



Jeff Grim

Final Analysis

Legislative Service Commission

Sub. H.B. 289

127th General Assembly
(As Passed by the General Assembly)

Reps. Core, Distel, Hite, Gibbs, Sayre, Zehringer, Reinhard, Batchelder, Chandler, Collier, Combs, Daniels, Domenick, Dyer, Evans, Flowers, Goodwin, Huffman, Hughes, Luckie, Mallory, J. McGregor, Otterman, Patton, Schneider, Setzer, Webster

Sens. Mumper, Padgett, Carey, Buehrer, Faber, Fedor, Niehaus, Seitz, Harris

Effective date: *

ACT SUMMARY

- Alters the definition of "new development" for purposes of the Agricultural Security Areas Law by expanding the exclusions from "new development" to include the construction, modification, or operation of wind energy-producing facilities, easements for electricity, gas, or oil transmission or distribution lines, construction, modification, or operation of electricity, gas, or oil distribution lines, the grants of new mineral leases, or the drilling or operation of any oil or gas well on or in connection with the applicable land under certain circumstances.
- Alters the application requirements for enrolling land in an agricultural security area with respect to the preparation and contents of a map concerning the land.
- Allows additional contiguous farmland to be enrolled in an existing agricultural security area during a partially elapsed ten-year enrollment period.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

- Authorizes land that is enrolled in an agricultural security area to be transferred to another person during a partially elapsed ten-year enrollment period.
- Requires the clerk of the board of county commissioners of the county that includes the most land that is located or is to be located within an agricultural security area to serve as the clerk on behalf of all boards of county commissioners and boards of township trustees that are participating in a joint meeting concerning an application for the formation of an agricultural security area.
- Alters the requirements pertaining to the operation of a business in an agricultural security area.
- Alters the definition of "qualifying agricultural real property" for purposes of the law that provides a property tax exemption for property that is enrolled in an agricultural security area.
- Specifies that qualifying agricultural real property that is enrolled in an agriculture security area that is exempt from property taxes can be added to the list of property exempted from taxation that is compiled by a county auditor, and exempted from taxation, without the consent of the Tax Commissioner or the applicable metropolitan housing authority officer.
- Makes other changes to the Agricultural Security Areas Law.

CONTENT AND OPERATION

Introduction

Continuing law provides for the establishment of agricultural security areas whereby owners of land located in unincorporated areas of a county may enroll the land in such an agricultural security area. As part of the application for such enrollment, an applicant must pledge in a statement that he will not initiate, approve, or finance any new development for nonagricultural purposes on the land that is proposed to be enrolled in the agricultural security area for a ten-year period. "New development" is defined to include an applicant's transfer to another person of the ownership of property interest in the land during the ten-year period of enrollment of the land in the agricultural security area. Thus, agricultural

security areas serve as a statutory mechanism by which owners of agricultural land may protect the land from uses other than agriculture.

With respect to agricultural security areas, ongoing law establishes application requirements, requirements pertaining to hearings concerning applications by boards of township trustees and boards of county commissioners, authorizations for landowners in an agricultural security area to conduct certain businesses and build certain dwellings, agricultural security area renewal requirements, procedures for the withdrawal from an agricultural security area, and fines for failure to comply with certain requirements of the Agricultural Security Areas Law.

The act makes changes to various aspects of the Agricultural Security Areas Law and other provisions of law dealing with property tax exemptions for property included in agricultural security areas.

Alteration of definition of "new development"

As stated above, continuing law states that when a person enrolls land in an agricultural security area, he must pledge that he will not initiate, approve, or finance any new development for nonagricultural purposes on the land for a period of ten years. Law retained by the act specifies that "new development" does not include the construction, modification, or operation of transmission lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, provided that the construction, modification, or operation of the lines does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value. The act expands the exclusions from the definition of "new development" by specifying that the term does not include the construction, modification, or operation of wind energy-producing facilities, including windmills and windturbines, the grant of easements for or construction, modification, or operation of transmission or distribution lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, or the grant of new mineral leases, or the drilling or operation of any oil or gas well on or in connection with the land, provided that such activities do not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value. (Sec. 931.02(A)(3).)

Application requirements

Ongoing law establishes certain application requirements for persons applying for the inclusion of land in an agricultural security area. One of those requirements is that an applicant must submit a map of the land that is the subject of the application. Under former law, the map had to be prepared and certified by

a regional or county planning commission or a professional engineer or surveyor registered under continuing law. The act instead requires that the map be prepared, but not certified, by a regional or county planning commission; a professional engineer, including a county engineer, or a surveyor registered under continuing law; a soil and water conservation district created under continuing law; or the Natural Resources Conservation Service. (Sec. 931.02(A)(6)(a).)

Law retained in part by the act also requires the map to show the names and locations of all streams, creeks, or other bodies of water, roads, rights-of-way, railroads, utility lines, and water and sewer lines together with any existing residential, recreational, commercial, or industrial facilities that are on or are situated on the land to be included in the area and within 500 feet of the perimeter of the area. The act changes the requirements to require the map to show such locations that are situated on the land rather than are on or are situated on the land. The act also revises the requirements pertaining to utility, water, and sewer lines by specifying that the map must show the location of all utility, water, and sewer lines that are situated on the land to be included in the agricultural security area and within 500 feet of the perimeter of the area unless the board of county commissioners of each county and the board of township trustees of each township in which the land is located exempts the application from that requirement because the information generally is not readily available. (Sec. 931.02(A)(6)(d).)

Enrolling contiguous farmland

The act allows additional contiguous farmland to be enrolled in an existing agricultural security area during a partially elapsed ten-year enrollment period either by a landowner who already has land enrolled in the agricultural security area or by a landowner who does not already have land enrolled in the agricultural security area. To enroll additional contiguous land in an existing agricultural security area, a landowner must obtain permission from each owner of land that already is enrolled in the agricultural security area, submit an application in accordance with continuing law, and obtain approval of the application from all appropriate boards of township trustees and boards of county commissioners. Enrollment of the additional land in the existing agricultural security area is required to continue until the expiration of the current, partially elapsed ten-year enrollment period and may be renewed in accordance with renewal procedures established in law unchanged by the act. (Sec. 931.02(C).)

Transfer of land enrolled in agricultural security area

If an owner of land that is enrolled in an agricultural security area transfers the land to another person during a partially elapsed ten-year enrollment period,

the act provides that the land may remain in the agricultural security area until the expiration of that period, provided that both of the following apply:

(1) The transferee certifies and submits a statement, together with the transferee's first, middle, and last name and a description of the transferred land, to the appropriate boards of township trustees and boards of county commissioners specifying that, in accordance with continuing law, the transferee will not initiate, approve, or finance any new development for nonagricultural purposes on the transferred land during the remainder of the partially elapsed ten-year enrollment period. Upon receipt of the statement, the boards of township trustees and boards of county commissioners are required to adopt a resolution acknowledging the receipt; and

(2) The transferred land continues to satisfy the criteria in ongoing law that require the land forming an agricultural security area to be located in an agricultural district and require the land forming an agricultural security area to be valued and assessed for real property tax purposes as agricultural land under Ohio's Property Tax Law during the remainder of the partially elapsed ten-year enrollment period. (Sec. 931.02(D).)

The act then declares that the procedures in continuing law regarding township and county approval of an application for enrollment of land in an agricultural security area do not apply to the continued inclusion of such transferred land in an agricultural security area. Upon the expiration of the partially elapsed ten-year enrollment period, enrollment in the agricultural security area may be renewed in accordance with continuing law. (Sec. 931.02(D).) Further, the act specifies that the definition of "new development" (see above) does not include land that is transferred in accordance with the act (sec. 931.02(A)(3)).

Hearings on application for formation of agricultural security area

Ongoing law requires that not later than 60 days after receipt of an application to form an agricultural security area, the board of township trustees of each township in which the land that is proposed for enrollment in the agricultural security area is located and the board of county commissioners of each county in which the land is located must hear the application at the next regularly scheduled meeting of the board. Law unchanged by the act then establishes various provisions concerning procedures that are applicable to the meetings. One such provision allows boards of township trustees and boards of county commissioners to conduct joint meetings regarding an application in lieu of meeting separately. The act adds that for purposes of such a joint meeting, the clerk of the board of county commissioners of the county that includes the most land that is located or

is to be located within the agricultural security area must serve as the clerk on behalf of all boards of county commissioners and boards of township trustees participating in the joint meeting. The clerk's duties are required to include providing the public notice that is required under continuing law together with maintaining minutes and a record of proceedings for the joint meeting. (Sec. 931.03(A)(2).)

In order for a board of township trustees or board of county commissioners to approve an application to form an agricultural security area, the board must adopt a resolution doing so. Ongoing law includes various requirements governing what must be included in the resolution. One such requirement provides that the resolution must include a statement that the board of township trustees or board of county commissioners, as applicable, commits not to initiate, approve, or finance any development for residential, commercial, or industrial purposes, including construction of new roads and water and sewer lines, within the area for a period of ten years. Law largely retained by the act specifies that "development" does not include, in part, the improvement of existing roads, provided that the county engineer of each county in which the portion of the area affected by the improvement is located determines that the improvement is necessary for traffic safety, and provided that the improvement is consistent with the agricultural use of land in the area. The act requires instead that the improvement must be as consistent as possible with the agricultural use of land in the area. (Sec. 931.03(C)(1)(a).)

Additionally, ongoing law specifies that "development" does not include, in part, the construction, modification, or operation of transmission lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, provided that the construction, modification, or operation of the lines does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value under continuing law. The act expands the exclusion to include the construction, modification, or operation of distribution lines for electricity, gas, or oil. (Sec. 931.03(C)(1)(b).)

Approval to operate business in agricultural security area

Under former law, an owner of land that was enrolled in an agricultural security area could request approval to operate any business that did not impair the owner's ability to engage in agriculture from each board of township trustees and each board of county commissioners that adopted a resolution approving the establishment of the agricultural security area. The act instead authorizes an owner of land that is enrolled in an agricultural security area to request approval from each board of township trustees and each board of county commissioners that adopted a resolution approving the establishment of the agricultural security area

to operate any business that does not impair the owner's ability to engage in agriculture and does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value. (Sec. 931.04(A)(1).)

Fines

Law retained by the act states that whoever violates the provision of the Agricultural Security Areas Law that deals with notice of withdrawal from an agricultural security area or the provision that deals with failure to comply with the statement that is required to be submitted by the owner of land in an agricultural security area indicating that the owner will only use the land for agricultural purposes must be fined \$500. The act adds that the \$500 fine is applicable for a violation of each provision. (Sec. 931.99.)

Tax exemption for land in agricultural security area

Continuing law establishes a property tax exemption for qualifying agricultural real property that is enrolled in an agricultural security area. Law revised in part by the act defines "qualifying agricultural real property" as a building, structure, improvement, or fixture that is used exclusively for agricultural purposes, is located on land enrolled in an agricultural security area, and has a true value in money of \$25,000 or more. The act alters the definition to provide that "qualifying agricultural real property" means a building, structure, improvement, or fixture that is used exclusively for agricultural purposes, that is located on land enrolled in an agricultural security area, and for which the aggregate new investment has a true value in money of \$25,000 or more. (Sec. 5709.28.)

Ongoing law requires a county auditor to make a list of real and personal property in the auditor's county, including money, credits, and investments in bonds, stocks, or otherwise, that is exempted from taxation. Under law generally retained by the act, no additions can be made to the list and no additional items of property can be exempted from taxation without the consent of the Tax Commissioner or the applicable metropolitan housing authority officer as provided under continuing law. However, under the act, qualifying agricultural real property that is enrolled in an agriculture security area that is exempt from property taxes can be added to the list and exempted from taxation without the consent of the Tax Commissioner or the applicable metropolitan housing authority officer. (Sec. 5713.08(A).)

HISTORY

ACTION	DATE
Introduced	07-24-07
Reported, H. Agriculture & Natural Resources	11-01-07
Passed House (93-0)	12-12-07
Reported, S. Agriculture	03-13-08
Passed Senate (31-1)	04-01-08
House concurred in Senate amendments (94-0)	04-08-08

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