman
Illinois Growth Task Force
627 State Capitol
Springfield, Illinois 62706

Dear Senator Maitland,

On behalf of the Farmland and Natural Resources Preservation Working Group, I submit to you and the members of the Illinois Growth Task Force our recommendations on farmland, natural resources, and water.

The recommendations of the Farmland and Natural Resource Preservation Working Group represent the consensus of those members participating in a dialogue that has occurred at meetings, via facsimile and by e-mail over the course of the past three and a half months.

Some recommendations are general in nature and will require further research and analysis in order to develop an action-specific strategy for implementation. Others are quite specific in nature. In either case, it is the hope of the working group that the report submitted assists the Illinois Growth Task Force in furthering its mission “to encourage orderly development that preserves farmland and natural areas, and increased housing options and transportation alternatives.”

The Farmland and Natural Resource Preservation Working Group appreciates the opportunity to submit its report to the Illinois Growth Task Force. The members look forward to providing assistance if needed to realize adoption and implementation of these recommendations.

Sincerely,

Ann Hughes
Chairman

cc: Mary Sue Barrett, Chairman, State Policies Working Group
George Ranney, Jr., Chairman, Land Use and Transportation Working Group
Illinois Growth Task Force

Recommendations of the

Farmland & Natural Resource Preservation Working Group

TO THE FULL TASK FORCE

SEPTEMBER 2000

WORKING GROUP MEMBERS:

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Our air, land and water resources are linked together in sustaining all life. To protect our agricultural, natural and water resources, the State of Illinois needs integrated planning and management methods that recognize the interconnectedness of natural processes.

—Adapted from Governor Ryan’s Executive Order

After careful consideration, the Farmland and Natural Resource Preservation Working Group submits the following recommendations to the Illinois Growth Task Force. These recommendations are based primarily on the principles that they be: locally driven, voluntary and incentive-based, and that government purchases of land and/or easements should be from willing sellers only. We believe that these recommendations, if implemented by the State, will enhance the State’s economy, environment and quality of life for all residents.

In conformance with Governor Ryan’s statement declaring the need for integrated planning and management methods that recognize the interconnectedness of natural systems, our recommendations for protecting our agricultural, natural and water resources are integrated into three categories: Assistance for Comprehensive Planning & Zoning, Assistance for the Implementation of Comprehensive Plans & Zoning, and State-Level Policies. These three sections will be followed by detailed recommendations for each of the three resource areas — agricultural, natural and water resources—that when put together constitute a comprehensive initiative for protecting all of our resources.

**ASSISTANCE FOR COMPREHENSIVE PLANNING & ZONING**

The state should provide financial and technical assistance for comprehensive planning and zoning to counties, municipalities, and townships whose plans will include the elements listed below: Many community land-use plans and zoning ordinances are outdated and 46 counties do not even have zoning. The Local Land Resource Management Planning Act (50 ILCS 805/1 et seq.) offers few incentives for planning and little state funding has been appropriated to assist local government.

1 As the working group met, tables for each resource were developed to frame the discussions, build consensus and identify recommendations. These tables, entitled Farmland, Natural Resources, and Water are attached in Appendices I-K.
Legislation should be adopted which incorporates resource protection measures into state guidelines for planning. These guidelines should include:

- **Identification and mapping of natural, agricultural and water resources.** Prior to developing a plan to protect its resources, a community should identify what resources to protect, including resources of state, national and local importance. The state should provide technical and financial assistance to units of local government for the compilation of existing information and for additional needed inventories. Funding priority should be given to cooperative proposals for achieving balanced growth that have the broadest impact, such as those at the county or regional level. Appropriate state agencies should help communities inventory these resources. *(See sections on farmland, natural resources and water for more information specific to each resource.)*

- **Adoption of zoning and subdivision ordinances that protect agriculture and encourage conservation development practices.** Agricultural zoning techniques and conservation development techniques should be used to protect agricultural and natural resources. Agricultural zoning should minimize farmland conversion and prevent the intrusion of conflicting, non-farm uses into areas designated for agriculture. Conservation development standards should be built into zoning and subdivision ordinances to encourage developers to pursue these types of development. Unlike standard development practices that often damage our resources and create unnecessary costs for both developers and local government, conservation development and redevelopment practices can protect the environment and save developers and taxpayers money in both the short and long term. Currently, developers must seek variances and conditional-use permits to build conservation developments. This lengthy approval process is an obstacle for developers. *(See sections on farmland, natural resources and water for more information specific to each resource.)*

- **Adoption of a process for creating intergovernmental agreements (inter-municipal, municipal-county or municipal-township).** This process is needed to address planning issues related to the protection of agricultural, natural and water resources. These agreements are critical for the protection of resources that lie within (or flow through) multiple jurisdictions.

- **Adoption of new transportation and other infrastructure plans.** These plans would be designed to encourage both infill and new development adjacent to developed areas by targeting infrastructure investments to these areas. This will enhance the ability of the community to protect its agricultural, natural and water resources.

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2 See *Protecting Nature in Your Community* (a Chicago Wilderness publication) and *Better Site Design* (a guide by The Center for Watershed Protection) for more information on watershed-sensitive development.
ASSISTANCE FOR IMPLEMENTATION OF COMPREHENSIVE PLANS & ZONING

The state should provide new tools (through enabling legislation) and financial assistance to help communities implement comprehensive plans that adequately protect our agricultural, natural and water resources. These tools and State policies should enhance, not hinder, local planning and implementation efforts.

- **Purchase of Conservation Easements:** The State should pass enabling legislation to clearly allow counties, municipalities and townships to adopt Purchase of Conservation Easement (PCE) programs (sometimes known as Purchase of Development Rights [PDR]) or Purchase of Agricultural Conservation Easement (PACE) programs. PCE programs can be used to protect both natural areas and agricultural lands by compensating landowners for voluntarily putting permanent conservation easements on their lands. Landowners get equity out of their land while still retaining ownership. The cost of conservation is thus shared between the landowners and the public, both of which benefit from the protected land. Easements can also be used in storm water management to acquire storage areas or protect recharge areas. *(See sections on farmland and natural resources for more information specific to each resource.)*

- **State Assistance for Fee-Simple and Easement Acquisitions:** The state should establish permanent and adequate funding for the protection of agricultural, natural and water resources through fee-simple acquisition and the purchase of easements from willing sellers (such as PCE programs). These funds should be provided as a match to local communities that have adopted plans and ordinances that meet the guidelines identified under “Assistance for Comprehensive Planning and Zoning” above. To ensure fair distribution of moneys, the state should consider a separate fund for each resource to be administered by the appropriate State agency. For example, the Department of Natural Resources could administer a “Natural Resources Protection Fund” and the Department of Agriculture could administer a “Farmland Protection Fund” (for purchase of easements only). The agencies should coordinate their efforts under the umbrella of the Balanced Growth Cabinet. *(See sections on farmland and natural resources for more information specific to each resource.)*

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3 Although Illinois law clearly allows local governments to purchase conservation easements, it does little to help local governments establish effective and organized PCE programs. Furthermore, the authority to purchase agricultural easements may exist but should be clarified.

4 See Appendix A for more information about the Local Legacy program proposal.
• **The Transfer of Development Certificates (TDC):** The state should pass enabling legislation to allow counties, municipalities, and townships to adopt Transfer of Development Certificate programs (sometimes known as Transfer of Development Rights [TDR]). TDC programs are similar to PCE programs in that landowners are compensated for voluntarily putting permanent conservation easements on their land. The difference is that developers (not the local and/or state government) compensate the landowner in exchange for being allowed to develop elsewhere in the community at a higher density than is allowed under the base zoning. TDC programs often appeal to developers because the programs allow for increased development in designated receiving areas, maintaining the economic incentive to participate. TDC programs also allow infrastructure funds to be used more efficiently because higher density is encouraged where infrastructure exists or is planned.

• **County Stormwater Management Programs:** State statutes should be amended to enable all counties to develop countywide stormwater management programs. These programs should encourage inter-jurisdictional watershed management planning to prevent development in one county from negatively impacting areas (including development, natural areas, water bodies and agricultural lands) in other counties. These programs should provide standards which new development is required to meet. Owners of existing development (including agricultural structures) should be given incentives to correct existing problems. *(See section on water for more information.)*

• **Target State Infrastructure Funds:** The State should reinforce local transportation and infrastructure plans which meet State planning guidelines for the protection of agricultural, natural and water resources by targeting its infrastructure funding to projects consistent with these local plans.

• **Amend Tax Increment Financing (TIF) Legislation:** The state should amend its TIF legislation to discourage the inclusion of farmland and other greenfields within TIF districts. The intent of TIF is to facilitate the redevelopment of blighted areas and to revitalize depressed urban areas. Unfortunately, many communities use this legislation to develop farmland and other natural resources in a manner that may lead to the unnecessary destruction of these resources.

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5 See Appendix B for a copy of TDR legislation from a state program (Maryland’s Rural Legacy Act) and a county-municipal program (Thurston County, Washington).
STATE-LEVEL POLICIES

The State should evaluate its own role in affecting patterns of growth (such as road-building and the construction of state-operated facilities) that may result in unnecessary degradation of farmland, natural and water resources.

• **State Agency Projects:** State agencies should take a leadership role in developing state-of-the-art policies and practices that minimize the negative impacts on farmland, natural resources, and water of state-funded or regulated projects. These policies and practices should serve as models for local government to consider.

• **State-Level Farmland, Natural Resources, and Water Policies:** The State, through efforts of the Balanced Growth Cabinet, should evaluate the need for state-level policies on farmland, natural resources, and water protection. *(See “State-Level Policies” under Farmland, Natural Resources, and Water sections below for further recommendations.)*

FARMLAND

Two main characteristics of farmland deserve consideration with respect to resource protection efforts. First, while prime and important farmlands seem almost unlimited in the State of Illinois, they are a scarce resource globally. Illinois’ farmland resource is the foundation of one-fifth of the State economy. Second, while it is possible to preserve small parcels of farmland, economic viability requires an agricultural industry infrastructure that is accessible to the farmer and allows access to markets.

Farmland: Assistance for Planning & Zoning

• **Identify and Map Farmland Resources:** The Illinois Department of Agriculture should assist local governments in mapping strategic farmland. In addition, an effort should be made to identify the strategic base of Illinois farmland from a state and global perspective for long term production.

• **Land Evaluation and Site Assessment System (LESA):** The Illinois Department of Agriculture, in partnership with NRCS, and soil and water conservation districts, should promote LESA as a land use decision-making tool to local governments and should provide financial and technical assistance for LESA development.
Agricultural Zoning: The Department of Agriculture should assist counties and townships by serving as a clearinghouse for model ordinances. Agricultural zoning is only effective if it minimizes farmland conversion and prevents the intrusion of conflicting, non-farm uses into the areas designated for agriculture. In some Illinois counties (particularly in northeastern Illinois), agricultural zoning consists of large lot sizes, such as 35-acre or 40-acre parcels, that may or may not discourage purchase for non-farm uses. To more effectively keep land in production, agricultural zoning should restrict the size and number of residential lots created on agricultural parcels. For example, if a county has 35-acre agricultural zoning with a maximum lot size of 2 acres, a landowner with an 80-acre parcel would be allowed to subdivide two lots at 2 acres each. The landowner would retain the remaining 76 acres that could no longer be subdivided and would remain in agriculture. Conditional and Special Use Permits lend needed flexibility to a zoning ordinance, but these permits must be clearly defined and used as intended or agricultural zoning is subverted.

Farmland: Assistance for Implementation of Plans & Zoning

Agricultural Areas: The State Legislature should amend the Agricultural Areas Conservation and Protection Act as recommended by the Ag Areas Work Group in the Fall of 1998. When used effectively, the Ag Area designation is valuable for two reasons: farmers have limited protection from encroachment of conflicting non-agricultural uses, and local planners have a clear indication of where landowners with a long-term commitment to agriculture are located. Clarifying the procedures in the Act, improving the incentives and strengthening protection would increase the likelihood of greater enrollment.

Purchase of Agricultural Conservation Easements: The State should adopt comprehensive enabling legislation to allow local governments and the Illinois Department of Agriculture to create Purchase of Agricultural Conservation Easement (PACE) programs. The Illinois Department of Agriculture should provide technical support to local governments, and the State should establish a dedicated funding source to provide communities with matching grants. One benefit of easements is that they often provide cost-effective protection of farmland while retaining private ownership of the land and preserving a level of property tax revenue for local governmental units.

PACE programs should be used as the “capstone” tool of a local comprehensive farmland protection program. These programs require careful planning and commitment at all levels of government to ensure that limited dollars are spent most effectively and that the most important farmland is protected. Land targeted for these programs should be critical pieces for protecting an area large enough to maintain the economic viability of farming.

6 See Appendix C for information from American Farmland Trust on agricultural zoning.
7 See Appendix D for a summary sheet and copy of the draft Agricultural Areas legislation.
When used correctly, a good PACE program provides numerous benefits to the agricultural economy, the landowner and the community. The landowner (whose participation is voluntary) retains title to the property, however that property is then restricted by the easement to agricultural use only. The purchase cost of the easement is a means for society to offset what would otherwise be a cost borne solely by the farmer (through foregoing the economic advantage of development). The farmer also benefits from knowing there is a public commitment to agriculture in his community and a greater likelihood that the essential infrastructure for supplies and markets will be available. The easement payment can be used to modernize or expand the farm enterprise, or it can be used for off-farm investments such as retirement planning. A community benefits from a stabilized agricultural economy, better utilization of infrastructure dollars which are then targeted to areas identified for growth or redevelopment, and the protection of food production capacity, open space, habitat, and air and water quality.

Many states have both enabling legislation and matching funds for local PACE programs. These programs vary from state to state. Some are very new, while others have matured over the years. Some PACE programs tie eligibility to land being enrolled in “agricultural areas,” others to conservation plans.8

Sample state-enabling legislation for PACE programs and a summary of these programs is included with this report for further study. Pennsylvania’s Agricultural Area Security Act9 is both comprehensive and time-tested. The draft Township Farmland Protection Act10 was developed in 1996 by the Prime Farmland Preservation Work Group that functioned under former Governor Edgar’s Natural Resources Coordinating Council. Representatives served on the work group from IDOA, IDNR, Illinois Farm Bureau®, and American Farmland Trust®. This draft legislation applies only to townships, but is an example of a local referendum-driven program.

In addition, the legislature should amend Illinois’ Real Property Conservation Rights Act (765 ILCS 120)11 to include the conveyance of agricultural conservation easements which at this point is not explicitly allowed. While some people feel that this simple addition to the Act would provide the necessary enabling legislation for local and state PACE programs, it seems likely that more comprehensive legislation would produce more successful programs.

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8 See Appendix E for information about New York’s Watershed Agricultural Program that is designed to enhance both the agricultural economy and the public’s drinking water supply. Conservation easements are tied to conservation plans both of which are funded by the public.
9 See Appendix F for fact sheet and copy of Pennsylvania’s Agricultural Area Security Act.
10 See Appendix G for fact sheet and copy of Illinois’ draft Township Farmland Protection Act.
11 See Appendix H for suggested language to amend the Illinois Real Property Conservation Rights Act.
• **Agricultural Economic Development Program:** The State should expand the Ag-Business Development Office program to develop new and improved technology and new and expanded markets to increase agricultural profitability.

• **Farmland Assessment:** The Illinois Department of Natural Resources should more aggressively market the Forestry Development Act. While cropland and pasture are qualified for special assessment simply through use for crop production and pasture, the requirements for forested land are more complex and not as widely understood. As a result, few wooded acres are in the program and many acres are assessed at a much higher value as recreational land. Through the Forestry Development Act, landowners can learn about and meet requirements to qualify for the special assessment of forested land.

• **Illinois Farmland Preservation Act:** The Illinois Department of Agriculture should re-evaluate the Act in terms of its effectiveness and coordinate with partners, stakeholders and sister agencies to identify measures that will lead to the improvement of the Act. The Act should then be amended to reflect those improvements.

• **Executive Order:** A new executive order on farmland should be issued to state agencies whose programs and projects impact farmland. The IDOA should re-evaluate Executive Order #4 issued by Governor Jim Thompson in 1980 and coordinate with partners, stakeholders and sister state agencies to develop measures leading to a new Executive Order that strengthens safeguards against state actions adversely affecting farmland. The new Executive Order should also serve to establish and heighten public awareness of the need for farmland protection and balanced growth.

• **Executive Order #8:** Building upon the Five Core Principles in Governor Ryan’s Executive Order #8 and its companion *Illinois Tomorrow Program*, the development and implementation of measures to protect agricultural land from unnecessary conversion caused by private and public sector actions should be a priority.

**NATURAL RESOURCES**

Current development patterns can destroy important habitat and natural areas, and can degrade both air and water quality. The State should support efforts by communities to identify, plan for, and protect these valuable natural resources.

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12 In the context of farmland, strong and differing opinions exist regarding usage of the terms “conversion” and “diversion” and how each is defined.
Natural Resources: Assistance with Planning and Zoning

• **Identification and mapping of natural resources:** When identifying and mapping natural resources as recommended above (*see Assistance for Comprehensive Planning and Zoning*), communities should be given access to state data such as the Illinois Natural Areas Survey, the Illinois Greenways Inventory, the Illinois Natural Heritage Database, and the Illinois Trails Inventory. The Illinois Department of Natural Resources (DNR) maintains significant amounts of information; however, much of the information is limited in scope or outdated. IDNR is currently working on a cooperative effort (Illinois Interagency Land Classification Project) to track the natural resource areas of Illinois via remote sensing.

• **Resource Protection Planning:** Communities that have identified and mapped their natural resources should be offered assistance in developing plans to protect those resources. A resource protection plan may well be one part of the comprehensive plan described under “Assistance for Comprehensive Planning & Zoning” at the beginning of this report. The state should offer both financial and technical assistance for developing such a plan, define certain elements a resource protection plan should include, encourage counties and municipalities to cooperate with each other in the planning efforts, suggest criteria for prioritizing which resources should be protected first, and provide for a range of tools (*e.g.*, purchase of easements, transfer of development certificates, purchase of fee simple, amendments to zoning ordinances, etc.) to protect those resources. A resource protection plan could also be used to identify and protect important agricultural and cultural resources, and could be combined or coordinated with a PACE program as described in the Farmland section of this report.

• **Model Zoning Ordinances:** The state should provide information to local governments that would help them adapt their zoning ordinances to encourage balanced growth. Creativity and flexibility in zoning ordinances would make it easier for developers to use conservation techniques such as clustered, mixed-use development with the preservation of large natural areas, and to create developments consistent with local and regional resource protection plans or comprehensive plans. The state should serve as an informational resource, perhaps by making model ordinances available, so that communities can more easily adopt zoning that encourages conservation developments.

• **Targeting Infrastructure:** State and local infrastructure decisions (including expenditures) should support balanced growth. Current infrastructure decisions – such as road extensions and Facility Planning Area extensions – often support scattered development that consumes agricultural and natural areas.
Infrastructure decisions should be consistent with local and regional plans identifying areas to be preserved and areas for growth. Generally, infrastructure should be targeted first at infill areas then at sites contiguous to built-up areas, and also should be discouraged in undeveloped natural and agricultural areas, especially when it results in “leapfrogging.” It is important, therefore, to review and revise state and local infrastructure plans, as well as government-created incentives (such as tax incentives), to encourage balanced growth. Infrastructure funds should support only those projects that are consistent with area planning for balanced growth.

Natural Resources: Assistance for Implementation of Plans & Zoning

- **Fee Simple Acquisition and the Purchase of Conservation Easements:** The state should assist local communities with the implementation of their resource protection plans. *(See “Resource Protection Planning” section above.)* Some funds currently exist for resource acquisition, but these funds are not large enough to adequately protect our natural resources. For example, although the Open Lands Trust Act is an important step forward in protecting Illinois’ natural resources, it is limited in both duration (four years) and funding ($40 million annually). A new, permanent, and adequate funding source should be established in addition to the Open Lands Trust Fund. These funds should be limited to communities that have engaged in comprehensive planning as identified above, and they should be available in full and as matching funds to encourage local cost-sharing. One benefit of easements is that they often provide more cost-effective protection of natural resources while retaining private ownership of the land and preserving a level of property tax revenue for local governmental units.

- **Local Legacy Program:** Although the recommendations in this “Natural Resources” section are listed separately, many can easily be combined. For example, the “Local Legacy” proposal is one possible way to combine elements of many of the recommendations into an integrated whole. This program would provide state funding to county-municipal partnerships to inventory not only their ecological resources, but their agricultural and cultural resources too, and further funding to develop a resource protection plan and implement the plan. During the first few years of the program, financial assistance would be limited to the cost of conducting resource inventories and developing resource protection plans. As resource protection plans are completed, additional funds would be provided to county-municipal partnerships to help them with the purchase of agricultural conservation easements and the fee-simple acquisition of (or purchase of conservation easements for) natural areas and cultural resources. Funding for the different types of resources should be kept separate to ensure agricultural, natural, and cultural resources all receive adequate funding and are not competing against each other for limited dollars.

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13 See Appendix A for more information about the Local Legacy Program proposal.
14 The resource protection plan could well be a part of the comprehensive plan described at the beginning of this report.
• **Donation of Conservation Easements:** The state should help those who may wish to donate conservation easements by providing information and technical assistance. Property tax, income tax, and estate tax benefits exist for those who donate conservation easements. Unfortunately, it is often difficult for property owners and local entities to learn about these benefits and how to donate a conservation easement. Therefore, the legislature should appropriate additional funds to both IDNR and IDOA for an information clearinghouse on the benefits of easement donation and for staff to assist those who wish to make such a donation to protect farmland, natural resources, and water.

• **State Assistance for Natural Areas Management:** The State should offer more assistance in disseminating information and identifying practices that will help reduce environmental damage caused by private sector actions.

Illinois has lost a large percentage of its wildlife habitat, including over 90% of its natural wetlands, which serve many functions such as providing wildlife habitat and flood control and improving water quality. Furthermore, growth-related activities often cause the loss of what little habitat remains through fragmentation, sedimentation, influx of exotic and invasive species, and conversion to other land use. While the Interagency Wetlands Protection Act of 1989 establishes a short-term no-net-loss goal for wetland acreage (and a long-term goal of increasing wetland acreage), it applies only to state agencies, not the private sector. Moreover, no analogous legislation exists to protect other habitat types.

Best Management Practices (BMPs) and model development ordinances exist that could help protect wildlife habitat, but they are not available from a central location and are not necessarily comprehensive. The Illinois Department of Natural Resources (IDNR) should identify best management practices, construction techniques and management strategies to better protect wildlife habitat and provide technical assistance to public and private entities for implementation. IDNR should also explore methods of establishing low-flow requirements for Illinois’ rivers and streams to protect the state’s aquatic flora and fauna with consideration for other uses.

**Natural Resources: State-Level Policies**
• **State “NEPA”:** The state should consider whether a state-level “NEPA” would be appropriate in Illinois. The federal National Environmental Policy Act (NEPA) requires the federal government to evaluate the environmental impacts of projects that it funds or for which it issues permits or otherwise has a regulatory role. Many states, but not Illinois, have analogous laws for projects funded or permitted at the state level. IDNR and/or IEPA should research NEPA and other states’ NEPA analogues to find models that may be appropriate for use in Illinois.

**WATER**

Illinoisans have grown accustomed to a plentiful supply of clean water, but many communities have begun experiencing water supply limitations due to contamination, drought and an ever-increasing demand. In addition, growth and current development practices have caused degradation of streams and rivers as well as great challenges to local communities in stormwater management. As the economy and population continue to grow, the need for clean water and for stormwater management will increase as well. Both state and local government should work together to implement water resource policies and programs that will ensure the long-term protection of the quality and quantity of Illinois’ water supplies.

Water does not respect political boundaries, yet most programs and regulations are based on political jurisdictions. Therefore, water-based programs and planning should be developed through multi-jurisdictional cooperation; all levels of government should work together to plan, solve problems and implement programs on a watershed basis.

**Water: Assistance for Planning & Zoning**

• **Groundwater Mapping:** IDNR’s Office of Water Resources and the Illinois State Water Survey should provide technical and financial assistance to local governments for groundwater mapping. Few counties have completed groundwater studies.
• **Floodplain Mapping:** Additional funding should be appropriated to the Federal Emergency Management Agency (FEMA), IDNR, and county-wide agencies for establishment of a systematic map modernization program. IDNR should work with FEMA to ensure that these maps are completed in a timely and coordinated fashion. Although every community in Illinois is included within a floodplain map (completed by FEMA), many of these maps are outdated. Some maps substantially underestimate actual 100-year flood stages while others inaccurately include land outside floodplains. Floodplain delineations need to be updated to reflect changes in drainage that have occurred over time. (For example, many communities that have increased their developed areas in recent years are now experiencing greater and swifter stormwater runoff due to the increase of impervious surface area, causing the floodplain to expand.) Accurate maps are important for establishing setbacks, deed restrictions, flood insurance requirements, and loan processing.

• **Drainage District Mapping:** IDOA, Soil and Water Conservation Districts (SWCD’s), and the Illinois Association of Drainage Districts should assist local communities in mapping existing drainage systems through the use of thermal infrared imaging. Without accurate maps construction can cause physical damage to drainage tiles leading to system failure. The mapping of drainage systems in Illinois is being performed on a very limited basis at this time.

In addition, IDOA, SWCDs, and the Illinois Association of Drainage Districts should develop programs to increase public awareness and understanding of drainage districts.

• **Water Conservation Zoning & Subdivision Ordinances:** Appropriate state agencies should provide technical assistance to local governments to establish water conservation policies and zoning and subdivision ordinances that reduce potential stormwater and water supply quality and quantity problems. Ordinances should include provisions that industrial and municipal water needs be considered as part of new development. Model septic ordinances should also be considered. *(See the next paragraph for additional reference to septic systems.)*

**Water: Assistance for Implementation of Plans**

• **Water Conservation Practices:** The IDNR Office of Water Resources and the Illinois State Water Survey should provide technical assistance to local government, developers and other users for the development of water conservation practices and policies to protect both the quality and quantity of surface and groundwater. Local practices could include water reuse for non-potable applications and the replacement of failing septic systems with alternative treatment systems when necessary to reduce well and groundwater contamination or with modern septic systems when soils are suitable.
• **Facility Planning Areas:** The Facility Planning Area (FPA) process should be continued and enhanced to meet both the goals of the Clean Water Act and the concerns of the Illinois Environmental Protection Agency (IEPA).

Under Illinois’ FPA process, which stems from the planning requirements of Section 208 of the Clean Water Act, proposals to extend sewer service require amendments to the state’s Water Quality Management Plan (WQMP). The Clean Water Act requires WQMPs to consider non-point source pollution generally (specifically including construction-site runoff and stormwater runoff), open space and recreational opportunities related to water quality, and environmental impacts that will result from implementing the plan – all of which are issues closely connected with growth. Because all sewage treatment plants built with federal grants or state loans must conform to areawide plans, the FPA process provides an opportunity to consider these issues. Indeed, US EPA is developing guidance on how water and sewer infrastructure planning can be used to promote balanced growth.

The FPA process, including provisions for notification of potentially impacted jurisdictions, should be continued until a non-degradation and remediation watershed planning process has been developed. To meet the goals of the Clean Water Act, the IEPA and regional agencies charged with reviewing WQMP amendment requests should amend their regulations or guidelines to include consideration of the impacts of development on water quality. Specifically, Illinois agencies should permit FPA amendments only when they are consistent with (1) anti-degradation criteria, (2) local and regional comprehensive plans, and (3) farmland and natural resource protection plans, and do not cause or contribute to violations of water quality standards. In making these determinations, Illinois agencies should explicitly consider the impacts of non-point source pollution likely to occur from construction-site runoff and stormwater runoff if the FPA amendment is approved.

• **Drainage Districts:** The State should provide technical and financial assistance to local drainage districts for system maintenance and upgrades. Development and increased impervious surface areas within or in the vicinity of a drainage district often lead to runoff volumes that exceed system capacity and to silt deposition in ditches. Without reinvestment, systems designed to serve stormwater management needs in agricultural areas are rendered incapable of serving stormwater management needs of urbanizing areas.
• **Storm Water Management Authority:** The state should adopt new enabling legislation to allow all counties to develop countywide stormwater management programs. Many communities in Illinois are experiencing increased flooding and flood damage as rapid urban development continues throughout the State. For example, the Metro-East area around St. Louis has had many millions of dollars worth of stormwater and flood damages in recent years. Metropolitan areas throughout the state have expressed the need for the State to clarify and codify the authority for stormwater management.

New legislation would exempt Cook and the five collar counties in northeastern Illinois, which are authorized to plan under ILCS 5/5-1062. The new legislation should differ from ILCS 5/5-1062 in the following four respects: a) county stormwater management committees shall be established by county-wide referendum; b) funding source shall be user fees based upon impervious surface areas; c) agricultural land shall be excluded; and, d) no language shall be included regarding dissolution of drainage districts. Proceeds from the user fees should be used not only for maintenance and improvements of public structures and natural systems, but should also be used for cost sharing with private property owners to help finance projects on private land that benefit public stormwater management efforts.

In addition, current stormwater management legislation applicable to northeastern Illinois (ILCS 5/5-1062) should be amended to allow assessment of fees based upon area of impervious surfaces as a funding alternative to real estate taxes.

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**Water: State-Level Policies**

• **State Groundwater and Surface Water Policy:** The State should develop a water resources policy to ensure the long-term protection of the quality and quantity of Illinois’ water supplies. If the State does not establish an effective water resources policy, conflicts over water rights will increase between urban communities and between rural and urban communities.

When developing a water resources policy, the State should consider the recommendations of the 1993 Water Resources and Land-Use Priorities Task Force and should seek technical assistance from the IDNR Office of Water Resources, the Illinois State Water Survey and the Illinois Department of Agriculture. State programs and plans (including Drought Management—*see paragraph below*) should be consistent with this water policy.

• **Drought Management:** The State should adopt legislation to encourage advanced planning by IDNR Office of Water Resources and the Illinois State Water Survey for droughts and other emergencies. The State’s Inter-Agency Drought Task Force convenes during emergencies, but does not engage in pre-planning activities.
CONCLUSION

The Farmland and Natural Resource Preservation Working Group appreciates the opportunity to submit the above recommendations to the Illinois Growth Task Force. We look forward to providing assistance if needed to realize these recommendations.
The Local Legacy Program would provide incentives to counties to inventory their ecological, agricultural, scenic and historic resources, develop a resource protection plan, and implement the plan. Local Legacy Funds would be established at the state level to fund resource protection measures, including land acquisition and the purchase of development rights (PDRs), in counties that have developed a comprehensive resource protection plan. While the program would operate within a county framework, counties would collaborate with municipalities to develop the plan. The Program would be an inter-agency effort among the Illinois Department of Natural Resources (IDNR), the Illinois Department of Agriculture (Ag), and the Illinois Historic Preservation Agency (IHPA). Each agency would have a seat on the Local Legacy Board, which would have a rotating chairmanship.

The Local Legacy Program has three components:

1) Inventory of Resources

Illinois has a rich natural and cultural heritage. Whether historic buildings, high quality natural areas, rich farmland, or other prized resources, every community has treasures worth preserving for future generations. Yet as communities grow, they do not have the opportunity to consider which resources are most important to them. Consequently, they may inadvertently imperil a historic structure, sever a potential natural corridor, or fragment farmland into small and unsustainable remnants.

Counties interested in conducting an inventory of their ecological, agricultural, scenic and historic assets would form a steering committee composed of local elected officials and interested citizens representing both municipalities and unincorporated areas. The committee would develop a strategy for conducting the inventory. It would determine what kind of resources should be included, the amount of financial and technical assistance needed from the state, what information is already available, who would actually conduct the inventory, and how municipal and county efforts would be coordinated.

2) Development of a Plan

The county would use the inventory as the basis for developing its resource protection plan and requesting technical and financial assistance for the planning process. Working with a professional planner and/or other resource specialists, the steering committee would develop criteria for prioritizing resources identified through the inventory. The committee would also analyze the threat to the resources using population projections, land use patterns, and development trends.

The preservation plan would include a wide range of preservation tools, depending upon the character and the quality of the resource. In some cases, acquisition of the property by a public agency might be critical for ensuring its protection. In other cases, land could be protected with a conservation easement or by purchasing development rights. Purchasing development rights is a
land preservation technique that has been particularly useful for preserving farmland. Property owners are paid to give up the right to develop their property but are able to continue to live on and farm their land. Other preservation techniques include natural resource overlay zoning districts, stormwater management ordinances, and historic preservation districts.

3) Establishing Local Legacy Funds

The state would establish a Local Legacy Technical Assistance Fund that would make grants to local governments for technical assistance in inventorying their natural, agricultural and cultural resources and in developing a comprehensive preservation plan. The state would also establish three Local Legacy Preservation Funds. The Agricultural Preservation Legacy Fund would fund farmland preservation. The Natural Resources Preservation Legacy Fund would fund preservation of natural areas, stream corridors, greenway connections, and scenic vistas. The Cultural Preservation Legacy Fund would finance preservation of historic sites. All three Funds would be used to acquire land, purchase development rights, and acquire easements (such as conservation or historic preservation easements). Grants would be available only for those projects that are part of the county plan. Plans would be required to meet certain standards in order to qualify for funding through a Local Legacy Fund. IDNR, Ag, and IHPA would administer the Funds.

Funding

During the first few years of the program, the cost of the program will be limited to the cost of providing technical and financial assistance to counties to conduct a resource inventory and develop a preservation plan. However, without a commitment by the state at the outset to provide adequate funding for implementing preservation plans, few counties are likely to participate in the program.

Other states have funded similar land preservation programs using a variety of funding sources including lottery revenues and bond sales. The latter spreads the cost of land acquisition over a number of years and allows future residents who enjoy the benefits of the legacy to share in the cost. Other possibilities for Illinois include using tobacco settlement funds, increasing the real estate transfer tax, the cigarette tax, or the sales tax, and establishing an excise tax on outdoor recreation equipment.
Summary of State of Maryland’s Rural Legacy Law

The following legislation shows how Maryland amended its Rural Legacy Program to incorporate a Transfer of Development Rights (“TDR”) program. Elements of the general Rural Legacy Program are described below so the reader may see how the TDR program fits in.

- The Rural Legacy Program provides funds to local governments and land trusts to buy property interests (easements, fee simple, or TDRs) from willing sellers in Rural Legacy Areas (i.e., areas which have been designated as rich in agricultural, forestry, natural, and cultural resources). The program is funded by property tax revenues and bonds. (§§ 5-9A-01(b) to (d); 5-9A-02(j))

- The State’s Rural Legacy Board (“Board”), which includes the Secretary of Agriculture, the Secretary of Natural Resources (who serves as the chair), and the Director of the Office of Planning, may purchase, hold, and sell TDRs. (§ 5-9A-03 to 04)

- A local government (or a land trust, if the local government approves) may file an application with the Board to designate a Rural Legacy Area (“RLA”). The application must describe the proposed RLA, include an RLA Plan, described the anticipated level of landowner participation, and so on. (§ 5-9A-05(a), (b), and (f))

- The Board must evaluate the application according to numerous criteria, including the significance of the agricultural, natural, and cultural resource in the proposed RLA; the degree of threat to those resources; the ability to protect large contiguous blocks of land; the quality of the Plan; consistency with local comprehensive plans; the financial and staff resources of the applicant; the ability to leverage other funds; and so on. (§ 5-9A-05(c))

- The applicant must ensure adequate public participation in the development of the plan. (§ 5-9A-05(e))

- An easement under the program must be perpetual. (§ 5-9A-05(i))

- Rural Legacy funds may be used to buy TDRs, which may be severed and transferred to a property in a receiving area. The Board must keep records of the sending and receiving properties. TDRs must stay within the same county, but may be transferred into municipalities. Half of the proceeds from selling TDRs are returned to the Rural Legacy program, and the other half go to fund local capital projects in the immediate neighborhood of the receiving property. (§ 5-9A-05(j))

- Condemnation powers may not be used to acquire property under the Rural Legacy Program. (§ 5-9A-05(k))

- Sites purchased for their historic or archaeological values must be bought in fee simple. (§ 5-9A-05(m))
By: Delegates Guns and Pitkin
Introduced and read first time: February 11, 2000
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning
2 Natural Resources - Transferable Development Rights - Rural Legacy
3 Program

4 FOR the purpose of authorizing the Rural Legacy Board in the Department of
5 Natural Resources to transfer certain development rights from certain Rural
6 Legacy Areas to certain areas within a priority funding area in a certain
7 manner; authorizing that certain funds may be used for the purchase of certain
8 development rights in certain situations; providing that certain information be
9 contained in the instrument of purchase of certain development rights;
10 restricting how transferable development rights may be resold through the
11 Rural Legacy Program; providing for the allocation of proceeds derived from the
12 transfer of development rights; modifying a criteria for the Board to consider
13 when evaluating the overall quality and completeness of a Rural Legacy Plan;
14 defining certain terms; and generally relating to the transfer of development
15 rights from Rural Legacy Areas.

16 BY repealing and reenacting, with amendments,
17 Article - Natural Resources
18 Section 5-9A-01, 5-9A-02, 5-9A-04, and 5-9A-05
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 1999 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Natural Resources
23 Section 5-9A-03
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 1999 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:
2       HOUSE BILL 888

1 Article - Natural Resources

2 5-9A-01.

3 (a) The General Assembly declares that:

4    (1) Sprawl development and other modifications to the landscape in
5 Maryland continue at an alarming rate, consuming land rich in natural resource,
6 agricultural, and forestry value, adversely affecting water quality, wetlands and
7 habitat, threatening resource-based economies and cultural assets, and rending the
8 fabric of rural life;

9    (2) Current State, county, and local land conservation programs help to
10 limit the effect of sprawl development but lack sufficient funding and focus to
11 preserve key areas before escalating land values make their protection impossible or
12 the land is lost to development; and

13    (3) A grant program that leverages available funding, focuses on
14 preservation of strategic resources, including those resources threatened by sprawl
15 development, streamlines real property acquisition procedures to expedite land
16 preservation, TAKES ADVANTAGE OF INNOVATIVE PRESERVATION TECHNIQUES
17 SUCH AS TRANSFERABLE DEVELOPMENT RIGHTS AND THE PURCHASE OF
18 DEVELOPMENT RIGHTS, and promotes a greater level of natural and environmental
19 resources protection than is provided by existing efforts, will establish a rural legacy
20 for future generations.

21 (b) (1) A Rural Legacy Program is established to enhance natural resource,
22 agricultural, forestry, and environmental protection as provided in subsection (a) of
23 this section while maintaining the viability of resource-based land usage and proper
24 management of tillable and wooded areas through accepted agricultural and
25 silvicultural practices for farm production and timber harvests.

26    (2) The Program provides funds to the local governments and land trusts
27 to purchase interests in real property from willing sellers, including easements,
28 TRANSFERABLE DEVELOPMENT RIGHTS, and fee estates, focused in designated Rural
29 Legacy Areas.

30 (3) The Program shall encourage partnerships among the federal, State,
31 and local governments, and nonprofit land trust organizations and encourage local
32 land conservation initiatives.

33 (4) The Program is administered by a Rural Legacy Board in the
34 Department of Natural Resources, an advisory committee, and existing State staff.

35 (c) The Program is funded:

36    (1) Pursuant to § 13-209 of the Tax - Property Article and §
37 5-903(a)(2)(iii) of this article; and
(2) By the proceeds from the sale of general obligation bonds as provided in § 5-9A-09 of this subtitle.

(d) When negotiating and awarding grants, the Board shall encourage sponsors to utilize zero coupon bonds in the implementation of the Rural Legacy Plan in order to reduce the utilization of general obligation bonds in funding the grants.

5-9A-02.

(a) In this subtitle the following words have the meanings indicated.

(b) "Application" means an application to the Rural Legacy Board to designate a Rural Legacy Area.

(c) "Board" means the Rural Legacy Board.

(d) "BPW" means the Maryland State Board of Public Works.

(E) "DEVELOPMENT RIGHT" MEANS A RIGHT TO CREATE A RESIDENTIAL BUILDING LOT OR CONSTRUCT A DWELLING UNIT IN ACCORDANCE WITH A LOCAL ZONING ORDINANCE OR OTHER IMPLEMENTING LAND-USE ORDINANCE.

(F) "Grant agreement" means an agreement between the Board and a sponsor to implement a Rural Legacy Plan in a designated Rural Legacy Area.

(G) "Land trust" means a qualified conservation organization that:

(1) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under § 170(h)(3); and

(2) Has executed a cooperative agreement with the Maryland Environmental Trust.

(H) "PRIORITY FUNDING AREA" MEANS AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(I) "Program" means the Rural Legacy Program established by this subtitle.

(J) "Rural Legacy Area" means a region within or outside a metropolitan area designated by the Board as rich in a multiple of agricultural, forestry, natural, and cultural resources.

(K) "Rural Legacy Plan" means a plan accepted by the Board for acquisition of easements and fee interests in Rural Legacy Areas.

(L) "Sponsor" means a local government, group of local governments, or a land trust.
"TRANSFER OF DEVELOPMENT RIGHTS PROGRAM" MEANS A PROGRAM ESTABLISHED TO RELOCATE DEVELOPMENT FROM NONPRIORITY FUNDING AREAS TO A PRIORITY FUNDING AREA THROUGH THE USE OF BONUS DENSITY AND OTHER PROVISIONS THAT WOULD ALLOW DEVELOPMENT IN THE PRIORITY FUNDING AREA AT A HIGHER DENSITY THAN USUALLY PERMITTED IN THE AREA.

5-9A-03.

(a) There is a Rural Legacy Board established in the Department of Natural Resources to administer the Rural Legacy Program.

(b) The Board consists of the following members:

(1) The Secretary of Agriculture;

(2) The Secretary of Natural Resources; and

(3) The Director of the Office of Planning.

(c) The Secretary of Natural Resources shall serve as Chairman of the Board.

(d) (1) The Department of Natural Resources shall provide staff to the Board.

(2) The Department of Agriculture and the Office of Planning may provide additional staff.

5-9A-04.

(a) The Board has and may exercise all powers necessary to carry out the purposes of this subtitle, INCLUDING THE AUTHORITY TO PURCHASE, HOLD, AND SELL TRANSFERABLE DEVELOPMENT RIGHTS AND TO USE THE PROCEEDS FROM THE SALE OF TRANSFERABLE DEVELOPMENT RIGHTS CONSISTENT WITH THIS SUBTITLE.

(b) (1) The Board may adopt regulations to implement the purposes of this subtitle, including procedures for expediting acquisitions AND PURCHASING AND SELLING TRANSFERABLE DEVELOPMENT RIGHTS AND USING THE PROCEEDS RELATED TO PURCHASING AND SELLING TRANSFERABLE DEVELOPMENT RIGHTS.

(2) The authority granted under this subsection may not be construed to permit adoption of a regulation applicable to land that is not subject to an easement under this subtitle.

(c) (1) The Board shall establish a method for appraisal of real property interests acquired under this subtitle.

(2) Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit.
(d) The Board and sponsors may enter into agreements with other governmental agencies, including the Maryland Agricultural Land Preservation Foundation and the Maryland Environmental Trust, for the purpose of establishing partnerships to carry out this Program.

5 9A-05.

(a) A sponsor may file an application to designate a Rural Legacy Area in accordance with a schedule established by the Board. A local government may not apply for or approve an application for a Rural Legacy Area designation inside another jurisdiction’s boundaries without that jurisdiction’s approval.

(b) The application shall describe the proposed Rural Legacy Area, include a Rural Legacy Area Plan, identify existing protected lands, state the anticipated level of initial landowner participation in the Program and the amount of the grant requested, and comply with the criteria set forth below.

(c) The Board shall evaluate and compare applications in accordance with the following criteria in order to select those that best carry forward the goals and objectives of the Program set forth in § 9A-01 of this subtitle:

   (1) The significance of the agricultural, forestry, and natural resources proposed for protection, including:

       (i) The degree to which proposed fee or easement purchases will protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors;

       (ii) The nature, size, and importance of the land area to be protected, such as farmland, forests, wetlands, wildlife habitat and plant species, vegetative buffers, or bay or waterfront access; and

       (iii) The quality and public or economic value of the land;

   (2) The degree of threat to the resources and character of the area proposed for preservation, as reflected by patterns and trends of development and landscape modifications in and surrounding the proposed Rural Legacy Area;

   (3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;

   (4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;

   (5) The overall quality and completeness of the Rural Legacy Plan, including:
HOUSE BILL 888

(i) The degree to which existing planning, zoning, and growth management policies contribute to land conservation and the protection of cultural resources;

(ii) The degree to which the proposed plan is consistent with the applicable local comprehensive plan, including protection of sensitive areas and mineral resources;

(iii) How well existing or new conservation programs are coordinated with the proposed acquisition plan;

(iv) How well the plan will maximize acquisition of real property interests in contiguous blocks of land within the Rural Legacy Area while providing for protection of isolated acquisitions important to the plan;

(v) Provisions for protection of resources, such as voluntarily granted or purchased easements, EFFECTIVE MARKETING OF LOCAL GOVERNMENT TRANSFERABLE DEVELOPMENT RIGHTS PROGRAMS, fee estate purchases, or gifts of lands;

(vi) How the sponsor plans to manage, prioritize, and sequence easement and land acquisitions;

(vii) Methodology for prioritizing and valuing or appraising easements;

(viii) Proposed titleholders for easement or fee estate acquisitions; and

(ix) The quality of the proposed stewardship program for holding and monitoring of easement restrictions in perpetuity;

(6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:

(i) Financial support;

(ii) Dedication of staff and resources; and

(iii) Commitment to and development of local land conservation policies, such as changes in zoning and use of transferable development rights;

(7) The extent to which federal or other grant programs will serve as a funding match; and

(8) A sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the Program.

(d) The Board:
HOUSE BILL 888

(1) Shall review applications and may request additional information from a sponsor;

(2) Shall submit applications to appropriate State agencies and to the advisory committee established by this subtitle and consider any recommendations made regarding the applications; and

(3) May negotiate the terms of an application and proposed Rural Legacy Area and plan with a sponsor.

(e) (1) A sponsor shall assure adequate public participation in the development of an application and provide the Board with a summary of that participation.

(2) (i) If an application proposes a Rural Legacy Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before the application is submitted to the Board.

(ii) The sponsor shall submit to the Board with the completed application a summary of the comments from the municipal corporation.

(f) (1) A land trust shall consult with a local government prior to filing an application.

(2) The Board may not approve or amend an application without local government approval.

(g) The right of public access may not be required under a conservation easement.

(h) A land trust may not hold exclusive title to real property interests acquired under this subtitle.

(i) An easement acquired under this subtitle is perpetual and may not be extinguished or released.

(j) [With the approval of a landowner, funds under this Program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.]

(1) FUNDS UNDER THE PROGRAM MAY BE USED TO PURCHASE A DEVELOPMENT RIGHT AS PART OF AN EASEMENT OR FEE ESTATE ACQUISITION.

(2) A DEVELOPMENT RIGHT MAY BE SEVERED FROM A PROPERTY AND TRANSFERRED FROM ONE AREA TO PROPERTY IN A RECEIVING AREA IN ACCORDANCE WITH LOCAL LAW.
(3) (I) A DEVELOPMENT RIGHT THAT IS PURCHASED UNDER THE
PROGRAM SHALL BE HELD BY THE TITLEHOLDER AND THE BOARD WITH THE OPTION
FOR RESALE UNDER A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.

(II) THE RIGHT TO RESELL THE DEVELOPMENT RIGHT SHALL BE
STATED IN THE INSTRUMENT OF PURCHASE.

(4) THE RURAL LEGACY BOARD SHALL MAINTAIN RECORDS
CONCERNING:

(I) REAL PROPERTY FROM WHICH TRANSFERABLE DEVELOPMENT
RIGHTS ARE PURCHASED; AND

(II) REAL PROPERTY TO WHICH RIGHTS ARE RESOLD AND
TRANSFERRED.

(5) TRANSFERABLE DEVELOPMENT RIGHTS MAY BE RESOLD ONLY TO
OWNERS OR OPTION PURCHASERS OF REAL PROPERTY LOCATED IN PRIORITY
FUNDING AREAS, INCLUDING MUNICIPALITIES, WITHIN THE COUNTY IN WHICH THE
RIGHTS WERE PURCHASED.

(6) (I) THE BOARD SHALL DISTRIBUTE THE PROCEEDS ASSOCIATED
WITH THE RESALE OF TRANSFERABLE DEVELOPMENT RIGHTS ONLY AS DESCRIBED
IN THIS PARAGRAPH.

(II) FIFTY PERCENT OF THE PROCEEDS SHALL BE USED BY THE
PRINCIPAL LOCAL GOVERNMENT IN WHICH THE PRIORITY FUNDING AREA USING
TRANSFERABLE DEVELOPMENT RIGHTS IS LOCATED TO FUND LOCAL CAPITAL
PROJECTS IN THE IMMEDIATE NEIGHBORHOOD WHICH IS RECEIVING
TRANSFERABLE DEVELOPMENT RIGHTS.

(III) FIFTY PERCENT OF THE PROCEEDS SHALL BE RETURNED TO
THE RURAL LEGACY PROGRAM FOR USE IN THE COUNTY IN WHICH THE PROCEEDS
WERE GENERATED.

(IV) PROCEEDS MAY NOT BE USED FOR OPERATING EXPENSES.

(k) All easement acquisitions must be recorded among the land records where
the real property is located.

(l) State or local condemnation authority may not be used to acquire real
property interests under this Program.

(m) Funds may be used for the protection of historic sites or significant
archeological areas that otherwise meet the goals of this Program only if the sponsor
is acquiring real property interests through a fee simple purchase.

(n) A land or mineral owner who participates in this Program may reserve
mineral rights for extraction in accordance with applicable law and the terms of the
easement or fee acquisition.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2000.
Appendix B –  Page 30

Summary of the Transfer of Development Credits Legislation
Thurston County, Washington

The enclosed legislation shows how a Transfer of Development Certificates (“TDC,” also known as “Transfer of Development Rights” or “TDR”) program might be implemented at the county level. Due to market conditions, no development rights have yet been transferred in Thurston County. However, TDC programs have succeeded in other counties. For example, in King County, Washington (which includes Seattle), over 100 TDCs have already been sold, thus protecting over 700 acres, and several more transactions are pending that will bring the total to over 1500 acres. King County’s program has been in place for less than two years, and TDCs have sold for an average of $20,000 to $25,000 each. Montgomery County, Maryland, has had its TDC program since the early 1980s, and several thousand TDCs have been sold, resulting in the protection of over 15,000 acres. Similarly, Calvert County, Maryland, has protected over 6000 acres through its TDC program. The Illinois Growth Task Force, therefore, has numerous examples it could look to when considering how a TDC program might work.

• Under Thurston County’s program, a landowner in the long-term agricultural district (the county’s “sending” area) may get credit for TDRs (the county uses this terminology instead of property by applying to the county for a TDR certificate. Even though the long-term agricultural district is zoned to allow one home per 20 acres, TDRs are available at the rate of one per 5 acres, minus any existing residences or non-agricultural buildings. (§§ 20.08A.020; 20.62.030)

• After the county has issued the TDR certificate, the owner may sell the TDRs by signing (1) an easement covenanting not to develop or subdivide the land in excess of what applicable zoning laws and the owner’s remaining TDRs allow, and (2) a deed of transfer that specifies the number of TDRs conveyed, includes the TDR certificate, provides proof of the TDR easement, and so on. (§ 20.062.040(2)-(3))

• After the transfer, the sending area remains subject to any applicable zoning laws, and may be used only for agricultural purposes. The owner of the receiving parcel must provide proof of the TDRs purchased for each unit of density on the receiving parcel. (§§ 20.62.050, 20.62.055)

Editor’s Note:
The Thurston County, Washington website may be found at:
http://www.co.thurston.wa.us/
Transfer of Development Rights

CHAPTER 20.62

20.62.010 Purpose.

The purpose of this chapter is to encourage the conservation of long-term commercially significant agricultural lands by allowing owners of such lands to realize the equity in the land’s development potential without conversion to nonagricultural uses.

(Ord. 11398 § 3 (part), 1997: Ord. 11049 § 1, 1995)

20.62.020 Transfer of development rights (TDR) sending area.

There is created a TDR sending area which applies to lands located within the long-term agriculture district. The underlying regulations for this district continue to apply. Transferable development rights credited by Thurston County to lands in this area can be sold by landowners for use in designated residential TDR receiving areas within Thurston County.

(Ord. 11398 § 3 (part), 1997: Ord. 11049 § 2, 1995)

20.62.030 Allocation of transferable development rights.

Every parcel of land located in the TDR sending area shall have credited to it, upon certification by Thurston County development services, transferable development rights in the amount set forth below. These transferable development rights allotted in accordance with this section may be used to obtain approval for established residential densities on lands located within TDR receiving areas, in accordance with the zoning in the TDR receiving areas.

1. The number of transferable development rights credited to parcels located within the long-term agriculture district shall be one development right per five acres.

2. One development right shall be subtracted for each residence or structure housing a legal nonconforming commercial use as defined in this Ordinance located on a parcel in the TDR sending area which exists as of the effective date of this provision or is built after the effective date of this provision. However, this reduction shall not apply to farm housing units as defined in Chapter 20.08A.020(5) or family member units as defined in Chapter 20.08A.030.

3. No fractional development rights shall be created.

4. After dividing gross acreage by five to determine the number of transferable development rights available for credit onto a sending area parcel, any remainder more than two and one-half acres in size shall be credited one additional transferable development right.

5. The use of a parcel from which development rights have been transferred remains subject to the density and other restrictions of the underlying zone. If the number of development rights remaining on a parcel is less than that permitted by the underlying zone, the property may be developed only to the extent of the remaining development rights.

(Ord. 11398 § 3 (part), 1997: Ord. 11049 § 3, 1995)

20.62.040 Certification and transfer of transferable development rights.

1. Application for Certification of Number of Transferable Development Rights.

a. Thurston County development services shall issue a certification of the number of transferable development rights on the sending area parcel and serially numbered individual certificates for each transferable development right credited to that parcel upon satisfactory application for certification of transferable development rights (TDRs) by the sending area parcel owner. The issuance of TDR certificates shall be recorded in the chain of title for the subject property.

b. An application shall contain such information as deemed necessary to verify parcel size and existing uses as a basis for certifying the number of development rights. This information shall include:
i. A map of the proposed sending area parcel (based on a field survey) prepared by a registered land surveyor.

ii. Legal description and parcel numbers of the sending area parcel;

iii. A title report showing that the applicant is the owner of the subject sending area parcel;

iv. Number of nonfamily member units and nonfarm housing units (as defined in Chapter 20.08A) existing on the subject sending area parcel;

v. Number of family member units and farm housing units existing on the subject sending area parcel;

vi. A review fee as may be prescribed by the Thurston County board of commissioners.

2. Transfer of Development Rights (TDR) Easement. In order to validly convey the transferable development rights certified on a sending area parcel, a TDR easement shall be signed between the owner of the sending area parcel and Thurston County and recorded with the Thurston County auditor. To validly retain the transferable development rights which have been certified on a sending area parcel when an original owner sells such parcel, a TDR easement shall be signed by the purchaser of the subject parcel and Thurston County and recorded with the Thurston County auditor. The TDR easement shall be on a form approved by the board of Thurston County commissioners and shall contain the following provisions:

a. All of the serial numbers of the transferable development rights which have been certified by Thurston County development services on the sending area parcel which is the subject of the TDR easement;

b. A covenant that all provisions of the deed of transfer shall run with and bind the sending area parcel and shall be enforced by the Thurston County board of commissioners;

c. A covenant that all provisions of the TDR easement shall run with and bind the sending area parcel in perpetuity and shall be enforced by the Thurston County board of commissioners;

d. A statement that nothing in the restrictions shall be construed to convey to the public a right of access or use of the property and that the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the TDR easement.

3. Deed of Transfer.

a. The certified transferable development rights shall be sold or otherwise conveyed only by means of a deed of transfer, the form and content of which is prescribed by the Thurston County board of commissioners and approved by the Thurston County prosecuting attorney. This deed must be recorded with the Thurston County auditor and appear in the chain of title of the parcel from which the development right(s) have been transferred.

b. The deed of transfer shall specify the number of transferable development rights sold or otherwise conveyed and shall only be valid when recorded along with the appropriate TDR easement on the subject property, signed by the owner of the sending area parcel and Thurston County, containing the provisions established by the board of Thurston County commissioners for such a document.

c. Contents. A deed of transfer shall contain:

i. A legal description and map of the sending area parcel(s);

ii. A covenant that all provisions of the deed of transfer shall run with and bind the sending area parcel and shall be enforced by the Thurston County board of commissioners;

iii. The names of the transferor and the transferee;
iv. A covenant that the Transferor grants and assigns to the transferee a specified number of development rights from the sending area parcel;

v. Proof of ownership of the sending area parcel;

vi. If the transferor is not the owner of the sending area parcel, a statement that the transfer is (A) an original transfer, including a description of the reason for such (e.g., where an original owner sold the sending area parcel but retained the development rights), or (B) an intermediate transfer of development rights derived from a sending area parcel described in an original instrument of transfer, identified by its date, the names of the original transferor and transferee and the volume and page where it was recorded by the Thurston County auditor;

vii. A covenant by which the transferor acknowledges that he/she has no further use or right of use with respect to the development rights being transferred;

viii. The certification of the number of transferable development rights on the sending area parcel and copies of the appropriate certificates of those rights issued by the Thurston County development services as required by this chapter;

ix. Payment of required excise tax and recording fees on the transaction;

x. Proof of the execution and recordation of a TDR easement on the subject sending area parcel; and

xi. The signature of the Thurston County development services staff member who has reviewed the document for completeness.

d. Responsibility. The transferor and the transferee named in an instrument of transfer shall have the responsibility to supply the information required by this section, to provide a proper instrument of transfer and to pay all costs of its recordation, in addition to any other fees required by this section.

e. Intermediate Transfer. Transferable development rights may be transferred to an intermediate transferor or broker before they are used and held for a period of time before they are used on a receiving area parcel.

20.62.050 Effect of transfer of development rights.

After development rights have been transferred from a property in the Sending Area, the following shall apply:

1. The sending area parcel may be subdivided or used only for agricultural uses, as defined and permitted in Chapter 20.08A (Long-Term Agriculture District), except that subdivision for residential purposes, including a farm residence, as authorized by the underlying zone shall be permitted only if transferable development rights have been reserved for each dwelling to be constructed on the subject property prior to subdivision. If subdivision is not required, a transferable development right shall be reserved prior to construction of any single-family dwelling. A reserved transferable development right may be used to construct a single-family dwelling only if it has been attached by a document of attachment to a legal lot. These reserved transferable development rights may be used only on the original sending area parcel or its legal subdivisions.

2. All certified transferable development rights and the value of such rights shall be deemed for all other purposes to be appurtenant to the sending area parcel until such rights are (a) transferred by a recorded deed of transfer, or; (b) separated from the sending area parcel when it is sold or otherwise conveyed without the TDRs which have been certified for that property.

3. Nothing in such restrictions shall be construed to convey to the public a right of access or use of the property; the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the TDR easement.

(Ord. 11398 § 3 (part), 1997: Ord. 11049 § 5, 1995)

20.62.055 Transfer of development rights (TDR) receiving area.

1. Required Instruments. Final approval for site plans or subdivision plats which involve the transfer of development rights (TDR) shall not be approved until evidence is provided to Thurston County that the following instruments have been approved by the Thurston County TDR program.
administrator and recorded with the Thurston County auditor:

a. Signed and recorded transferable development rights certificates for each unit of density on the receiving parcel(s); and
b. A signed and recorded document of attachment of the development rights to the subject parcel(s).

2. The following information shall be recorded on the face of any plat for property which received a transfer of development rights under the provision of this chapter:

a. A statement that the development rights used in the plat have been transferred in accordance with the deed of transfer of development rights, prescribed by Thurston County;

b. The volume and page number of the recordation of the deed of transfer of development rights between the owner and the applicant;

c. The volume and page number of the recordation of the transfer of development rights easement between the original owner and Thurston County;

d. The serial numbers issued by the Thurston County TDR program administrator of the TDRs used in the plat; and

e. The volume and page number of the recorded document of attachment of the TDRs to the subject parcel(s).

(Ord. 11398 § 3 (part), 1997: Ord. 1122)

20.62.060 Reservation of power damages.

Nothing in this title shall be construed to limit or affect the power of the county to amend, supplement or repeal all or any part of the provisions of this chapter at any time or to entitle any transferor or transferee to damages or compensation of any kind from the county as the result of any amendment, supplementation or repeal.

(Ord. 11398 § 3 (part), 1997: Ord. 11049 § 6, 1995)

20.62.070 Additional regulations.

Refer to the following chapters for provisions which may qualify or supplement the regulations presented above:

1. Chapter 20.08A, Long-Term Agriculture District (TDR sending area);

2. Chapter 20.15, Residential Three to Six Dwelling Units Per Acre (TDR receiving area);

3. Chapter 20.21A, Residential Four to Sixteen Dwelling Units Per Acre (TDR receiving area).

20.08.010 Purpose.

This district provides a means to designate agricultural districts by initiation of property owners pursuant to Chapter 20.59 (Rezone and Textual Amendments). The intent of this designation is to:
1. Preserve agricultural land and timberlands and encourage farm operators by providing a predictable future for agricultural resources;
2. Protect agricultural operations from nuisance complaints while allowing nonagricultural land uses in agricultural districts which are compatible with farm operations;
3. Make governmental bodies and the general public aware of the presence and importance of the county's unique farm land.

(Ord. 11398 § 3 (part), 1997; Ord. 6708 § 3 (part), 1980)

20.08.020 Primary uses.

1. Agriculture, including feedlots and forest practices;
2. Small sawmills;
3. Agricultural processing and marketing facilities;
4. Home occupations per standards in Section 20.54.070(16);
5. Residential customarily provided in conjunction with farm use.

(Ord. 11804 § 41, 1998; Ord. 11398 § 3 (part), 1997; Ord. 8216 § 10, 1985; Ord. 6708 § 3 (part), 1980)

20.08.025 Special uses.

See Chapter 20.54 for special uses permitted in this district.

(Ord. 11398 § 3 (part), 1997; Ord. 8216 § 11, 1985)

20.08.030 Proceedings.

Agricultural district proposals shall be evaluated for long-term agricultural use, including:
1. Physical characteristics of the proposed area, including soils, topography, water resources and climate;
2. Existing and projected land uses within and surrounding the proposed area;
3. The availability of public services;
4. District Boundaries. Boundaries should follow property lines or physical lines such as highways and rivers. Areas of marginal productivity may be included rather than deleting prime agricultural lands;
5. Policies contained in the Thurston County Comprehensive Plan and subarea plans, and county agricultural policy;
6. Other facts pertaining to the suitability of the proposed district for long-term agricultural use.

(Ord. 11398 § 3 (part), 1997; Ord. 6708 § 3 (part), 1980)

20.08.040 Rezone from agricultural district.

The procedure for rezone of all or part of an agricultural district shall be the same as for establishment of a district. When evaluating a proposed rezone of an agricultural district, in addition to the need for the proposed zone and other relevant factors, the factors set forth in Section 20.08.030(1) through (6) above and the following shall be considered:
1. Whether economic conditions have changed to such a degree that there are major obstacles to the continuation of farming in the district;
2. Whether conditions in the surrounding area have changed to such a degree that there are major obstacles to the continuation of farming in the district;
3. The impact of the proposed rezone on farms remaining in the district if only a portion of the district is to be rezoned;

4. Maintenance of regular, easily definable boundaries for the remaining district if only a portion of the district is to be rezoned;

5. The proposed zone must conform to the Comprehensive Plan and subarea plans.

(Ord. 11398 § 3 (part), 1997: Ord. 6708 § 3 (part), 1980)

20.08.070 Interpretation.

Where the provisions of this chapter may be inconsistent with other provisions of this title, the provisions of this chapter shall control.

(Ord. 11398 § 3 (part), 1997: Ord. 6708 § 3 (part), 1980)
20.08A.010 Purpose.

It is intended that agriculture be the primary use in this district and that other uses be sited so as to minimize their impact on, or conflicts with, surrounding agricultural uses. This district is not intended to preclude farming in other areas of the county. The purpose of this district is to:

1. Conserve agricultural lands of long-term commercial significance used for the production of crops, livestock, or other agricultural products;
2. Protect agricultural lands from incompatible development;
3. Encourage the continued economic viability of agriculture;
4. Encourage property owners to maintain property in agriculture uses; and
5. Promote and protect agriculture and its dependent rural community through the enhancement, protection, and perpetuation of the ability of the private sector to produce food and fiber.

(Ord. 11398 § 3 (part), 1997: Ord. 10398 § 3 (part), 1993)

20.08A.020 Primary uses.

Subject to the provisions of this title, the following uses are permitted within this district:

1. Agriculture, including forest practices;
2. Single-family dwellings with lots conforming to provisions of Section 20.08A.035(3);
3. Greenhouses--wholesale;
4. Accessory uses and structures including, but not limited to, a farm residence, barns, garages, storage buildings for crops, feed and equipment sheds, nurseries, shipping, receiving and handling facilities, and retail facilities for the sale of agricultural products primarily produced on the premises and related products;
5. Farm housing accessory to a farm residence to accommodate agricultural workers and their families employed on the premises, as provided:

   a. For legal lots between five and 19.99 acres in size, as of the effective date of this chapter, one farm housing unit is permitted.
   b. For legal lots between twenty and 39.99 acres in size, two farm housing units are permitted.
   c. For legal lots between forty and 59.99 acres in size, three farm housing units are permitted.
   d. For legal lots between sixty and 79.99 acres in size, four farm housing units are permitted.
   e. For legal lots eighty acres or larger in size, additional farm housing units are permitted based on the same formula, subject to approval of a special use permit.
   f. These housing units may only be leased, sold or subdivided subject to the density provision of Section 20.08A.040(1); otherwise, the maximum density provisions of Section 20.08A.020(5)(a) through (e) apply to farm housing units.
   g. The sewage disposal and water supply shall be approved by the environmental health department.

(Ord. 11804 § 42, 1998; Ord. 11398 § 3 (part), 1998: Ord. 10398 § 3 (part), 1993)

20.08A.025 Special uses.

1. Special uses shall only be permitted on nonprime farmland soils, unless the applicant demonstrates that the proposed use cannot be accommodated on such soils.
2. See Chapter 20.54 for special uses permitted in this district.

(Ord. 11398 § 3 (part), 1997: Ord. 10398 § 3 (part), 1993)

20.08A.030 Family member unit.

1. In addition to the maximum number of dwelling units, excluding farm housing units, permitted on a lot, one temporary mobile/manufactured home or modular home may be located upon a lot for the purpose of housing a person or persons who are family members to a person residing in an existing structure on the lot.
when application for family unit approval is requested. A person is a family member when related by blood, marriage or adoption.

2. Persons wishing to establish a family member unit shall furnish proof of family member status and shall receive written approval to establish such unit from the development services department before locating or constructing the unit.

3. Dwelling units placed on a lot pursuant to this section shall be removed when the family member no longer occupies the family member unit.

4. Dwelling units which are located pursuant to this section shall be removed prior to sale of the property, unless the purchaser provides a letter to the county stating the family member unit will be occupied by a family member.

5. A family member unit must have an approved sewage disposal system, adequate water source and all other applicable permits.


20.08A.035 Subdivision standards.

Any division of land within this district shall comply with the following requirements:

1. The development services director or hearing examiner shall find that the proposed subdivision meets the purpose and intent of the long-term agriculture district as a prerequisite to approval.

2. Land may be subdivided for agricultural uses, subject to the following requirements:
   a. Only agriculture and accessory uses, farm residences and farm housing are permitted on lots created pursuant to this section as long as the lots are within this district.
   b. Minimum lot size is twenty acres for a farm residence; with no dwelling unit, minimum lot size is five acres.
   c. All divisions of land approved pursuant to this section shall contain a notice of the restriction described in Section 20.08A.035(2)(a) and (b).

3. Land may be subdivided for nonagricultural uses subject to the following requirements:
   a. The subdivision shall meet the standards established in Chapter 20.30A, Planned Rural Residential Development, to the extent consistent with this chapter. Where the requirements in Chapter 20.30A conflict with the requirements of this chapter, the more restrictive standards shall apply.
   b. There shall be no minimum lot size for nonagricultural-use lots. The lot size must meet the requirements of the Thurston County Sanitary Code to safely accommodate an approved water supply and on-site sewage disposal system, including space for a reserve drainfield.

(Ord. 11398 § 3 (part), 1997: Ord. 10398 § 3 (part), 1993)

20.08A.040 Design standards.

The following standards are established as the minimum necessary to ensure that the purpose of this district is achieved and maintained as new lots are created and new buildings are constructed:

1. The maximum density shall not exceed one unit per twenty acres. For farm housing, see Section 20.08A.020(5):
   a. Maximum building height: thirty-five feet;
   b. Minimum yard requirements:
      i. Front yard--see Chapter 20.07,
      ii. Side yard--fifteen feet,
      iii. Rear yard--twenty-five feet;
   b. Single-family residential on lots created in accordance with the planned rural residential development chapter: see Chapter 20.30A,
   c. All other structures: see Chapters 20.54 and 20.07.

(Ord. 11398 § 3 (part), 1997: Ord. 10398 § 3 (part), 1993)

20.08A.060 Additional regulations.

Refer to the following chapters for provisions which may qualify or supplement the regulations presented above:

1. Chapter 20.34, Accessory Uses and Structures;
2. Chapter 20.40, Signs and Lighting;
3. Chapter 20.44, Parking and Loading;

(Ord. 11398 § 3 (part), 1997: Ord. 10398 § 3 (part), 1993)
Editor’s Note:

The 4-page information packet on Thurston County’s Transfer of Development Rights program was unavailable in electronic form. That portion of this
Editor's Note:

The text of the first half of this appendix item was not available in an electronic format. That information is available only on hard copy.

The second half of the appendix may be accessed at the American Farmland Trust website in a .pdf file format at:

http://farmlandinfo.org/fic/tas/tafs-apz0998.pdf
Fact Sheet

Agricultural Areas
Conservation & Protection Act  [505 ILCS 5]
Proposed Amendment – February 1999

Editor’s Note:

The text of this appendix item was not available in an electronic format. That information is available only on hard copy.
Editor’s Note:

The text of this appendix item was not available in an electronic format. That information is available only on hard copy.

Additional information on this program may be found at the following Internet site:

http://www.nycwatershed.org/ag_prg.htm
Summary of Commonwealth of Pennsylvania’s Agricultural Area Security / Purchase of Agricultural Conservation Easement Law

The following legislation establishes Pennsylvania’s Agricultural Security Areas program (analogous to Illinois’ “ag areas”) and its Purchase of Agricultural Conservation Easement program (for which Illinois has no analogue), which have been integrated into one.

- Any owner(s) of farmland may submit to the local government (city, borough, township, or town) a proposal to create an agricultural security area (“ASA”), which must include at least 250 acres of the 903, 904, 905(a))

- Upon receiving the proposal, the local government establishes an Agricultural Security Area Advisory Committee (“Committee”) which consists of three farmers, one citizen, and one member of the governing body of the local government. The Committee advises the governing body. (§ 904)

- The local government must publish notice of the proposed ASA and refer the proposal to the Committee, which has 45 days to review it, recommend changes, and make its report to the local government. (§ 905(b), (e)) After the 45 days, the local government must hold a public hearing on the ASA proposal. (§ 906)

- The factors to consider when evaluating an ASA proposal include: the value of the soils in the proposed ASA for agriculture; compatibility with local comprehensive plans; whether the proposed area is viable agricultural land; and other factors.

- After the public hearing, the local government may decide whether to adopt or reject the proposed ASA, with or without modification. Failure to act within six months from the date the proposal was originally submitted is deemed adoption. (§ 908(a))

- Land cannot be withdrawn from the ASA for at least seven years, but land may be voluntarily added at any time. (§ 908(e), (f)) The ASA must be recorded, and notice given to the Secretary of Agriculture. (§ 908(d), (g)) Each ASA is to be reviewed every seven years, and the local government must seek input from the Committee and local planning commissions, and also hold a public hearing, when considering whether to continue, modify, or terminate the ASA. (§ 909)

- Lands within ASAs benefit from certain advantages regarding nuisance suits, local laws or regulations, and condemnation powers. (§§ 911 – 913)

- Both the State and counties may establish Purchase of Agricultural Conservation Easement (“PACE”) programs to protect agricultural lands, according to the following procedures.

- The State established the State Agricultural Land Preservation Board (“State Board”), consisting of 17 members representing relevant state agencies, gubernatorial appointees, and legislative appointees. The appointees are to represent the agricultural, financial, building contractor, and local governmental interests. (§ 914.1(a)(1))
• The State Board may: review county PACE programs and approve or disapprove of them; distribute funds to counties for their PACE programs; review County Board (see below) recommendations that the State buy easements; buy easements either alone or jointly with a county (but in no event will the State buy easements unless the county first recommends the State do so); maintain records of county PACE programs and also of easements that have been purchased; take steps necessary to leverage federal funds for farmland protection; and so on. (§ 914.1(a)(3)-(4))

• Once a local government has established an ASA, the county may establish a County Agricultural Land Preservation Board (“County Board”) to administer a PACE program for lands within the ASA. The County Board consists of five, seven, or nine members appointed by the county; farmers are to compose one fewer than a majority of the County Board, with the remainder of positions representing local governmental interests, building contractor interests, or other interests. (§ 914.1(b)(1))

• The County Board may: submit a proposed PACE program to the State Board and have it recertified every seven years; use county or state appropriations to administer a countywide PACE program; incur debt to buy easements; submit recommendations to the State that the State buy easements alone or jointly with the county; buy easements either alone or jointly with the State; maintain records of easements that have been purchased; and so on. (§ 914.1(b)(2)-(5))

• The state and county PACE programs apply only to lands within an ASA. (§ 914.1(a)-(b)) Easements must be perpetual, but if land subject to an easement ceases being viable agricultural land and at least 25 years have passed since the easement was bought, the State or County (subject to the approval of the State Board or County Board) may modify, sell, or extinguish the easement. (§ 914.1(c))

• The State Board, when deciding whether to approve or disapprove County Board PACE programs, must consider at least the following factors: the quality of the farmlands that would be subject to the proposed easements; the threat of conversion of those farmlands; the proximity of those lands to other agricultural areas; whether conservation practices and best management practices are used on those lands; the fairness of the program’s prioritization of farmlands; and so on. (§ 914.1(d))

• The State Board must approve or disapprove of the proposed County Board PACE program within 60 days; failure to act within that time is deemed to be approval. (§ 914.1(d))

• The valuation and purchase price of the easement must follow the statute’s formula, which takes into account the appraisals of both the owner and the State or County. Under no circumstances will State funds exceed $10,000 per acre. (§ 914.1(f)-(g))

• The State makes an annual allocation of funds to the various counties for buying easements. The allocation is based on a complex formula that takes into account the real estate transfer tax revenues from the counties as well as how much of the previous year’s allocation the county spent. Counties which do not use their state-allocated funds must eventually give the money back to the State, which redistributes it to counties which did use their funds. (§ 914.1(h))

• The State Board must submit an annual report to the state legislature detailing the location and number of ASAs and easements; the number and value of easements that the State has bought alone or jointly; how much money has been spent on easements; and so on. (§ 914.4)
§ 901. Short title.

This act shall be known and may be cited as the "Agricultural Area Security Law."

§ 902. Statement of legislative findings.

It is the declared policy of the Commonwealth to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the declared policy of the Commonwealth to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air, as well as for aesthetic purposes. Article VIII, section 2 of the Constitution of Pennsylvania provides that the General Assembly may, by law, establish standards and qualifications for agricultural reserves. Agriculture in many parts of the Commonwealth is under urban pressure from expanding metropolitan areas. This urban pressure takes the form of scattered development in wide belts around urban areas, and brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation. When this scattered development extends into good farm areas, ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements. Many of the agricultural lands in the Commonwealth are in jeopardy of being lost for any agricultural purposes. Certain of these lands constitute unique and irreplaceable land resources of Statewide importance. It is the purpose of this act to provide means by which agricultural land may be protected and enhanced as a viable segment of the Commonwealth's economy and as an economic and environmental resource of major importance.

It is further the purpose of this act to:

1. Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.

2. Protect farming operations in agricultural security areas from incompatible nonfarm land uses that may render farming impracticable.

3. Assure permanent conservation of productive agricultural lands in order to protect the agricultural economy of this Commonwealth.

4. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.

5. Leverage State agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.

§ 903. Definitions.

The following words and phrases when used in this act shall have the meanings given them in this section, unless the context clearly indicates otherwise:

"Advisory committee."

An Agricultural Security Area Advisory Committee.

"Agricultural conservation easement."

An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the land for any purpose other than agricultural production. The easement may be granted by the owner of the fee simple to any third party or to the Commonwealth, to
A county governing body or to a unit of local government. It shall be granted in perpetuity as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement shall not be deemed to be management or control of activities at the site for purposes of enforcement of the act of October 18, 1988 (P.L. 756, No. 108), known as the "Hazardous Sites Cleanup Act."

"Agricultural production."
The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator.

"Agricultural security area."
A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures set forth in this act or designated as such pursuant to the act of January 19, 1968 (1967 P.L. 992, No. 442), entitled "An act authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses," prior to the effective date of the amendatory act, by the governing body of the county or governing body of the municipality in which such agricultural land is located on the basis of criteria and procedures which predate the effective date of this amendatory act: Provided, That an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P.L. 992, No. 442) may withdraw such land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which such land is located within 180 days of the effective date of this amendatory act.

"County board."
The County Agricultural Land Preservation Board.

"County governing body."
The county board of commissioners or other designated council of representatives under home rule charters.

"County planning commission."
A planning commission or agency which has been designated by the county governing body to establish and foster a comprehensive plan for land management and development within the county.

"Crops, livestock and livestock products."
Include but are not limited to:
1. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
2. Fruits, including apples, peaches, grapes, cherries and berries.
3. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
4. Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers.
5. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.
6. Timber, wood and other wood products derived from trees.
7. Aquatic plants and animals and their byproducts.

"Crops unique to the area."
Include, but are not limited to, crops which historically have been grown or have been grown within the last five years in the region and which are used for agricultural production in the region.

"Department."
The Department of Agriculture of the Commonwealth.

"Description of the proposed area."
A complete and accurate list of the name or names of the owner or owners of each parcel of land to be included in the proposed agricultural security area, the tax parcel number or account number of each parcel and the number or account number of acres (including partial acres, to the nearest thousandth) contained in each parcel. Such description shall use county tax map references for determining boundaries of each parcel, and no survey of parcels shall be required, except when an individual parcel included in the agricultural security area shall represent less than the entire amount of contiguous land contained in the property of an owner.

"Eligible counties."
Counties whose easement purchase programs have been approved by the State Agricultural Land Preservation Board. For the purpose of annual allocations, an eligible county must have its easement purchase program approved by the State Agricultural Land Preservation Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

"Farmland value."
The price as of the valuation date for property used for normal farming operations which a willing and
informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

"Fiscal year."
Fiscal year of the Commonwealth

"Fund."
The Agricultural Conservation Easement Purchase Fund established by the act of May 13, 1988 (P.L. 398, No. 64), entitled "An act amending the act of June 18, 1982 (P.L. 549, No. 159), entitled 'An act providing for the administration of certain Commonwealth farmland within the Department of Agriculture,' providing for the disposition of proceeds from the sale of certain land, equipment or facilities."

"Governing body."
The governing body of a local government unit.

"Immediate family member."
A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.

"Joint ownership."
Joint tenancy in an agricultural conservation easement purchase as the interests of the parties appear.

"Local government unit."
Any city, borough, township or town.

"Market value."
The price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

"Normal farming operations."
The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purpose.

"Planning commission."
A local government planning commission or agency which has been designated by the governing body of the local government unit to establish and foster a comprehensive plan for land management and development within the local government unit.

"Secretary"
The Secretary of Agriculture of the Commonwealth.

"State board"
The State Agricultural Land Preservation Board.

"Viable agricultural land."
Land suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximately those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

§ 904. Agricultural Security Area Advisory Committee.
The governing body of any local government may establish an Agricultural Security Area Advisory Committee which shall consist of three active farmers, each representing a different private or corporate farm, and one citizen residing within the unit of local government and one member of the governing body of such local government, who shall serve as the chairman of the committee. Such a committee shall be established when a proposal is received by the governing body for the creation of an agricultural security area. Pursuant to this act the members of such committee shall be appointed by and shall serve at the pleasure of the chairman of the governing body. The members shall serve without salary, but the governing body may entitle each such member to reimbursement for his actual and necessary expenses incurred in the performance of his official duties. Such committee shall advise the governing body and work with the planning commission in relation to the proposed establishment, modification, and termination of agricultural security areas. In particular, the committee shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within the proposed area and the relation of farming in such area to the local government unit as a whole.

§ 905. Agricultural security areas.
§ 905. Agricultural security areas

(a) Proposals for creation.—Any owner or owners of land used for agricultural production may submit a proposal to the governing body for the creation of an agricultural security area within such local government unit, provided that such owner or owners own at least 250 acres of viable agricultural land proposed to be included in the area. The proposed area may also consist of any number of noncontiguous tax parcels or accounts: Provided, That each tax parcel or account is at least ten acres or has an anticipated yearly gross income of at least $2,000 from the agricultural production of crops, livestock and livestock products on such parcel or account.

(a.1) Submitting the proposal.—Such proposal for creation of an agricultural security area shall be submitted in such manner and form as may be prescribed by the governing body of the local government unit wherein the proposed area is situated and shall include a description of the proposed area, including the boundaries thereof. Such proposal to the governing shall be submitted by certified mail with return receipt requested. The return receipt shall serve as notice of the official receipt of the proposal by the governing body and shall verify the official submission date.

(a.2) Proposals for agricultural security areas in more than one local government unit.—If the land included in a proposal for an agricultural security area is situated in more than one local governmental unit, the proposal shall be submitted to, and approval of the proposal shall be sought from, the governing body of each such local governmental unit affected. The governing bodies may cooperate in the review of a proposed agricultural security area and may provide joint public notices, a joint agricultural security areas advisory committee and a joint public hearing on the security area. A rejection by a governing body shall exclude that portion of the proposal which is situated within the local government unit. However, such rejection shall not preclude the approval of the remaining portion of the proposal as an agricultural security area by the governing body of the other affected local government units, provided that the total acreage approved is at least 250 acres and that such approved portion meets all other requirements imposed under this act for agricultural security areas.

(a.3) Fees.—Except as provided in this subsection, a governing body shall not require landowners including in a proposed agricultural security area to pay any fees in connection with the application for or the review of agricultural security areas as required in this section and sections 6, 7, 8 and 9. [3 P.S. § 906, 907, 908, and 909 infra.] A governing body may by resolution impose reasonable filing fees in connection with the administration and review of an agricultural security area application that proposes to include substantially the same lands as proposed in a previously submitted application that the governing body had rejected within 36 months based on the recommendations of the Agricultural Security Area Advisory Committee and the planning commission.
agricultural security areas as required in this section and sections 6, 7, 8 and 9. A governing body may by resolution impose reasonable filing fees in connection with the administration and review of an agricultural security area application that proposes to include substantially the same lands as proposed in a previously submitted application that the governing body had rejected within the last 36 months based on the recommendations of the Agricultural Security Area Advisory Committee and the planning commission.

(b) Notice.--Upon the receipt of such a proposal, the governing body shall acknowledge receipt of the proposal at the next regular or special meeting and shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed agricultural security area and by posting such notice in five conspicuous places within, adjacent or near to the proposed area. If the governing body fails to provide the required notice within 15 days of receiving a proposal as provided in this subsection, a person who is adversely affected by this inaction may bring an action in mandamus to compel compliance. The notice shall contain the following information:

(1) A statement that a proposal for an agricultural security area has been filed with the governing body pursuant to this act.

(2) A statement that the proposal will be on file open to public inspection in the office of the local government unit.

(3) A statement that any local government unit encompassing or adjacent to the proposed area, or any landowner who owns the land proposed to be included within the proposed area, or any landowner with lands adjacent or near to the proposed area who wishes such lands to be included or not included therein, may propose modifications of the proposed area in such form and manner as may be prescribed by the governing body. The statement shall indicate that objections to the proposal, and proposed modifications to the proposal must be filed with the governing body and the planning commission within 15 days of the date of publication of the notice.

(4) A statement that at the termination of the 15-day period under paragraph (3), the proposal and proposed modifications will be submitted to the planning commission and the advisory committee, and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the planning commission and advisory committee.

(c) Modification proposals.--The governing body shall receive any proposals for modifications of such proposal which may be submitted by such landowners or local government units up to seven days prior to advertisement of public hearing as provided in section 6(a).

(d) Report by planning commission.--

(1) For a planning commission which is not a county planning commission, the following shall apply:

(i) The governing body shall, upon the termination of the 15-day period provided in subsection (b)(3), refer such proposal and proposed modifications to the planning commission.

(ii) The planning commission shall have up to 45 days to review the proposal and proposed modifications and report to the governing body the potential effect of such proposal and proposed modifications upon the local government’s planning policies and objectives.

(iii) The failure of the planning commission to submit a report within 45 days shall be deemed to constitute approval of the proposed agricultural security area by the planning commission.

(2) For a county planning commission, the following shall apply:

(i) The governing body shall, upon the termination of the 15-day period provided in subsection (b)(3), refer such proposal and proposed modifications to the county planning commission.

(ii) The county planning commission shall have up to 45 days to review the proposal and proposed modifications and report to the governing body its recommendations concerning the proposal and proposed modifications.

(iii) The failure of the county planning commission to submit a report within 45 days shall be deemed to constitute approval of the proposed agricultural security area by the county planning commission.

(e) Referral to advisory committee.--The governing body shall also, upon the termination of such 15-day period, refer such proposal and proposed modifications to the Agricultural Security Area Advisory Committee. The committee shall have up to 45 days to review the proposal and proposed modifications and report to the governing body its recommendations concerning the proposal and proposed modifications. The failure of the advisory committee to submit a report within 45 days shall be deemed to constitute approval of the proposed agricultural security area by the advisory committee.

§ 906. Public hearings.

(a) Hearings.-The governing body shall hold a public hearing relative to the proposed agricultural security area upon receipt of the reports from the advisory committee and the planning commission or upon expiration of the 45-day period as provided in section 5 [section 905 supra.].
(b) Place of hearing.-The hearing shall be held at a place within the proposed area or otherwise readily accessible to the proposed area, such as a municipal building.
(c) Notice of hearing.-Pursuant to the act of July 3, 1986 (P.L. 388, No. 84), known as the “Sunshine Act,” a hearing notice shall be published in a newspaper having a general circulation within the proposed area. In addition, notice shall be given in writing to those landowners who proposed modifications pursuant to section 5(c) or whose land is included in proposed modifications, and to all landowners within the proposed agricultural security area. Notice also shall be given by posting such notice in five conspicuous places within, adjacent or near to the proposed area. Such notice shall contain the following information:
  1. A statement of the time, date and place of the public hearing.
  2. A description of the proposed area, any proposed additions or deletions and any recommendations of the planning commission or advisory committee.
  3. A statement that the public hearing will be held concerning:
     (i) The original proposal.
     (ii) Any written amendments proposed during the review period. (iii) Any recommendations proposed by the Agricultural Security Area Advisory Committee and the planning commission.

§ 907. Evaluation criteria.
(a) Factors to be considered.-The following factors shall be considered by the planning commission, advisory committee, and at any public hearing:
  1. Land proposed for inclusion in an agricultural security area shall have soils which are conducive to agriculture. This factor will have been satisfied without further consideration if at least 30% in the aggregate of the land to be included in an agricultural security area falls into one of the following categories: land whose soils are classified in Soil Conservation Service Capability Classes I through IV, excepting IV(e); land which falls within the Soil Conservation Service classification of "unique farm land"; or land whose soils do not meet Capability Classes I through IV but which is currently in active farm use and is being maintained in accordance with the soil erosion and sedimentation plan applicable to such land.
  2. Use of land proposed for inclusion in an agricultural security area shall be compatible with local government unit comprehensive plans. Any zoning shall permit agricultural use but need not exclude other uses.

(b) Resource materials.-In considering the viability factors as set forth in this section, various resource materials shall be used, including, but not limited to, the following:
  1. Soil surveys of the Pennsylvania State University
  2. Soil surveys and other information provided by the National Cooperative Soil Survey.
  4. The United States census of agricultural categories of land use classes.
  5. Any other relevant published data, maps, charts, or results of soil or land use surveys made by any county, State or Federal agency.

§ 908. Decision on proposed area
(a) Action by governing body.—The governing body, upon completion of the procedures and considerations prescribed in sections 5, 6 and 7, may adopt the proposal or any modification of the proposal the governing body deems appropriate, including the inclusion, to the extent feasible, of adjacent viable farm lands if the land owner has made application to be included, and, the exclusion, to the extent feasible, of nonviable farm land and nonfarm land. The existence of utility facilities on the proposed area shall not prevent the adoption of such area as an agricultural security area nor shall the rights of utilities with respect to the existing facilities be disturbed or affected by such adoption. The governing body shall act to adopt or reject the proposal, or any modification, no later than 180 days from the date the proposal was originally submitted. Failure by the governing body to act within this 180-day period shall be deemed adoption of the proposal without modification.

(b) Notification by governing body of reasons for rejection.—Within ten days of the governing body's decision to reject or modify the proposal, the governing body shall submit to the owner or owners of the land a written decision stating why the proposal was not adopted or was modified. The written decision shall include a finding of fact, review of the evaluation criteria prescribed in section 7 and a discussion of reasons for rejection or modification of the proposal.
(c) Effective date of creation of area.--An agricultural security area shall become effective upon the adoption of the proposal or its modification by the governing body or upon expiration of the 180-day period as provided in subsection (a). If the proposal has included land situated in more than one local government unit, the agricultural security area shall become effective upon adoption by the local government unit or units of such portion of the proposal or proposed modifications as will meet the minimum acreage and other requirements of an agricultural security area provided in this act. Subsequent adoption of the remaining portion shall immediately effectuate such portion as an agricultural security area.

(d) Filing of area description.--Within ten days of the creation of an agricultural security area, a description thereof shall be filed by the governing body with the recorder of deeds, who shall record the description, and with the planning commissions of the county and of the local government unit. Recording shall be done in a manner which is sufficient to give notice to all persons who have, may acquire or may seek to acquire an interest in land in or adjacent to the created agricultural security area. Upon the failure of the governing body to file a description or recorder of deeds to record the created agricultural security area in accordance with the time or manner requirements prescribed in this subsection, any person adversely affected may file a petition with the court of common pleas to compel immediate compliance with the provisions of this subsection.

(e) Participation.--Participation in the agricultural security area shall be available on a voluntary basis to landowners within the jurisdiction of the governing body including those not among the original petitioners. The deletion of land in the agricultural security area shall only occur after seven years or whenever the agricultural security area is subject to review by the governing body.

(f) Additions of land to agricultural security area during seven-year period.--The addition of land to the agricultural security area may occur at any time during the seven-year period provided for in section 9. Land may be added to an existing agricultural security area located entirely outside the local government unit in which the proposed land is located: Provided That, prior to the submission of the proposal, the local government unit in which the proposed land is located and each local government unit in which the existing agricultural security area is located have adopted an ordinance or resolution allowing all land to be part of an individual agricultural security area located or to be located in all such local government units. Any proposal for such addition, and for approval or disapproval thereof, shall follow all the procedures and requirements of sections 5, 6 and 7 and this section for proposal, consideration and decision as to approval or disapproval of the original agricultural security area except that there shall be no requirement that any proposal for such addition include at least 250 acres of viable agricultural land. If the land comprising the additional proposal could be added to more than one existing agricultural security area, or shall lie in more than one local government unit, the proposal shall be considered as an addition to the agricultural security area which was first approved. Land added to an existing agricultural security area during any seven-year period shall be reviewed at the same time as all other land in the agricultural security area.

(g) Notification to secretary.--Within ten days of the recording of the agricultural security area, the governing body shall notify the Secretary of Agriculture that the area has been approved and recorded, modified or terminated. Such notification shall be in writing and shall include the number of landowners, the total acreage of the area, the date of approval by the governing body and the date of recording. The notification shall include only one landowner when land is under multiple ownership or is comprised of multiple parcels or accounts.

§ 909. Review of area.

(a) Review by governing body.--The governing body shall review any area created under section 8 seven years after the date of its creation and every seven years thereafter. In conducting such review, the governing body shall ask for the recommendations of the planning commission, the county planning commission and the advisory committee, and shall, at least 120 days prior to the end of the seventh year and not more than 180 days prior to such date, hold a public hearing at a place within the area or otherwise readily accessible to the area. Prior to the commencement of such review, notice thereof shall be given by publication in a newspaper having a general circulation within the area, by notice posted in five conspicuous places within, adjacent to or near the area and by notice, in writing, to all persons owning land within the area that the agricultural security area will be reviewed in accordance with law. All such notices shall be given 30 days before the commencement of such review. Persons wishing to modify the area shall submit proposed modifications within 30 days of the date of such notices. Thereafter, in conducting such review the governing bodies shall follow all the procedures and requirements of sections 5, 6, 7, and 8 [3 P.S. §§ 905-908] for the consideration of the agricultural security area and proposed modifications thereto. Within ten days of its action of termination or modification, the governing body shall file a notice of termination or modification with the recorder of
deeds, who shall record such notice in such manner and place as has been provided in the original recording of the agricultural security area. The governing body shall also file a notice of termination or modification with the planning commissions of the county and of the local government unit. If the governing body does not act, or if a modification of an area is rejected, the area shall be deemed to be readopted without modification for another seven years.

(b) Interim review – If, within the seven-year period, 10% of the land within the agricultural security area is diverted to nonagricultural commercial development, the governing body may review the diversion and may request, in writing, that the local and county planning commissions and the agricultural security area advisory committee study its review and make recommendations within 80 days of the written request. The governing body shall thereupon conduct a public hearing, after providing the same notice as that which is required under section 6(c). The hearing shall be held no sooner than 45 days after the governing body has submitted written requests for review and recommendation to the planning commissions and advisory committee. The governing body may terminate or modify the agricultural security area.

§ 910. Appeals.

Any party in interest aggrieved by a decision or action of the governing body relating to the creation, composition, modification, rejection or termination of an agricultural area may take an appeal to the court of common pleas, in the manner provided by law within 30 days after such decision or action.

§ 911. Limitation on local regulations.

(a) General rule.-Every municipality or political subdivision within which an agricultural security area is created shall encourage the continuity, development and viability of agriculture within such an area by not enacting local laws or ordinances which would unreasonably restrict farm structures or farm practices within the area in contravention of the purposes of this act unless such restrictions or regulations bear a direct relationship to the public health or safety.

(b) Public nuisance.-Any municipal or political subdivision law or ordinance defining or prohibiting a public nuisance shall exclude from the definition of such nuisance any agricultural activity or operation conducted using normal farming operations within an agricultural security area as permitted by this act if such agricultural activity or operation does not bear a direct relationship to the public health and safety.

§ 912. Policy of Commonwealth agencies.

It shall be the policy of all Commonwealth agencies to encourage the maintenance of viable farming in agricultural security areas and their administrative regulations and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety, with the provisions of any Federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of Federal agencies, including provisions applicable only to obtaining Federal grants, loans, or other funding.

§ 913. Limitation on certain governmental actions

(a) Approval required for condemnation and for certain other actions by agency of the Commonwealth.--No agency of the Commonwealth having or exercising powers of eminent domain shall condemn any land within any agricultural security area which land is being used for productive agricultural purposes (not including the growing of timber) unless prior approval has been obtained in accordance with the criteria and procedures established in this section from the Agricultural Lands Condemnation Approval Board as established in section 306 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929." The condemnation approval specified by this subsection shall not be required for an underground public utility facility or for any facility of an electric cooperative corporation or for any public utility facility the necessity for and the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission. In addition, all State-funded development projects which might affect land in established agricultural security areas shall be reviewed by the appropriate local agricultural advisory committee and by the Agricultural Lands Condemnation Approval Board. Each reviewing body may suggest any modification to the State-funded development projects which ensures the integrity of the agricultural security areas against nonfarm encroachment.

(b) Approval required for condemnation by a political subdivision, authority, public utility or other body.--No political subdivision, authority, public utility or other body having or exercising powers of eminent domain shall condemn any land within any agricultural security area for any purpose, unless prior approval has been obtained from Agricultural Lands Condemnation Approval Board and from each of the following bodies: the governing bodies of the local government units encompassing the agricultural
policies or objectives thereof; or the Commonwealth, or upon the goals, resource plans, within the area or upon the environmental and enhancement of agriculture or municipal resources unreasonably adverse affect upon the preservation and (A) the proposed condemnation would not have an 
determines that: shall approve the proposed condemnation only if it 
Approval Board or other appropriate reviewing body shall approve the proposed 
(ii) In all other cases not otherwise specifically 
project. the land within the agricultural security area for the 
reasonable and prudent alternative to the utilization of the lands within the agricultural 
section. The condemnation approvals specified by this subsection shall not be 
required for an underground public utility facility or for any facility of an electric cooperative corporation or for any public utility facility the necessity for and the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission, regardless of whether the right to establish and maintain such 
Approval Board and other bodies. -- (1) Upon receipt of such notice the Agricultural 
(b) provided for in subsection (b) jointly shall review the 
(2)(i) In the case of condemnation for highway 
section shall at least 30 days prior to taking such action notify each of the foregoing bodies that such action is contemplated, and no such condemnation shall be effective until 60 days following the receipt of such notice. 
(d) Review by Agricultural Lands Condemnation Approval Board and other bodies. -- 
(g) Injunctions. -- The Agricultural Lands Condemnation Approval Board may request the 
project. (B) there is no reasonable and prudent alternative to 
(e) Notice. -- Any condemnor wishing to condemn property the approval for which is required under this 
(c) Notice. -- Any condemnor wishing to condemn 
property by condemnation, or by agreement with the owner. 
(f) Findings and decisions. -- The Agricultural Lands Condemnation Approval Board and other indicated bodies, as appropriate, shall render findings and decisions on or before the expiration of such 60-day period and likewise within such period shall report the 
section shall not apply to any emergency project which is immediately necessary for the protection of life or property. § 914.1. Purchase of agricultural conservation easements 
(a) State Agricultural Land Preservation Board. -- The Department of Agriculture and the State Agricultural Land Preservation Board shall administer pursuant to 
section a program for the purchase of agricultural conservation easements by the Commonwealth. 
(1) There is established within the Department of Agriculture as a departmental board the State Agricultural Land Preservation Board. The State board shall consist of 17 members. 
(i) There shall be eight voting ex officio members of the State board: the Secretary of Agriculture, who shall serve as the board chairman; the Secretary of Community and Economic Development, or his 
designee; the Secretary of Environmental Protection, or his designee; the Chairman and the Minority Chairman of the House Agriculture and Rural Affairs Committee, or their designees; the Chairman and the 
Agricultural Security Area Advisory Committee. Review by the Agricultural Lands Condemnation Approval Board and the other indicated bodies shall be in accordance with the criteria and procedures established in this section. The condemnation approvals specified by this subsection shall not be required for an underground public utility facility or for any facility of an electric cooperative corporation or for any public utility facility the necessity for and the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission, regardless of whether the right to establish and maintain such underground or other public utility facility is obtained by condemnation, or by agreement with the owner. 
(c) Notice. -- Any condemnor wishing to condemn 
property by condemnation, or by agreement with the owner. 
(f) Findings and decisions. -- The Agricultural Lands Condemnation Approval Board and other indicated bodies, as appropriate, shall render findings and decisions on or before the expiration of such 60-day period and likewise within such period shall report the 
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designee; the Secretary of Environmental Protection, or his designee; the Chairman and the Minority Chairman of the House Agriculture and Rural Affairs Committee, or their designees; the Chairman and the
Minority Chairman of the Senate Agriculture and Rural Affairs Committee, or their designees; and the Dean of the College of Agricultural Sciences of The Pennsylvania State University, or his designee.

(ii) Five members shall be appointed by the Governor. One member shall be a current member of the governing body of a county, one member shall be a person who is recognized as having significant knowledge in agricultural fiscal and financial matters, one member shall be an active resident farmer of this Commonwealth, one member shall be a residential, commercial or industrial building contractor, and one member shall be a current member of a governing body. Initially, two members shall be appointed for a term of four years, two members shall be appointed for a term of three years and one member shall be appointed for a term of two years. Thereafter, the terms of all members appointed herein shall be four years. The term of a person appointed to replace another member whose term has not expired shall be only the unexpired portion of that term. Members may be reappointed to successive terms.

(iii) One member each shall be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President pro tempore of the Senate and the Minority Leader of the Senate, who shall, at the time of appointment, be resident farm owners and operators of at least one commercial farm in this Commonwealth. The initial term of the appointee of the President pro tempore of the Senate shall be four years, the initial term of the appointee of the Speaker of the House of Representatives shall be three years, the initial term of the appointee of the Minority Leader of the Senate shall be two years and the initial term of the appointee of the Minority Leader of the House of Representatives shall be one year. Thereafter, the terms of all appointees shall be four years. An appointment made to fill an unexpired term shall be only for the duration of the unexpired term. Members may be reappointed to successive terms.

(2) Nine members shall constitute a quorum for purposes of conducting meetings and official actions pursuant to authority given to the State board under this act.

(3) It shall be the duty and responsibility of the State board to exercise the following powers:

(i) To adopt rules and regulations pursuant to this act: Provided, That the board shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act until September 30, 1990, or the effective date of final rules and regulations, whichever first occurs, pending adoption of final rules and regulations. Guidelines proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L. 950, No. 164), known as the "Commonwealth Attorneys Act," but shall not be subject to review pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act."

(ii) To adopt rules of procedure and bylaws governing the operations of the State board and the conduct of its meetings.

(iii) To review, and accept or reject, the recommendation made by a county board for the purchase of an agricultural conservation easement by the Commonwealth.

(iv) To execute agreements to purchase agricultural conservation easements in the name of the Commonwealth if recommended by a county and approved by the State board as provided in subparagraph (iii).

(v) To purchase in the name of the Commonwealth agricultural conservation easements if recommended by a county and approved by the State board as provided in subparagraph (iii).

(vi) To purchase agricultural conservation easements jointly with a county if recommended by a county and approved by the State board as provided in subparagraph (iii).

(vii) To allocate State moneys among counties for the purchase of agricultural conservation easements, in accordance with provisions of subsection (g).

(viii) To establish and maintain a central repository of records which shall contain records of county programs for purchasing agricultural conservation easements, records of agricultural conservation easements purchased by local government units, by local government units and counties and by local government units and the Commonwealth and records of agricultural conservation easements purchased by the Commonwealth. All records indicating the purchase of agricultural conservation easements shall refer to and describe the farmland subject to the agricultural conservation easement.

(ix) To record agricultural conservation easements purchased by the Commonwealth or jointly owned, in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located.

(x) To establish and publish the standards, criteria and requirements necessary for State board approval of county programs for purchasing agricultural conservation easements.

(xi) To review and certify and approve, or disapprove, county programs for purchasing agricultural conservation easements.

(xii) To exercise other discretionary powers as may be necessary and appropriate for the exercise and performance of its duties, powers and responsibilities under this act.
(xiv) To determine an annual easement purchase threshold.
(xiv) To review and approve or disapprove for recertification each county program for the purchase of agricultural conservation easements.
(xv) To authorize the development of a guidebook defining all technical elements necessary for a complete application for purchase of an agricultural conservation easement. Such guidebook shall include model formats of the specific components of applications. Guidebooks shall be distributed to every county with an approved program for purchasing agricultural conservation easements.
(4) The State board is authorized to:
(i) Take the actions necessary to qualify for Federal guarantees and interest rate assistance for agricultural easement purchase loans under Chapter 2 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624, 104 Stat. 3616).
(ii) Segregate from the Agricultural Conservation Easement Purchase Fund, into a Farms for the Future Trust Fund, funds necessary to qualify for the maximum amount of funding made available under the Federal act. There shall be deposited in this trust fund, and are appropriated for the purposes of this act, any interest rate assistance subsidies provided by participation in the Federal program. The State board is authorized to deposit interest accruing on moneys in the trust fund, in excess of the amounts needed to satisfy interest payments, in the Agricultural Conservation Easement Purchase Fund.
(b) County programs.--After the establishment of an agricultural security area by the governing body, the county governing body may authorize a program to be administered by the county board for purchasing agricultural conservation easements from landowners whose land is within an agricultural security area.
(1) The county board shall be composed of five, seven or nine members appointed by the county governing body. The chairman of the county governing body shall designate annually one member of the county board to serve as chairman of the county board. County board members shall be appointed from among the following groups: the number of farmers shall constitute one less than a majority of the board; one member shall be a current member of the governing body of a township or borough located within the county; one member shall be a commercial, industrial or residential building contractor; and the other members shall be selected at the pleasure of the county governing body. The county board membership of the member of the governing body of a township or borough located within the county shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected. The term of the initial farmer appointees shall be three years, the initial term of the current member of the governing body of a township or borough shall be two years and the initial term of all other members shall be one year. Thereafter, the term of all members shall be three years.
(2) It shall be the duty and responsibility of the county board to exercise the following powers:
(i) To adopt rules and regulations for the administration of a countywide program for the purchase of agricultural conservation easements within agricultural security areas in accordance with the provisions of this act, including, but not limited to, rules and regulations governing the submission of applications by landowners, establishing standards and procedures for the appraisal of property eligible for purchase as an agricultural conservation easement and establishing standards and procedures for the selection or purchase of agricultural conservation easements.
(ii) To adopt rules of procedure and bylaws governing the operation of the county board and the conduct of its meetings.
(iii) To execute agreements to purchase agricultural conservation easements in the name of the county.
(iv) To purchase in the name of the county agricultural conservation easements within agricultural security areas.
(v) To use moneys appropriated by the county governing body from the county general fund to hire staff and administer the countywide program.
(vi) To use moneys appropriated by the county governing body from the county general fund or the proceeds of indebtedness incurred by the county and approved by the county governing body for the purchase of agricultural conservation easements within agricultural security areas.
(vii) To establish and maintain a repository of records of farm lands which are subject to agricultural conservation easements purchased by the county and which are located within the county.
(viii) To record agricultural conservation easements purchased by the county in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located and to submit to the State board a certified copy of agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farm land subject to the agricultural conservation easements.
(ix) To submit to the State board for review the initial county program and any proposed revisions to approved county programs for purchasing agricultural conservation easements.
(x) To recommend to the State board for purchase by the Commonwealth agricultural conservation
easements within agricultural security areas located within the county.

(xii) To purchase agricultural conservation easements jointly with the Commonwealth.

(xiii) To exercise other powers which are necessary and appropriate for the exercise and performance of its duties, powers and responsibilities under this act.

(xiv) To submit to the State board applications for agricultural conservation easements in accordance with the guidebook authorized under subsection (a)(3)(xv).

(3) The county may incur debt pursuant to the act of July 12, 1972 (P.L. 781, No. 185), known as the "Local Government Unit Debt Act," for the purchase of agricultural conservation easements.

(4) County programs for the purchase of agricultural conservation easements originally approved by the State board on or before December 31, 1994, shall be reviewed by the State board and approved or disapproved for recertification by December 31, 1996, and every seventh year thereafter. County programs for the purchase of agricultural conservation easements originally approved by the State board after December 31, 1994, shall be reviewed by the State board and approved or disapproved for recertification by December 31 of the seventh year after the date of original approval and every seventh year thereafter. On or before December 31, 1995, and the end of such other seven-year periods thereafter, the county board shall submit to the State board any proposed revisions to the county program for the purchase of agricultural conservation easements. County programs subject to State board review and recertification under this paragraph shall be approved or disapproved in accordance with the requirements of subsection (d), provided that the State board shall give priority to determining that county programs are in compliance with applicable provisions of law, regulations and guidelines. After December 31, 1996, and the end of such other seven-year periods, the State board shall not approve a county board's recommendation to purchase until the county program has been approved for recertification, provided that the State board may postpone the deadline for recertification of any county's program by up to 12 months and, during such period of postponement, may approve a county board's recommendation to purchase.

(5) The governing body of the county may authorize the establishment of a program for the purchase of agricultural conservation easements on an installment or other deferred basis. The obligation of the county to make payment on an installment or other deferred basis shall not be subject to the requirements of section 602(b) or (c) of the "Local Government Unit Debt Act."

(b.1) Local government unit participation.--Any local government unit that has created an agricultural security area may participate along with an eligible county and the Commonwealth in the preservation of farmland through the purchase of agricultural conservation easements.

(1) The local government unit, in conjunction with a county board, may participate with the State board in the purchase of agricultural conservation easements.

(2) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.

(3) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county and the local government unit.

(4) The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:

(i) The agricultural conservation easement is located within an agricultural security area of at least 500 acres.

(ii) The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural conservation easement prescribed by the State board for agricultural conservation easements purchased by the Commonwealth.

(iii) The local government unit shall participate with the county board in complying with paragraph (5) for recording any agricultural conservation easement purchased by the local government unit.

(5) The county board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the State board a certified copy of agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farmland subject to the agricultural conservation easements.

(6) The local government unit may incur debt pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

(c) Restrictions and limitations.--An agricultural conservation easement shall be subject to the following terms, conditions, restrictions and limitations:
(1) The term of an agricultural conservation easement shall be perpetual.

(2) Unless otherwise authorized in accordance with subsection (i), an agricultural conservation easement shall not be sold, conveyed, extinguished, leased, encumbered or restricted in whole or in part for a period of 25 years beginning on the date of purchase of the easement.

(3) Unless otherwise authorized in accordance with subsection (i), if the land subject to the agricultural conservation easement is no longer viable agricultural land, the Commonwealth, subject to the approval of the State board, and the county, subject to the approval of the county board, may sell, convey, extinguish, lease, encumber or restrict an agricultural conservation easement to the current owner of record of the farmland subject to the easement after the expiration of 25 years from the date of purchase of the easement for a purchase price equal to the value at the time of resale determined pursuant to subsection (f) at the time of conveyance. A conveyance by the Commonwealth pursuant to this subsection shall not be subject to the requirements of Article XXIV-A of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929". The purchase price shall be payable to the Commonwealth and the county as their respective legal interests in the agricultural conservation easement appear, and a separate payment shall be made to the Commonwealth and the county accordingly at the time of settlement. Any payment received by the Commonwealth pursuant to this provision shall be paid into the fund.

(4) Instruments and documents for the purchase, sale and conveyance of agricultural conservation easements shall be approved by the State board or the county board, as the case may be, prior to execution and delivery. Proper releases from mortgage holders and lienholders must be obtained and executed to insure that all agricultural conservation easements are purchased free and clear of all encumbrances.

(5) Whenever any public entity, authority or political subdivision exercises the power of eminent domain and condemns land subject to an agricultural conservation easement, the condemnor shall provide just compensation to the owner of the land in fee and to the owner of the easement as follows:

(i) The owner of the land in fee shall be paid the full value which would have been payable to the owner but for the existence of an agricultural conservation easement less the value of the agricultural conservation easement at the time of condemnation.

(ii) The owner of the easement shall be paid the value of the easement at the time of condemnation.

(iii) For easements owned jointly by the Commonwealth and an eligible county, if the eligible county commits its share of funds received under this paragraph toward the purchase of agricultural conservation easements, the condemnor shall provide the Commonwealth's share of funds to the eligible county for use in purchasing agricultural conservation easements in accordance with this act.

(iv) For easements owned by the Commonwealth, the condemnor shall provide the Commonwealth's share of funds received under this paragraph to the eligible county for use in purchasing agricultural conservation easements in accordance with this act.

(v) Funds received by an eligible county under this paragraph shall not be considered matching funds under subsection (h).

(vi) If an eligible county which receives funds under this paragraph fails to spend the Commonwealth's share of funds within two years of receipt of the funds, the eligible county shall pay the Commonwealth the Commonwealth's share of funds received under this paragraph plus 6% simple interest. These funds shall be deposited into the Agricultural Conservation Easement Purchase Fund.

(6) An agricultural conservation easement shall not prevent:

(i) The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals.

(ii) The granting of rights-of-way by the owner of the subject land in and through the land for the installation of, transportation of, or use of water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products lines.

(iii) Construction and use of structures on the subject land necessary for agricultural production.

(iv) Construction and use of structures on the subject land for the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time employees: Provided, That only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.

(v) Customary part-time or off-season minor or rural enterprises and activities which are provided for in the county Agricultural Conservation Easement Purchase Program approved by the State board under subsection (d).

(7) Land subject to an agricultural conservation easement shall not be subdivided for any purpose which may harm the economic viability of the
farmland for agricultural production. Land may be subdivided prior to the granting of an agricultural conservation easement, provided that subdividing will not harm the economic viability for agricultural production of the land subject to the easement.

(8) Nothing in this act shall prohibit a member of the State board or county board or his or her family from selling a conservation easement under this program, provided that all decisions made regarding easement purchases be subject to the provisions of section 3(j) of the act of October 4, 1978 (P.L. 883, No. 170), referred to as the Public Official and Employee Ethics Law.

(d) Program approval.--

(1) The standards, criteria and requirements established by the State board for State board approval of county programs for purchasing agricultural conservation easements shall include, but not be limited to, the extent to which the county programs consider and address the following:

(i) The quality of the farmlands subject to the proposed easements, including soil classification and soil productivity ratings. Farmland considered should include soils which do not have the highest soil classifications and soil productivity ratings but which are conducive to producing crops unique to the area.

(ii) The likelihood that the farmlands would be converted to nonagricultural use unless subject to an agricultural conservation easement. Areas in the county devoted primarily to agricultural use where development is occurring or is likely to occur in the next 20 years should be identified. For purposes of considering the likelihood of conversion, the existence of a zoning classification of the land shall not be relevant, but the market for nonfarm use or development of farmlands shall be relevant.

(ii.1) Proximity of the farmlands subject to proposed easements to other agricultural lands in the county which are subject to agricultural conservation easements.

(iii) The stewardship of the land and use of conservation practices and best land management practices, including, but not limited to, soil erosion and sedimentation control and nutrient management.

(iv) Fair, equitable, objective and nondiscriminatory procedures for determining purchase priorities.

(2) The State board shall act on a county’s program for purchasing agricultural conservation easements within 60 days of its receipt, and shall notify immediately the county in writing of approval or disapproval of its program in accordance with the criteria set forth in this subsection. Failure of the State board to act on the submission of a county program under this provision within 60 days of its receipt shall be deemed to constitute approval of the county program by the State board.

(e) Easement purchase.--

(1) The State board may reject the recommendation made by a county for purchase of an agricultural conservation easement whenever:

(i) The recommendation does not comply with a county program certified and approved by the State board for purchasing agricultural conservation easements.

(ii) Clear title cannot be conveyed.

(iii) The farmland which would be subject to the agricultural conservation easement is not located within a duly established agricultural security area of 500 or more acres established or recognized under this act.

(iv) The allocation of a county established pursuant to subsection (h) is exhausted or is insufficient to pay the purchase price.

(v) Compensation is not provided to owners of surface-mineable coal disturbed or affected by the creation of such easement.

(2) The State board shall act to approve, disapprove or table the recommendation by a county for purchase of an agricultural conservation easement within 60 days of its receipt, unless the following conditions delay such action:

(i) The occurrence of a catastrophic event which precludes the convening of the State board. Any natural disaster, including, but not limited to, fire, flood, excessive wind, snow or earthquake shall constitute a catastrophic event.

(ii) The issue of a subdivision causes further questions by the State board.

(iii) Legal actions or court decisions are pending which would affect the recommendation in question.

(iv) The State board passes a resolution directing that an independent hearing examiner conduct an administrative hearing on any issue relating to the recommendation submitted by the county. In such an occurrence, the 60-day period shall be extended to 120 days. The 60-day period shall be extended until all issues set forth in this paragraph are resolved to the satisfaction of the State board, whereby the State board shall act at the next scheduled meeting on the recommendation of the county board. Decisions delayed due to catastrophic events shall be determined in as reasonable an amount of time as possible.

(3) If the State board disapproves the recommendation by a county for purchase of an agricultural conservation easement, the county shall be given written notice of the disapproval within ten days of the decision of the State board. The written notice shall state the reason for the State board’s disapproval of the recommendation.

(4) A decision of the State board issued under the authority of this subsection shall be an adjudication subject to the provisions of 2 Pa.C.S. (relating to administrative law and procedure).
(f) Valuation.--The State board or the county board, as the case may be, shall select and retain an independent State-certified general real estate appraiser to determine market value and farmland value. If the seller disagrees with the appraisal made by the State or county board's appraiser, the seller shall have the right to select and retain a separate independent State-certified general real estate appraiser within 30 days of receipt of the appraisal of the State or county board's appraiser to determine market value and farmland value. The State board or the county board shall establish the agricultural value and the nonagricultural value of the property subject to the agricultural conservation easement. The State board may provide for a periodic review by a State-certified general real estate appraiser of appraisals submitted by counties in order to assure that the appraisals were performed in accordance with the standards of appraisal practice.

(1) The agricultural value shall equal the sum of:
   (i) the farmland value determined by the seller's appraiser; and
   (ii) one-half of the difference between the farmland value determined by the State or county board's appraiser and the farmland value determined by the seller's appraiser if the farmland value determined by the State or county board's appraiser exceeds the farmland value determined by the seller's appraiser.

(2) The nonagricultural value shall equal the sum of:
   (i) the market value determined by the State or county board's appraiser; and
   (ii) one-half of the difference between the market value determined by the seller's appraiser and the market value determined by the State or county board's appraiser, if the market value determined by the seller's appraiser exceeds the market value determined by the State or county board's appraiser.

(3) The entire acreage of the farmland shall be included in the determination of the value of an agricultural conservation easement, less the value of any acreage which was subdivided prior to the granting of such easement. The appraiser shall take into account the potential increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

(g) Purchase price.--The price paid for purchase of an agricultural conservation easement in perpetuity shall not exceed the difference between the nonagricultural value and the agricultural value determined pursuant to subsection (f) at the time of purchase, unless the difference is less than the State or county boards' original appraised value in which case the State or county boards' original easement value may be offered. However, under no circumstances shall the price paid for purchase of an agricultural conservation easement in perpetuity exceed $10,000 per acre of State funds. The purchase price may be paid in a lump sum, in installments over a period of years, or in any other lawful manner of payment. If payment is to be made in installments or another deferred method, the person selling the easement may receive, in addition to the selling price, interest in an amount or at a rate set forth in the agreement of purchase, and final payment of all State money shall be made within, and no later than, five years from the date the agricultural conservation easement purchase agreement was fully executed. The county may provide for payments on an installment or other deferred basis and for interest payments by investing its allocation of State money for purchases approved by the State board under subsection (h)(11) in securities deposited into an irrevocable escrow account or in another manner provided by law.

(h) Allocation of State moneys.--By March 1 of each year, the State board shall make an annual allocation among counties, except counties of the first class, for the purchase of agricultural conservation easements.

(1) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:
   (i) "Adjusted weighted transfer tax revenues." An amount equal to the weighted transfer tax revenues of a county divided by the sum of the weighted transfer tax revenues of all counties except counties of the first class.
   (ii) "Annual agricultural production." The total dollar volume of sales of livestock, crops and agricultural products according to the most recent Annual Crop and Livestock Summary published by the Pennsylvania Agricultural Statistics Service.
   (iii) "Annual easement purchase threshold." An amount annually determined by the State board which equals at least $10,000,000.
   (iv) "Average realty transfer tax revenues." The total annual realty transfer tax revenues collected in all counties, except counties of the first class, divided by 66.
   (v) "Realty transfer tax revenues." The tax imposed and collected under section 1102-C of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971."
   (vi) "Weighted transfer tax revenues." An amount equal to the total annual realty transfer tax revenues collected in a county divided by the sum of the total annual realty transfer tax revenues collected in all counties except counties of the first class which does
not exceed three times the average realty transfer tax revenues.

(2) An annual allocation shall be made to each county, except counties of the first class, for the purchase of agricultural conservation easements by the Commonwealth at the beginning of the county fiscal year which equals 50% of the annual easement purchase threshold multiplied by the adjusted weighted transfer tax revenues of the county for the preceding calendar year.

(3) If the aggregate annual allocation under this paragraph to all counties, except counties of the first class, does not exceed 50% of the annual easement purchase threshold, an additional annual allocation from 50% of the annual easement purchase threshold shall be made to a county, except a county of the first class, at the beginning of the county fiscal year for the joint purchase of agricultural conservation easements by the Commonwealth and a county. The additional annual allocation under this paragraph shall equal the sum of:

(i) The annual appropriation of local moneys by a county for the purchase of agricultural conservation easements which does not exceed the average annual allocation under paragraph (2) multiplied by four.

(ii) The annual appropriation of local moneys by a county for the purchase of agricultural conservation easements which does not exceed the average annual allocation under paragraph (2) multiplied by four, if the county has an annual agricultural production which equals at least 2% of the total annual agricultural production of the Commonwealth for the same year.

(4) If the aggregate annual allocation under paragraph (3) to all counties, except counties of the first class, would exceed 50% of the annual easement purchase threshold, paragraph (3) shall not apply, and an additional annual allocation shall be made under this paragraph at the beginning of the county fiscal year for the joint purchase of agricultural conservation easements by the Commonwealth and a county, except a county of the first class. The additional annual allocation to a county under this paragraph shall equal 50% of the annual easement purchase threshold multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements divided by the aggregate of local moneys appropriated by all counties, except counties of the first class, for the purchase of agricultural conservation easements and in all cases shall not exceed the average annual allocation under paragraph (2) multiplied by four.

(5) An additional annual allocation shall be made to a county, except a county of the first class, from the amount by which 50% of the annual easement purchase threshold exceeds the total allocations made under paragraph (3) or (4), as the case may be, as follows:

(i) An additional annual allocation shall be made for the joint purchase of agricultural conservation easements by the Commonwealth and a county which equals six-tenths of the amount by which 50% of the annual easement purchase threshold exceeds the total allocations made under paragraph (3) or (4), as the case may be, multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements divided by the aggregate of local moneys appropriated by all counties, except counties of the first class, for the purchase of agricultural conservation easements.

(ii) An additional annual allocation shall be made for the joint purchase of agricultural conservation easements by the Commonwealth and a county which equals four-tenths of the amount by which 50% of the annual easement purchase threshold exceeds the total allocations made under paragraph (3) or (4), as the case may be, multiplied by the adjusted weighted transfer tax revenues of the county for the preceding calendar year.

(6) The allocation of a county shall be adjusted for purchases of agricultural conservation easements made with money from the county's allocation, for all costs, except administrative costs, incurred by the Commonwealth or a county incident to the purchase of agricultural conservation easements and for the costs of reimbursing nonprofit land conservation organizations for expenses incurred in acquiring and transferring agricultural conservation easements to the Commonwealth or county. No purchase of an agricultural conservation easement shall be made with State moneys allocated to a county unless the amount of the purchase price is equal to or less than the adjusted allocation or the county pays the portion of the purchase price which represents the difference between the purchase price and the adjusted allocation.

(7), (8) Deleted.

(8.1) Beginning with the annual allocation under paragraphs (2), (3), (4) and (5) made by March 1, 1995, and for each annual allocation thereafter, money allocated to counties which are not eligible counties shall be immediately reallocated to eligible counties. Fifty percent of the money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the annual agricultural production in each eligible county as a percentage of the total annual agricultural production in all those eligible counties. Twenty-five percent of the money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the realty transfer tax revenues for the last fiscal year in each of the eligible counties as a percentage of the
total realty transfer tax revenues for the last fiscal year in all those eligible counties. Twenty-five percent of the money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the total annual reallocations made to eligible counties for the purchase of agricultural conservation easements for the current county fiscal year in each of the eligible counties as a percentage of the total of local moneys appropriated for the purchase of agricultural conservation easements for the current county fiscal year in all those eligible counties.

(8.2) The total annual allocation made to an eligible county by March 1 of the county's fiscal year for the purchase of agricultural conservation easements and the total annual reallocation made to an eligible county under paragraph (8.1) may be spent over a period of two consecutive county fiscal years. Money allocated or reallocated to a county under this subsection which has not been expended or encumbered by such county at the conclusion of the second county fiscal year shall be restored to the fund.

Such money shall not be restored to the fund if by December 31 of the second fiscal year the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase.

(9) The allocation made to a county under this subsection shall be used for the purchase of agricultural conservation easements in perpetuity.

(10)(i) Notwithstanding any other provision of this subsection or any provision of regulations promulgated pursuant to this act, the department shall not reallocate funds which were allocated prior to January 1, 1994, if, by December 31, 1993, the department has received an agreement signed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase.

(ii) Nothing in this paragraph shall affect any reallocation made prior to the effective date of this paragraph.

(11) Whenever the State board approves the recommendation made by a county for purchase of an agricultural conservation easement on an installment or other deferred basis and final payment is to be made more than five years from the date the agricultural conservation easement purchase agreement is fully executed, the moneys allocated to the county for the purchase of such easement, exclusive of interest, shall be transferred to the county and may be invested by the county in the manner provided by law. Transfer of the moneys to the county shall relieve the Commonwealth of any obligation to pay or assure the payment of the purchase price and interest.

(i) Subdivision of land after easement purchase.--

(1) Each county program shall specify the conditions under which the subdivision of land subject to an agricultural conservation easement may be permitted. In no case, however, shall a county program permit a subdivision which will:

(i) harm the economic viability of the farmland for agricultural production; or

(ii) convert land which has been devoted primarily to agricultural use to another primary use, except that a county program may permit one subdivision for the purpose of the construction of a principal residence for the landowner or an immediate family member.

(2) The county board may agree to permit a parcel of land subject to an agricultural conservation easement to be subdivided after the granting of such easement as follows:

(i) The landowner of record may submit an application, in such form and manner as the county board may prescribe, to the county board requesting that a parcel of the land subject to an easement be subdivided. Upon receipt of the application, the county board shall cause to be forwarded written notification thereof to the county zoning office, county planning office and county farmland preservation office, herein referred to as the reviewing agencies. Each reviewing agency shall have 60 days from receipt of such notification to review, comment and make recommendations on the proposed application to the county board.

(ii) After reviewing the application and the comments and recommendations submitted by the reviewing agencies, the county board shall approve or reject the application to subdivide within 120 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies.

(iii) If the application to subdivide land is approved by the county board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State board for review and approval or disapproval. When reviewing an application to subdivide land subject to an agricultural conservation easement, the State board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved county program. The State board shall notify the county board of its decision regarding the application.

(iv) If the application to subdivide is rejected by the county board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies) and Ch. 7 Subch. B (relating to judicial review of local agency action).
(j) Change of ownership.--
(1) Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, the deed conveying or transferring such land shall recite in verbatim the language of the easement as set forth in the deed executed in connection with the purchase of the agricultural conservation easement.
(2) The person conveying or transferring land subject to an agricultural conservation easement shall within 30 days of change in ownership notify the county board and the department of the name and address of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person.
(3) Notwithstanding any other provisions of law to the contrary, the restrictions set forth in a deed executed in connection with the purchase of an agricultural conservation easement shall be binding on any person to whom subsequent ownership of the land subject to the easement is conveyed or transferred.
(k) Provisions for agricultural conservation easements.--Any land subject to an agricultural conservation easement under this act shall continue to be subject to the provisions of sections 11, 12 and 13 regardless of any future modification or termination of the agricultural security area under section 9.

§ 914.2. Agricultural conservation easement purchase fund

(a) Purpose of fund.--The Agricultural Conservation Easement Purchase Fund shall be the source from which all moneys are authorized with the approval of the Governor to carry out the purpose of this act. The moneys appropriated to the fund shall be utilized in accordance with the expenditures and distribution authorized, required or otherwise provided in the program for purchase of agricultural conservation easements contained in section 14.1, for the purpose of paying all costs, except administrative costs, incurred by the Commonwealth or a county incident to the purchase of agricultural conservation easements, and for the purpose of reimbursing nonprofit land conservation organizations for expenses incurred in acquiring and transferring agricultural conservation easements to the Commonwealth or a county.
(b) Interfund transfers authorized.--
(1) Whenever the cash balance and the current estimated receipts of the Agricultural Conservation Easement Purchase Fund shall be insufficient at any time during any State fiscal year to meet promptly the obligations of the Commonwealth from such fund, the State Treasurer is hereby authorized and directed, from time to time during such fiscal year, to transfer from the General Fund to the Agricultural Conservation Easement Purchase Fund such sums as the Governor directs, but in no case less than the amount necessary to meet promptly the obligations to be paid from such fund nor more than an amount which is the smallest of:
   (i) the difference between the amount of debt authorized to be issued under the authority of this act and the aggregate principal amount of bonds and notes (not including refunding bonds and replacement notes) issued; and
   (ii) the difference between the aggregate principal amount of bonds and notes permitted under section 14.3(e) to be issued during a State fiscal year and the aggregate principal amount of bonds and notes (not including refunding bonds and replacement notes) issued during such State fiscal year. Any sums so transferred shall be available only for the purposes for which funds are appropriated from the Agricultural Conservation Easement Purchase Fund. Such transfers shall be made hereunder upon warrant of the State Treasurer upon requisition of the Governor.
(2) In order to reimburse the General Fund for moneys transferred from such fund under section 14.2(b)(1), there shall be transferred moneys to the General Fund from the Agricultural Conservation Easement Purchase Fund from proceeds obtained from bonds and notes issued under the authority of this act or from other available funds in such amounts and at such times as the Governor shall direct. Such retransfers shall be made upon warrant of the State Treasurer upon requisition of the Governor.

§ 914.3. Commonwealth indebtedness

(a) Borrowing authorized.--
(1) Pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania and the referendum approved by the electorate, the issuing officials are authorized and directed to borrow, on the credit of the Commonwealth, money not exceeding in the aggregate the sum of $100,000,000, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be found necessary to carry out the purposes of this act.
(2) As evidence of the indebtedness authorized in this act, general obligation bonds of the Commonwealth shall be issued, from time to time, to provide moneys necessary to carry out the purposes of this act for such total amounts, in such form, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct, except that the latest stated maturity date shall not exceed 20 years from the date of the first obligation issued to evidence the debt.
(3) All bonds and notes issued under the authority of this act shall bear facsimile signatures of the issuing
official and a facsimile of the great seal of the Commonwealth and shall be countersigned by a duly authorized officer of a duly authorized loan and transfer agent of the Commonwealth.

(4) All bonds and notes issued in accordance with the provisions of this section shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon, as it becomes due, and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States.

(5) All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes except as may be provided under Article XVI of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971."

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(7) The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt so that the bonds of each issue allocated to the programs to be funded from the bond issue shall mature within a period not to exceed the appropriate amortization period for each program as specified by the issuing officials but in no case in excess of 20 years. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements.

(8) The issuing officials are authorized to provide by resolution, for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and retire the outstanding debt with accrued interest, any premium payable thereon and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect thereto shall be governed by the provisions of this section, insofar as they may be applicable. Refunding bonds, which are not subject to the aggregate limitation of $100,000,000 of debt to be issued pursuant to this act, may be issued by the issuing officials to refund debt originally issued or to refund bonds previously issued for refunding purposes.

(9) Whenever any action is to be taken or decision made by the Governor, the Auditor General and the State Treasurer acting as issuing officials and the three officers are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or the State Treasurer shall be binding and final.

(10) Issuing officials shall mean the Governor, the Auditor General and the State Treasurer.

(b) Sale of bonds.--

(1) Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on the terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than 98% of the principal amount and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(3) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

(4) Until permanent bonds can be prepared, the issuing officials may in their discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

(5) The proceeds realized from the sale of bonds and notes, except refunding bonds and replacement notes, under the provisions of this act shall be paid into a special fund in the State Treasury to be known as the Agricultural Conservation Easement Purchase Fund and are specifically dedicated to the purposes of the referendum of July 13, 1987, as implemented by this act. The proceeds shall be paid by the State Treasurer periodically to those departments, agencies or authorities authorized to expend them at such times and in such amounts as may be necessary to satisfy the funding needs of the department, agency or authority. The proceeds of the sale of refunding bonds and replacement notes shall be paid to the State Treasurer and applied to the payment of principal, the accrued
interest and premium, if any, and cost of redemption of the bonds and notes for which such obligations shall have been issued.

(6) Pending their application for the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the fund. Such earnings in excess of bond discounts allowed, expenses paid for the issuance of bonds and notes, and interest arbitrage rebates due to the Federal Government, shall be transferred annually to the Agricultural Conservation Easement Purchase Sinking Fund.

(7) The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the issuing officials.

(8) There is hereby appropriated to the State Treasurer from the fund as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act and the payment of interest arbitrage rebates or proceeds of such bonds and notes.

(c) Temporary financing authorization.--

(1) Pending the issuance of bonds of the Commonwealth as authorized, the issuing officials are hereby authorized, in accordance with the provisions of this act and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation to the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement, to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(iii) To appoint as issuing and paying agent or agents with respect to notes.

(iv) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and the principal of such notes. Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by discounting the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance thereof, and all other costs and expenses, including fees for agreements related to the notes, issuing and paying agent costs and costs and expenses of issuance, may be paid from the proceeds of the notes.

(2) All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued, from time to time, for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and condition of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the issuing officials shall authorize and direct and in accordance with this act. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes, which replacement notes shall, upon issuance thereof, evidence such borrowing, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the issuing officials may determine and direct.

(3) When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to issue, enter into or authorize and direct the State Treasurer to enter into agreements with any banks, trust companies, investment banking firms or other institutions or persons in the United States having the power to enter the same:

(i) To purchase or underwrite an issue or series of issues of notes.

(ii) To credit, to enter into any purchase, loan or credit agreements, to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(4) When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the State Treasurer shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates (or procedures for establishing such rates from time to time), rates of discount, denominations and all other terms and conditions relating to the issuance and shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any moneys available for that purpose pursuant to any purchase, loan or credit agreements established with respect thereto, all
subject to the authorization and direction of the issuing officials.

(5) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as hereinafter authorized. The refunding bonds must be issued and sold not later than a date three years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of this act.

(d) Debt retirement.--

(1) All bonds issued under the authority of this act shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid from the Agricultural Conservation Easement Purchase Sinking Fund, which is hereby created. For the specific purpose of redeeming the bonds at maturity and paying all interest thereon in accordance with the information received from the Governor, the General Assembly shall appropriate moneys to the Agricultural Conservation Easement Purchase Sinking Fund for the payment of interest on the bonds and notes and the principal thereof at maturity. All moneys paid into the Agricultural Conservation Easement Purchase Sinking Fund and all of the moneys not necessary to pay accruing interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(2) The State Treasurer, with the approval of the Governor, is authorized at any time to use any of the moneys in the fund not necessary for the purposes of the referendum of November 3, 1987, for the purchase and retirement of all or any part of the bonds and notes issued pursuant to the authorization of this act. In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes, and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons, together with any other canceled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the issuing officials. All canceled bonds, notes and coupons shall be so marked as to make the canceled bonds, notes and coupons nonnegotiable.

(3) The State Treasurer shall determine and report to the Secretary of the Budget by November 1 of each year, the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations, if any, for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds and notes under the provisions of this act and the status of the Agricultural Conservation Easement Purchase Sinking Fund of the Commonwealth for the payment of interest on the bonds and notes and the principal thereof at maturity.

(4) The General Assembly shall appropriate an amount equal to such sums as may be necessary to meet repayment obligations for principal and interest for deposit into the Agricultural Conservation Easement Purchase Sinking Fund.


(f) Expiration.--Authorization to issue bonds and notes, not including refunding bonds and replacement notes, for the purposes of this act shall expire February 13, 2004.

§ 914.4. Legislative report

The State board shall submit to the General Assembly an annual report no later than May 1. The report shall include, but not be limited to, the following information:

(1) The location of agricultural security areas and agricultural conservation easements in the Commonwealth.

(2) The number of acres throughout the Commonwealth which are located within agricultural security areas.

(3) The number of acres throughout the Commonwealth which are subject to agricultural conservation easements.

(4) The number of agricultural conservation easements in the Commonwealth.

(5) The number of acres included within each agricultural conservation easement throughout the Commonwealth.

(6) The number and value of agricultural conservation easements purchased by the Commonwealth, including the number and value of purchases made during the preceding calendar and the preceding fiscal year of the Commonwealth.

(7) The number and value of agricultural conservation easements purchased jointly by the Commonwealth and the counties, including the number and value of purchases made during the preceding calendar and the preceding fiscal year of the Commonwealth.

(8) The identity of counties participating in the State program for purchasing agricultural conservation easements.
(9) The dollar value of the annual appropriation made by counties for the purchase of agricultural conservation easements.
(10) The quality of the farmlands subject to agricultural conservation easement, including the soil classifications and productivity of the farmlands.
(11) The nature scope and extent of development activity within the area where agricultural conservation easements have been purchased.
(12) The nature and extent of conservation practices and best land management practices, including, but not limited to, soil erosion and sedimentation control and nutrient management practices, which are practiced on farmlands subject to agricultural conservation easements.
(13) The total number of recommendations filed by counties for purchase of agricultural conservation easements and the number approved and disapproved, and the reasons for disapproval.

§ 915. Rules and regulations

The Secretary of the Department of Agriculture shall promulgate rules and regulations necessary to promote the efficient, uniform and Statewide administration of the act. From January 1, 1995, through December 31, 1997, the Secretary of Agriculture shall have the power and authority to promulgate, adopt and use guidelines to implement the provisions of this act. The guidelines shall be published in the Pennsylvania Bulletin but shall not be subject to review pursuant to section 205 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L. 950, No. 164), known as the "Commonwealth Attorneys Act," or the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act." All such guidelines shall expire no later than December 31, 1997, and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.
The following legislation was proposed for the Illinois legislature to establish a Purchase of Agricultural Conservation Easements program.

- Township boards in counties that have population of 100,000 (§§ 3, 4) or more may establish a farmland protection program (“FPP”) by adhering to the following steps noted below.

- To start the process, the township board must receive a petition signed by at least 5% of the registered voters in the township requesting that the board begin preparation of an FPP plan. (§ 4(a))

- The FPP plan must identify ahead of time which farmland the board intends to protect. The board may protect only those lands that are both (1) in an “ag area” (under the Agricultural Areas Conservation and Protection Act) and (2) identified in the FPP plan. (§§ 4(b), 5) The board may protect lands only with agricultural conservation easements. (§ 4(b)) The FPP plan must also estimate the costs of the program, the timetable for implementing the FPP, and the tax needed to finance the program, and also establish procedures for prioritizing farmland purchase.

- Municipalities may veto any proposed farmland protection within 1.5 miles of their corporate limits. (§ 9)

- Before adopting an FPP plan, the township board must hold a public hearing. The board may adopt or reject the plan; failure to act within 60 days of the hearing means the board cannot adopt the plan without holding another public hearing. (§ 6)

- If the board recommends adoption of the FPP plan, a referendum on the plan must occur at the next regular election that is at least 4.5 months away. If a majority of the township’s voters reject the plan, no new FPP plan may be put to the voters for the next two years. If the voters approve the plan, the board must adopt it. (§ 7)

- If the board later wishes to protect farmland not identified in the original FPP plan, it must repeat the public hearing and referendum processes for the revised plan. There is an exception, however, if the proposed amendment to the FPP plan does not require expenditures greater than those in the original FPP plan. (§ 8)

- The board may borrow money and issue bonds to fund the FPP only if a referendum on the bonds occurs at the next regular election. If a majority of the township’s voters reject the bonds, no new FPP bond measure may be put to the voters for the next two years. If the voters approve the bonds, the board may issue them, subject to certain restrictions. (§ 14)
• The board may also protect land through gifts, grants, bequests, contributions, and so on. (§ 12)

• The board must file a report each year detailing the taxes it has levied, the moneys it has spent on farmland protection, and the agricultural conservation easements it has acquired. (§ 15)
State of Illinois

Township Farmland Protection Act (Proposed)

An Act
Authorizing Townships to implement local farmland protection programs

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Section 1.  Short title
This act shall be known and may be cited as the "Township Farmland Protection Act."

Section 2.  Statement of legislative intent
It is the policy of the State to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food, fiber and other agricultural products. It is also the policy of this State to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds as well as for aesthetic purposes.

Agriculture in many parts of Illinois is under intense development pressure from expanding metropolitan areas. This pressure takes the form of scattered development in wide belts around urbanizing areas, creating land uses that conflict with the management of agricultural operations. When scattered development extends into agricultural areas, land prices begin to rise, making it difficult for existing farms to expand their operations and new farms to begin operation.

Certain agricultural lands in urbanizing areas constitute prime and unique soil resources of local, state and national importance. It is the purpose of this act to provide local government with a means by which farmland land may be protected and agricultural communities may be enhanced so as to remain a viable segment of this State's economy.

It is further the purpose of this act to:

(1) Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.

(2) Protect farming operations in locally designated areas from incompatible non-farm land uses that may render agricultural production impracticable.

(3) Assure the permanent conservation of productive agricultural lands in order to protect and enhance the economy of the state.

(4) Provide compensation to landowners in exchange for the relinquishment of the right to develop their private property.

Section 3.  Definitions
As used in this Article, unless the context otherwise requires, the terms specified in this section have the following meaning ascribed to them:

"Board" means the township board of any county in this State having a population of 100,000 or more. "Agricultural Production" means the production for commercial purposes of crops, livestock and livestock and aquatic products, but not...
land or portions thereof used for processing of such crops, livestock or livestock or aquatic products. "Crops, livestock and livestock and aquatic products" include but are not limited to the following: legume, hay, grain, fruit, and truck or vegetable crops; floriculture, horticulture, mushroom growing, nurseries, orchards, forestry, greenhouses and aquatic products as defined in the Aquaculture Development Act; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur and wildlife farms, farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing, maintaining, and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired workers.

"Viable farmland" means any land suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related non-agricultural development.

"Farmland Protection Plan" means the written plan adopted by the board to implement a farmland protection program and includes properly adopted amendments or additions to the plan.

"Farmland Protection Program" means the acquisition of an agricultural conservation easement on tracts of farmland in the township for farmland protection purposes.

"Farmland Protection Purposes" includes (i) the preservation and maintenance of farmland threatened by encroachment from non-agricultural uses; (ii) the management and use of that property in a manner and with restrictions that will leave it unimpaired for the benefit of future generations; and (iii) otherwise promoting the conservation of the natural resources of the township.

"Agricultural Conservation Easement" means an interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the land for any purpose other than agricultural production. The easement may be granted by the owner of the fee simple to any third party or to the state, to a county governing body or to a unit of local government.

"Agricultural Areas" means the creation of an area of not less than 350 acres of viable farmland in accordance with the Agricultural Areas Conservation and Protection Act.

Section 4. Farmland protection plan; petition
(a) A board desiring to enter upon a farmland protection program may do so only after adoption of a farmland protection plan under Section 5. The board shall commence preparation of a farmland protection plan under that Section only upon the filing with the township clerk of a petition signed by not less than 5% or 50, whichever is greater, of the registered voters of the township (according to the voting registration records at the time the petition is filed) recommending that the board commence preparation of a farmland protection plan.

(b) A proposed farmland protection plan shall (i) identify all farmland within the township that the board deems necessary to protect with agricultural conservation easements in order to accomplish the purposes of the farmland protection program; (ii) state the ways in which the acquisition of agricultural conservation easements on tracts of farmland in the township will further farmland protection purposes; (iii) state the estimated costs of implementing the proposed plan; (iv) state the approximate tax, per $100 of assessed value, that will be levied to provide the necessary funds for implementing the proposed plan; (v) state the estimated timetable for implementing the proposed plan; and (vi) establish standards and procedures for establishing priorities for the acquisition of agricultural conservation easements on parcels identified in the plan.

Section 5. Eligibility
Only viable farmland recorded as part of an agricultural area in accordance with the Agricultural Areas Conservation and Protection Act and identified in a farmland protection plan shall be eligible for the purchase of an agricultural conservation easement as part of an approved farmland protection program.
Section 6. Public hearing
(a) Before adopting a farmland protection plan or an amendment to a plan, the board shall conduct a public hearing on the plan or amendment, recommend adoption of the farmland protection plan or receive a recommendation by petition of the voters of the township under Section 6 that the farmland protection plan be adopted, and submit the question of adoption of the farmland protection plan to the township voters under Section 6.
(b) The board shall cause to be prepared a notice of the public hearing stating the date, time, place, and purpose of the hearing. The township clerk shall cause the notice to be published in a newspaper of general circulation in the township not less than 15 nor more than 30 days before the date of the hearing. The township clerk also shall send notice of the hearing by registered or certified mail, return receipt requested, not less than 20 days before the hearing, to the owners of property being recommended for acquisition and designation as viable farmland under the proposed farmland protection plan. Those owners shall be those parties identified on the most current real estate tax assessment rolls for the county in which the township is located as being the parties to whom current real estate tax bills are being sent. A copy of the proposed plan also shall be filed with the township clerk, who shall make it available to the general public for inspection after publication of the notice of public hearing.
(c) At the public hearing, all persons desiring to offer statements or other evidence in support of or in opposition to the proposed plan shall be afforded an opportunity to do so orally, in writing, or both.
(d) Within 60 days after the public hearing, the board shall consider all of the evidence before it and shall, based upon that evidence, recommend adoption or rejection of the proposed farmland protection plan in whole or in part. The board's recommendation shall be in writing. If the board does not recommend adoption or rejection of the proposed farmland protection plan, or if a petition from the voters of the township recommending adoption of the farmland protection plan is not filed with the township clerk within 60 days after the public hearing, the farmland protection plan may not be subsequently adopted unless another public hearing is held and notice given as provided in this Section. A recommendation by the board or by petition under this subsection (d) to adopt a farmland protection plan shall be made no later than 138 days before the next regular election in order for the question of the adoption of the farmland protection plan to appear on the ballot at that election. If the question of the adoption of the farmland protection plan does not appear on the ballot, the farmland protection plan may not be subsequently adopted unless another public hearing is held and notice given under this Section.

Section 7. Referendum on recommended plan; petition
(a) If the board recommends adoption of a farmland protection plan, or if a petition is filed by not less than 5% or 50, whichever is greater, of the registered voters of the township (according to the voting registration records at the time the petition is filed) recommending adoption of the farmland protection plan, then the board, within 30 days of making of the recommendation or the filing of the petition, shall file a petition with the township clerk, requesting the clerk to submit to the voters of the township the question of whether the township shall adopt the farmland protection plan and enter upon a farmland protection program, with the power to acquire farmland by purchasing agricultural conservation easements on designated properties in the township and with the power to issue bonds for those purposes under this Article. The township clerk shall certify that proposition to the proper election officials, who shall submit the proposition to the township voters at the next regular election. The referendum shall be conducted and notice given in accordance with the general election law.
(b) The question submitted to the voters at the election shall be in substantially the following form:
Shall (name of township) adopt the farmland protection plan considered at the public hearing on (date) and enter upon a farmland protection program, and shall the Township Board have the power (i) to acquire agricultural conservation easements on viable farmland by purchase, (ii) to issue bonds for farmland protection purposes in an amount not exceeding 5% of the valuation of all taxable property in the township, and (iii) to levy a
tax to pay the principal of and interest on those bonds, as provided in Article 115 of the Township Code?

The votes shall be recorded as "Yes" or "No".

(c) If a majority of the voters voting at the election on the question vote in favor of the question, the township shall thereafter adopt the farmland protection plan recommended by the board or by the petition of the registered voters of the township and shall enter upon a farmland protection program under this Article. If the proposition does not receive the approval of a majority of the voters voting at the election on the question, no proposition may be submitted to the voters under this Section less than 23 months after the date of the election.

Section 8. Amendments or additions to plan
If the board recommends any amendments or additions to a plan that has been adopted by a township, no property that is the subject of the amendment or addition may be restricted through an agricultural conservation easement until the revised plan is approved by the voters at a referendum under Section 6 unless the amendments or additions do not provide for expenditures in excess of those provided in the original plan.

Section 9. Notice to, and objections by, municipal authorities
Within 10 days of publishing the notice of the proposed farmland protection plan within a newspaper as provided under Section 5 of this Article, if the farmland protection plan recommended for adoption under Section 5 contains property that is situated within a 1 1/2 mile radius from the corporate limits of any municipality, the board shall notify the municipal authorities of such affected municipality of this proposed farmland protection plan. Such municipal authorities may object to the proposal if such objection is presented to a board member within 30 days of the municipal authority's receipt of the notice of the proposal. Upon receipt of such objection by the board member, the proposed farmland protection plan shall be modified to exclude the real estate within the 1 1/2 mile radius of the corporate limits of such municipality. If no objection is received within the specified time period, the affected real estate shall be included in the farmland protection plan.

Section 10. Powers of township board
In any township in which the establishment of a farmland protection program has been authorized by the voters under this Article, the township board, to the extent necessary to carry out the purposes of this Article and in addition to any other powers, duties, and functions vested in a township by law (but subject to limitations and restrictions imposed by this or any other law), has the powers enumerated in the following Sections.

Section 11. Study; coordinated plan
The board may study and ascertain the viable farmland resources in the township, the need for preserving those resources, and the extent to which those needs are being currently met. The board may prepare and adopt a coordinated plan of areas to meet those needs.

Section 12. Acceptance of money and personal property
The board may accept gifts, grants, bequests, contributions, and appropriations of money and other personal property for farmland protection purposes.

Section 13. Executive officer
The board may employ and fix the compensation of an executive officer who shall be responsible to the board for the carrying out of its policies. The executive officer shall have the power, subject to the approval of the board, to employ and fix the compensation of assistants and employees as the board considers necessary for carrying out the purposes and provisions of this Article.

Section 14. Borrowing money; bonds
The township board may borrow money and issue bonds, after a referendum, for the purpose of acquiring agricultural conservation easements on viable farmland for farmland protection.
purposes, as defined in Section 5, pursuant to a farmland protection program adopted, as provided in this Article, in and for the township in any amount not to exceed 5.75% on the valuation of taxable property in the township, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness or, until January 1, 1983, if greater, the sum that is produced by multiplying the township's 1978 equalized assessed valuation by the debt limitation percentage on January 1, 1979.

Whenever the board desires to issue bonds under this Article, or whenever the board receives a petition from not less than 5% or 50, whichever is greater, of the registered voters of the township, according to the voting registration records at the time the petition is filed, requesting the board to issue bonds under this Article, the board, concurrently with the filing of a petition with the township clerk requesting him to submit to the voters of the township at the next election the question of whether or not to adopt a farmland protection plan and enter upon a farmland protection program, shall certify that proposition to the proper election officials who shall submit to the voters of the township at the next election the question of whether or not to adopt a farmland protection plan and enter upon a farmland protection program, shall certify that proposition to the proper election officials who shall submit to the voters of the township at the next election the question of whether or not the board shall issue bonds to finance a farmland protection program and provide for the levy and collection of a direct annual tax upon all taxable property within the township to meet the principal and interest on the bonds as they mature, which tax shall be in addition to and in excess of any other tax authorized to be levied by the township. The election shall be conducted and notice given in accordance with the general election law. The question submitted to the voters at the election shall be in substantially the following form:

Shall (name of township) issue bonds to finance the acquisition of agricultural conservation easements on viable farmland for farmland protection purposes as provided by the Township Farmland Protection Act and levy and collect property taxes, in excess of any other tax authorized to be levied by the township, sufficient to meet the principal and interest on the bonds as they mature, but not in an amount in excess of 5.75% on the valuation of taxable property in the township?

The votes shall be recorded as "Yes" or "No". If a majority of the voters voting on the question vote in favor of the question, the board shall issue bonds as provided in this Article provided such bonds are issued within 6 months after the voters vote favorably on such question. If such proposition does not receive the approval of a majority of the voters voting at the election on the question, no proposition may be submitted to such voters pursuant to this Section less than 23 months after the date of such election.

The board shall then adopt a resolution authorizing the issuance of such bonds, prescribing all the details thereof, and stating the time or times when the principal thereof and the interest on the bonds become payable, and the place of payment thereof. The bonds must, however, be payable within not less than 3 nor more than 40 years from the date thereof, and be issued to bear interest at, but not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract. Such a resolution shall provide for the levy and collection of a direct annual tax upon all the taxable property within the corporate limits of such township sufficient to meet the principal of and interest on the bonds as they mature, which tax shall be in addition to and in excess of any other tax authorized to be levied by the township.

A certified copy of the resolution providing for the issuance of any such bonds shall be filed with the county clerk of the county in which the township is located and constitutes the basis and authority of the county clerk for the extension and collection of the tax necessary to pay the principal of and interest upon the bonds issued under the resolution.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of Public Act 86-004, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Article that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority...
granted by the Omnibus Bond Acts are not invalid because of any provision of this Article that may appear to be or to have been more restrictive than those Acts.

Section 15. Report
No later than March 31 of each calendar year, the board of any township that has established a farmland protection program pursuant to the provisions of this Article shall file with the township clerk a report describing the actions taken by such board to implement its farmland protection plan. This report shall include at least the following information:

1. The amount of taxes levied and received by the township in the preceding calendar year;
2. The amount of all monies spent in the preceding calendar year in implementing the farmland protection plan and the specific purposes for which all monies were spent;
3. The legal and common descriptions of all agricultural conservation easements acquired in the preceding calendar year.
STATE OF ILLINOIS

REAL PROPERTY CONSERVATION RIGHTS ACT

(WITH PROPOSED CHANGES SHOWN AS UNDERLINED)

(765 ILCS 120/0.01)

Sec. 0.01. Short title. This Act may be cited as the Real Property Conservation Rights Act. (Source: P.A. 86-1324.)

(765 ILCS 120/1)

Sec. 1. (a) A conservation right is a right, whether stated in the form of restriction, easement, covenant or condition, or, without limitation, in any other form in any deed, will, plat, or without limitation any other instrument executed by or on behalf of the owner of land or in any condemnation order of taking, appropriate to preserving: (i) the significant physical character and visual characteristics of structures having architectural, historical, or cultural significance, together with any associated real property, whether or not improved; or (ii) land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition, or as suitable habitat for fish, plants, or wildlife; or (iii) the integrity of archaeological sites and the artifacts or information which they may contain pending properly supervised excavation and investigation. Without limiting the generality of the foregoing, the instrument conveying or reserving a conservation right may, with respect to either the grantor or grantee, require, prohibit, condition, limit or control any or all of the following:

(1) access or public visitation;
(2) affirmative acts of alteration, restoration, rehabilitation, repair, maintenance, investigation, documentation, payment of taxes, or compliance with public law and regulations;
(3) conditions of operation, use, restoration, alteration, repair or maintenance;
(4) acts detrimental to the preservation of a place;
(5) the construction, placement, maintenance in a particular condition, alteration, or removal of roads, signs, billboards or other advertising, utilities or other structures on or above the ground;

(6) the dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or other materials;
(7) the excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface or to otherwise alter the topography of the area;
(8) the removal or destruction of trees, shrubs or other vegetation;
(9) surface use inconsistent with preservation of water or land areas, or the improvement or appurtenance thereto;
(10) activities affecting drainage, flood control, water conservation, erosion control or soil conservation, or fish and wildlife habitat preservation; or
(11) any other acts or uses having relation to the preservation of structures, sites and water or land areas or the improvements or appurtenances thereto.

(b) A conservation right shall be taken to include a preservation restriction as that term is defined in Section 11-48.2-1A of the "Illinois Municipal Code", as now or hereafter amended, and shall not be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit being assigned or assignable. Conservation rights shall be construed and enforced in accordance with their terms, and shall be transferable and transferred, recorded and indexed, in the same manner as fee simple interests in real property, subject only to the limitations provided herein.

Conservation rights may be released by the holder of such rights to the holder of the fee even though the holder of the fee may not be an agency of the State, a unit of local government or a not-for-profit corporation or trust.

The holder of a grant pursuant to this Act shall not be required to record any instrument subsequent to the recording of the grant in order to maintain or continue the validity of the grant.
The holder of such rights shall also be permitted to transfer or assign such rights but only to another agency of the State, a unit of local government or to a not-for-profit corporation or trust.

(Source: P.A. 91-497, eff. 1-1-00.)

(765 ILCS 120/2)
Sec. 2. Any owner of real property in this State may convey a conservation right in such real property to the United States or any agency of the federal government, any agency of the State, to a unit of local government, or to a not-for-profit corporation or trust whose primary purposes include the conservation of land, natural areas, open space or water areas, the preservation of native plants or animals, or biotic communities, or geographic formations of scientific, aesthetic, or educational interest, or the preservation of buildings, structures or sites of historical, architectural, archeological or cultural significance, or the protection of agricultural land from conversion to other uses.

No conveyance of such conservation rights shall take effect until such conveyance is accepted by the grantee. Acceptance of such conservation rights may be conditioned upon any requirements which are deemed proper by the grantee. Such requirements may include the payment of funds by the grantor to provide for the management of such conservation rights.

(Source: P.A. 91-497, eff. 1-1-00.)

(765 ILCS 120/3)
Sec. 3. For the purposes of this Act the word "owner" shall include not only the owner of fee simple title, but also the owner of any other interest in the land, including, without limitation, a contract purchaser, a lessee, and a life tenant. Provided, any conveyance shall bind only the interest of the grantor, nor shall any conveyance by a party having a limited interest be made if it violates the provisions of the instrument under which such grantor holds.

(Source: P.A. 80-584.)

(765 ILCS 120/4)
Sec. 4. A conservation right created pursuant to this Act may be enforced in an action seeking injunctive relief, specific performance, or damages in the circuit court of the county in which the area, place, building, structure or site is located by any of the following:
(a) the United States or any agency of the federal government, the State of Illinois, or any unit of local government;
(b) any not-for-profit corporation or trust which owns the conservation right;
(c) the owner of any real property abutting or within 500 feet of the real property subject to the conservation right. Any owner of property subject to a conservation right who willfully violates any term of such conservation right may, in the court's discretion, be held liable for punitive damages in an amount equal to the value of the real property subject thereto.

(Source: P.A. 91-497, eff. 1-1-00.)

(765 ILCS 120/5)
Sec. 5. All instruments creating conservation rights and all instruments releasing conservation rights shall be duly recorded in the county where the land lies so as to affect title in the manner of other conveyances of interests in land and shall describe the land subject to or released from such conservation right by adequate legal description or by reference to a recorded plat showing its boundaries. The recorder or the Registrar of Titles shall, upon recording, cause a copy of the conservation right or release of conservation right to be mailed to the Department of Natural Resources. A release of the conservation right shall not be effective until it has been duly recorded.

(Source: P.A. 88-657, eff. 1-1-95; 89-445, eff. 2-7-96.)

(765 ILCS 120/6)
Sec. 6. This Act shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of the Act shall, on account of any provision herein, be unenforceable. Nothing in this Act shall diminish the powers granted in any other law to acquire by purchase, gift, grant, eminent domain or otherwise and to use land for public purposes.

(Source: P.A. 80-584.)
<table>
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<tr>
<th>Technique</th>
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<tr>
<td>Identify/Map Farmland Resources in Coordination with Other Natural Resources (C, S, F)</td>
<td>Not only the farmland resource, but also areas massive enough to support an agriculture infrastructure, should be mapped. The relative significance of various criteria may vary from one locale to another.</td>
<td>USDA soil survey mapping is complete and currently being digitized. IDOA is working on a cooperative effort (Illinois Interagency Land Classification Project) to track the farmland area of Illinois via remote sensing.</td>
<td>Interested groups or agencies should develop criteria for identifying critical mass and economic viability relative to Illinois’ agricultural land base.</td>
<td>IDOA should coordinate a state-assisted (technical and funding) locally driven strategic farmland mapping program.</td>
<td></td>
</tr>
<tr>
<td>Land Evaluation and Site Assessment System (LESA) (C, S)</td>
<td>This tool is used by county boards to make sound land use decisions, usually for rezoning requests (ag to non-ag).</td>
<td>34 Illinois counties have LESA systems in place.</td>
<td>Increased advocacy on the value of LESA is needed.</td>
<td>Prepare recommendations for motivating non-LESA counties to adopt the system.</td>
<td>NRCS/IDOA/SWCD’s should jointly promote LESA to local entities and provide technical assistance in LESA development.</td>
</tr>
</tbody>
</table>
### Farmland -- Elements of a Successful Program

<table>
<thead>
<tr>
<th>Technique</th>
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<th>Special Consideration</th>
<th>Additional Tasks</th>
<th>Remedy Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Zoning</td>
<td>Ag zoning is most effective if it minimizes farmland conversion and prevents the intrusion of non-farm uses into the areas designated for agriculture.</td>
<td>Only 56 of the 102 counties in Illinois are zoned at the county level. Many “collar” counties already have large-lot zoning in agricultural districts.</td>
<td>Unintended consequences of large-lot ag zoning may be subdivisions of 40-acre estates. Poorly defined conditional use standards may result in numerous conflicting uses within the ag zone.</td>
<td>The IDOA should assist counties and townships as a clearinghouse for model ordinances.1</td>
<td></td>
</tr>
<tr>
<td>Agriculture Areas</td>
<td>Most states have tax benefits for creating and penalties for leaving agricultural areas. Forming an ag area could be made a prerequisite to qualify for PACE programs.</td>
<td>Under the Agricultural Areas Conservation and Protection Act 53 ag areas in 21 counties of Illinois total 117,787 acres.</td>
<td>Limited interest may be due to lack of incentives or disincentives in the Illinois statute.</td>
<td>Draft incentives to stimulate enrollments into areas.</td>
<td>The legislature should adopt amendatory legislation drafted by the Ag Areas Work Group.2</td>
</tr>
<tr>
<td>Farmland Assessment</td>
<td>States often offer reduced real estate taxes for land subject to easement or enrolled in agriculture areas. This approach to preservation incentives is underutilized for forestland.</td>
<td>Farmland assessment in Illinois is based solely on use.</td>
<td>Designation and planning as forestland is a prerequisite to be considered for special tax treatment.</td>
<td></td>
<td>The Illinois Department of Natural Resources should more aggressively market the Forestry Development Act.</td>
</tr>
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**Role:** C = county; M = municipal; S = state; F = federal

Appendix I – Page 2
## Farmland -- Elements of a Successful Program

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<tbody>
<tr>
<td>Purchase of Agriculture Conservation Easements (PACE) [A.k.a. “Purchase of Development Rights (PDR)] (C, S, F)</td>
<td>A ranking system should be in place. A dedicated funding source may be a combination of general funds line item, bonds, or real estate transfer tax. Some states require monitored conservation plans on easement property and provide matching grants for compliance.</td>
<td>No clear enabling legislation exists in Illinois.</td>
<td>Because of vast farmland acreage, clearly defined guidelines and ranking systems are essential to identify highest priority parcels.</td>
<td>The legislature should adopt comprehensive enabling legislation.iii</td>
<td></td>
</tr>
<tr>
<td>Transfer of Development Certificates (TDC) – [A.k.a. “Transfer of Development Rights (TDR)] (C, S)</td>
<td>Significant growth pressure and clearly identified receiving areas with both low base density and infrastructure capacity for added growth must exist. Sending areas must be of highest priority for protection and should have infrastructure to support agriculture. Balanced supply and demand for TDC’s is necessary for a successful program.</td>
<td>No enabling legislation exists in Illinois.</td>
<td>Because of vast farmland acreage, TDCs should be utilized where growth pressures are greatest.</td>
<td>The legislature should adopt enabling legislation based upon investigation of successful TDC programs in other states and provide assistance for pilot program startup.iv</td>
<td></td>
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Appendix I – Page 3
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<tr>
<td>Agricultural Economic Development Program (C, S)</td>
<td>No program for farmland retention will be successful unless agriculture is profitable. New and improved markets for agricultural products are needed to increase profitability. This will result in greater farmland retention.</td>
<td>The IDOA has formed an Ag-Business Development Office for the creation of new markets.</td>
<td></td>
<td></td>
<td>The State should expand upon the Ag-Business Development Office program to develop new and improved technology and markets.</td>
</tr>
<tr>
<td>Right-to-Farm Provisions (C, S)</td>
<td>It is important in transition areas to discourage unreasonable nuisance suits. The use of agriculture disclosure notices on zoning maps and subdivision plats locally may warn non-farm rural residents of farm activity in the area.</td>
<td>P.A. 86-1324</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois Farmland Preservation Act (S)</td>
<td>The Act was adopted by the General Assembly in 1982 to limit farmland conversion impacts caused by state agency projects and programs.</td>
<td>Review of state agency projects for compliance with the Act is ongoing.</td>
<td>Enforcement of the Act is difficult due to absence of stringent provisions to minimize state agency impacts on conversion of farmland.</td>
<td>Develop recommendations for improving performance of the Act. There needs to be further discussion on the definition of the term “conversion.”</td>
<td>The Act should be amended to improve its effectiveness.</td>
</tr>
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Appendix I – Page 4
## Farmland -- Elements of a Successful Program

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<tbody>
<tr>
<td>Executive Order (S)</td>
<td>Executive Order Number 4 was issued by Former Governor Jim Thompson in 1980 to ensure that state agencies would take into account impacts of their projects on farmland conversion and reduce those impacts to the extent possible.</td>
<td>While still in effect, its impact has diminished.</td>
<td>A new executive order would bring the farmland conversion problem to the forefront, would re-emphasize state agency responsibilities on farmland protection, and should help build public understanding and support for balanced growth.</td>
<td></td>
<td>A new executive order should be issued to protect agricultural land from needless conversion that can result from state agency actions and to demonstrate the need for farmland protection to the public at large.</td>
</tr>
<tr>
<td>Executive Order Number 8 (S)</td>
<td>Executive Order Number 8 was issued by Governor Ryan on April 28, 2000 to create the Balanced Growth Cabinet and to ensure that existing state programs affecting growth are implemented effectively.</td>
<td>The Balanced Growth Cabinet meets on a regular basis.</td>
<td></td>
<td></td>
<td>As a component of Executive Order #8 and its companion Illinois Tomorrow Program, the development and implementation of measures to protect agricultural land from unnecessary conversion caused by public and private sector action should be a priority.</td>
</tr>
<tr>
<td>Facility Planning Areas (FPAs) (S)</td>
<td><a href="#">See “Water” table.</a></td>
<td><a href="#">See “Water” table.</a></td>
<td>FPA expansions can have major impacts on farmland conversion.</td>
<td><a href="#">See “Water” table.</a></td>
<td><a href="#">See “Water” table.</a></td>
</tr>
</tbody>
</table>

**Role:** C = county; M = municipal; S = state; F = federal

Appendix I – Page 5
**Technique** | **Comments** | **Status in Illinois** | **Special Consideration:** | **Additional Tasks** | **Remedy Proposed**
--- | --- | --- | --- | --- | ---
Targeting Infrastructure Investments (C, S, F) | [See “Natural Resource” table] | [See “Natural Resource” table.] | [See “Natural Resource” table.] | [See “Natural Resource” table.] | (Land Use & Transportation Working Group will address this issue.) [See “Recommendations” section of report.]

Comprehensive Planning (C, S) | If zoning decisions are not consistent with comprehensive plans for preservation and for growth areas, then those plans become compromised. Without strong intergovernmental agreements the annexation power of municipalities can render county and township plans ineffective. Preservation of farmland and other natural resources should be part of comprehensive planning. | Some counties and municipalities have extensive plans while others have none. There is no specific requirement that zoning decisions are linked to plans. In addition, there are no state guidelines indicating elements to be included in a plan. | Unlike many other states, Illinois governance is fragmented into numerous, sometimes competing, governmental units. A critical mass of farmland is necessary for economic viability of agriculture in an area. | (State Policies Working Group will address this issue.)

Tax Increment Financing (TIF) (S) | TIF districts are not always restricted to redevelopment of blighted areas. | Scarce financial resources should be targeted at more efficient use of existing infrastructure. | Communicate the potential impact on farmland and natural resource conversion if TIF is not utilized as intended. | (State Policies Working Group will address this issue.)

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*Appendix I – Page 6*
FARMLAND -- ELEMENTS OF A SUCCESSFUL PROGRAM

1 See Appendix C for American Farmland Trust discussion and fact sheet on agricultural zoning
2 See Appendix D for fact sheet and draft Agricultural Areas Conservation and Protection Act legislation
3 See Appendix F for fact sheets and copies of Pennsylvania’s Agricultural Areas Security Act and Appendix G Illinois’ proposed Township Farmland Protection Act
4 See Appendix B for a copy of TDC legislation from a state program (Maryland’s Rural Legacy Act) and a county-municipal program (Thurston County, WA)
5 See Appendix E for description of New York’s Watershed Agricultural Program

ROLE:  
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Appendix I – Page 7
## Natural Resources – Elements of a Successful Program

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<tr>
<td>Identify / Map Natural, Agricultural, and Cultural Resources (C, M, S)</td>
<td>Coordinated local government action is needed to determine what kind of resources should be included. What assistance is needed from the state, what information is already available, etc. Resources that are of community significance (rather than of statewide significance) are largely unidentified.</td>
<td>Some excellent data sources exist, such as the Illinois Natural Areas Inventory, for many types of state- and national-level resources. Relatively little data on resources that are of community significance exists. IDNR is working on a cooperative effort (Illinois Interagency Land Classification Project) to track the natural resource areas of Illinois via remote sensing.</td>
<td>Local governments would also need assistance with interpretation and use of data.</td>
<td>Share mapping ideas with stakeholders &amp; solicit input.</td>
<td>IDNR &amp; IDOA should coordinate a state-assisted (technical and funding) locally-driven mapping program. State agencies should continue to update their mapping inventories and increase their availability.</td>
</tr>
<tr>
<td>Natural, Agricultural, and Cultural Resource Protection Planning (C, M, S)</td>
<td>The Land Resource Management Planning Act (85 ILCS 5804) might serve as an initial point for reform efforts.</td>
<td>Some municipalities and counties have developed comprehensive plans, but natural, agricultural, and cultural resource protection has often been neglected.</td>
<td>New efforts should complement existing planning programs</td>
<td>Confer with stakeholders for input on incentives that would make program successful</td>
<td>IDNR &amp; IDOA should provide technical and financial assistance to local governments, especially county/municipal partnerships, for plan creation and implementation.</td>
</tr>
</tbody>
</table>

**Role:**
- C = county
- M = municipal
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# Illinois Growth Task Force – Farmland & Natural Resource Working Group

## Natural Resources – Elements of a Successful Program

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<tr>
<td>Purchase of Fee Simple (C, M, S)</td>
<td>The purchase of areas with valuable natural or cultural resources from willing sellers is an effective means for protection, but no comprehensive program exists.</td>
<td>Preservation efforts are currently underfunded.</td>
<td>There is a need to act before valuable resources are destroyed, but also a need to address local government concerns about the removal of property from local tax roles resulting from fee simple purchases.</td>
<td>Explore funding mechanisms used in other states</td>
<td>The State should establish a permanent, adequately funded program.</td>
</tr>
<tr>
<td>Purchase of Conservation Easements (C, M, S)</td>
<td>Purchase of Conservation Easements (PCE) [Otherwise known as Purchase of Development Rights (PDR) or Purchase of Conservation Rights] from willing sellers can be especially valuable for protecting farmland, and of some value for protecting natural areas.</td>
<td>Opinions differ as to whether the Illinois Real Property Conservation Rights Act 765 ILCS 120 clearly enables PCE for agricultural easements.</td>
<td>A PCE program should be part of a comprehensive approach to natural resource preservation.</td>
<td>Share this concept with the stakeholders and explore funding mechanisms</td>
<td>The Legislature should establish clearly defined enabling legislation and adequate funding.</td>
</tr>
<tr>
<td>Donation of Conservation Easements (C, M, S, F)</td>
<td>State and federal tax benefits (property tax, income tax, and estate tax) exist for those who donate conservation easements.</td>
<td>Property owners and local entities may be unaware of the benefits available.</td>
<td></td>
<td>Research whether additional incentives are needed.</td>
<td>IDNR should be an information clearinghouse and provide technical assistance to individuals and entities</td>
</tr>
</tbody>
</table>

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## TECHNIQUE

### Flexibility in / Revisions to Zoning Ordinances

(C, M)

- **Comments:** Creativity and flexibility in zoning ordinances would make it easier for "conservation developments" to use techniques such as clustered or mixed-use development with large natural areas preserved, and to reflect natural resource protection plans and comprehensive plans.

- **Status in Illinois:**

- **Special Considerations:** Incentives are needed to reward use of zoning laws that protect natural resources.

- **Additional Tasks:** Research APA ideas; seek input from conservation developers.

- **Remedy Proposed:** IDNR and/or DCCA should be a clearinghouse for technical information and model ordinances.

### Targeting Infrastructure

(C, M, S, F)

- **Comments:** Infrastructure investment should be consistent with plans identifying areas to be preserved and areas for growth. Encourage infill first and then development adjacent to developed areas next; discourage leapfrogging.

- **Status in Illinois:**

- **Special Considerations:** Tax incentives and investment incentives exist; these may create incentives for growth patterns inconsistent with area planning objectives.

- **Additional Tasks:** Infrastructure investment should be coordinated with brownfields incentives.

- **Remedy Proposed:** More study of the cost of scattered development vs. the cost of infill and contiguous development; study how state and local policies encourage balanced growth.

### Facility Planning Areas

(C, M, S)

- **Comments:** FPA permits can have significant impacts upon natural resources and on implementation of natural resource protection plans.

- **Status in Illinois:**

- **Special Considerations:** [See “Water” table.]

- **Additional Tasks:** [See “Water” table.]

- **Remedy Proposed:** [See “Water” table.]

### State “NEPA”

(S)

- **Comments:** The federal National Environmental Policy Act requires evaluation of environmental impacts of projects that the federal government funds or for which it issues permits or otherwise has a regulatory role.

- **Status in Illinois:**

- **Special Considerations:** No analogous law exists in Illinois.

- **Additional Tasks:**

- **Remedy Proposed:** IDNR and/or IEPA should research NEPA and other state NEPA laws to find models that may be appropriate for use in Illinois.

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*Appendix J – Page 10*
## TECHNIQUE

<table>
<thead>
<tr>
<th>Method of Natural Areas including Wetland and Habitat Protection (S)</th>
<th>Comments</th>
<th>Status in Illinois</th>
<th>Special Considerations</th>
<th>Additional Tasks</th>
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<tbody>
<tr>
<td>State has lost a large percentage of its wildlife habitat, including over 90% of natural wetlands, which serve many functions such as providing wildlife habitat and including flood control and improving water quality. Existing wildlife habitat is degraded or lost from a wide range of activities, including fragmentation, sedimentation, influx of exotic and invasive species, and their conversion to other land use.</td>
<td>The Interagency Wetlands Protection Act of 1989 establishes a short-term no-net-loss goal and a long-term goal of increasing wetland acreage for all state agencies. The Act does not apply to the private sector. Similar legislation does not exist to protect other habitat types or to establish low flow standards for streams and rivers. Best Management Practices (BMPs) and model development ordinances exist that could provide protection of wildlife habitat, however they are not available from a central location and are not necessarily comprehensive.</td>
<td>Explore methods of establishing low flow requirements for Illinois’ rivers and streams to protect the state’s aquatic flora and fauna with consideration for other uses.</td>
<td>IDNR should identify additional best management practices, construction techniques and management strategies to better protect wildlife habitat and provide technical assistance to public and private entities for implementation.</td>
<td></td>
<td></td>
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</tbody>
</table>
## Stormwater Management Authority (C, M, S)

**Comments:**
Runoff from development has increased causing flooding downstream. Not only the volume of water but also the rate and duration of flow has increased, causing stormwater problems throughout the state.

**Status in Illinois:**
Under ILCS 5/5-1062 stormwater management authority exists for “collar” counties, but no enabling authority exists for counties in other parts of the state. SWCD’s have some authority to implement stormwater ordinances.

**Special Considerations:**
Because water problems have no jurisdictional boundaries, multi-jurisdictional cooperation with drainage districts and other governmental units is required to develop watershed-based solutions. Fees based on impervious surfaces may be a more equitable funding source than real estate taxes.

**Remedy Proposed:**
The State should adopt enabling legislation for the entire state (exempting Cook and the collar counties) based on the following conditions:
--Established by county referendum
--Funding should be local impervious surface fee.
--Agricultural land exclusion
--Does not call for the dissolution of drainage districts. Existing legislation should be amended to allow fees as an alternative to real estate taxes in the collar counties.

---

## Drainage Districts (C, S)

**Comments:**
Drainage districts have been and will continue to be a valuable part of stormwater management. Urbanization within districts has created problems: without maps, construction causes breaks, impervious services cause runoff volumes to exceed system capacity, and silt from construction, etc. fills in systems.

**Status in Illinois:**
Base mapping of drainage systems is currently being performed on a limited basis (Champaign County). Mains and ditch work are needed so systems originally designed for agricultural drainage can function in urban areas.

**Remedy Proposed:**
IDOA, SWCD’s, and the Illinois Association of Drainage Districts should develop programs and assist in increasing public understanding of drainage districts, thermal infrared imaging of existing drainage systems, and reinvestments in drainage districts for system maintenance and upgrades.
## Illinois Growth Task Force – Farmland & Natural Resource Working Group

**WATER – ELEMENTS OF A SUCCESSFUL PROGRAM**

<table>
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<tr>
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<th><strong>ADDITIONAL TASKS</strong></th>
<th><strong>REMEDY PROPOSED</strong></th>
</tr>
</thead>
</table>
| **Floodplain Mapping**  
(C, S) | Mapping in Illinois is out-of-date and needs to reflect current conditions. | Some current maps substantially underestimate actual 100-year flood stages while others inaccurately include land outside of floodplains. |  |  | Lobby Congress and State Legislature to appropriate additional funds to implement a map modernization program through FEMA, IDNR, and county-wide agencies. |
| **Comprehensive planning, zoning and subdivision ordinance.**  
(C, S) | Comprehensive planning, zoning and subdivision ordinances can help reduce stormwater impacts and improve water quality. |  
[See “Natural Resource” table.] | Local planners may be unaware of techniques to modify ordinances for improved water quality and reduced stormwater impacts. |  
[See “Natural Resource” table.] | Technical assistance and model zoning and subdivision ordinances which reduce potential stormwater and water quality and quantity problems should be provided to local governments by appropriate state and regional agencies. |

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**ILINOIS GROWTH TASK FORCE – FARMFLAND & NATURAL RESOURCE WORKING GROUP**

**WATER – ELEMENTS OF A SUCCESSFUL PROGRAM**

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</thead>
<tbody>
<tr>
<td>Facility Planning Areas</td>
<td>Scattered development supported by unplanned sewer extensions can have significant impacts on water quality, on premature urbanization of farmland, and on other natural resources and implementation of natural resource plans.</td>
<td>FPA process as implemented by IEPA and regional agencies does not consider the full range of water and other natural resource impacts. IEPA has proposed replacing FPAs with drainage basin planning.</td>
<td>Multi-jurisdictional coordination is essential for successful planning and implementation.</td>
<td></td>
<td>Revise the FPA process to assure that development supported by sewer extensions does not contribute to violation of water quality standards and any anti-degradation requirements and is consistent with local and regional plans.</td>
</tr>
<tr>
<td>Water Saving Practices</td>
<td>Water supplies will soon be used to capacity in many areas, thereby limiting growth; water savings can be achieved through conservation practices by industry, developers, and residential users.</td>
<td>Adoption of water saving practices is incomplete.</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Drought Management</td>
<td>Drought management has been in the form of reaction to drought emergencies.</td>
<td>The state Inter-Agency Drought Task Force is in place.</td>
<td>Multiple sources have concluded that the state does not have sufficient authority to deal with water crises.</td>
<td></td>
<td>Legislation is needed to encourage advance planning by IDNR’s Office of Water Resources and the Illinois State Water Survey for droughts and other emergencies.</td>
</tr>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Groundwater Quality</strong> (C, M, S)</td>
<td>This is a major issue in the karst areas of the state (particularly Southwestern Illinois) and in other regions where groundwater is vulnerable to contamination.</td>
<td>Few counties have completed groundwater studies and State standards for septic systems may be inadequate under certain soil conditions.</td>
<td>Contamination occurs in fractures and where soils have high permeability. Contamination can travel long distances.</td>
<td></td>
<td>Appropriate State agencies should provide technical and grant assistance to further groundwater mapping, to develop model septic ordinances, and to replace existing septic systems with alternative treatment systems where necessary to reduce well or groundwater contamination.</td>
</tr>
<tr>
<td><strong>Water Supply</strong> (Groundwater and Surface Water) (C, M, S)</td>
<td>Recycling or reuse of water is rapidly gaining support across the country. The potential is growing for conflicts between irrigation and other uses of water. No statutory authority exists for any state agency to intervene in disputes between entities in conflict over water quantity.</td>
<td>No laws exist to protect groundwater quantity.</td>
<td>Groundwater resources should be viewed as regional or state resources and management plans should be based on solid science. Industrial and municipal water needs should be considered as part of any development.</td>
<td></td>
<td>More comprehensive mapping of the state’s groundwater resources is needed. In addition, the IDNR Office of Water Resources should investigate techniques for water reuse for non-potable applications.</td>
</tr>
</tbody>
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3. See Appendix F for fact sheets and copies of Pennsylvania’s Agricultural Areas Security Act and Appendix G Illinois’ proposed Township Farmland Protection Act

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See Appendix B for a copy of TDC legislation from a state program (Maryland’s Rural Legacy Act) and a county-municipal program (Thurston County, WA).

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