Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL:	**Sub. S.B. 223 (LSC 122 1378-5)**	DATE:	**April 1, 1998**
STATUS:	**In Senate Ways and Means**	SPONSOR:	**Sen. Drake**

LOCAL IMPACT STATEMENT REQUIRED: **No — Permissive**

CONTENTS: **Clarifies agricultural land uses that may be the subject of easements and provides for their extinguishment; authorizes the Director of Agriculture and certain entities to acquire and purchase agricultural easements through various means and establishes a fund in the state treasury for such purchases.**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Agricultural Easement Purchase Fund			
Revenues	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	Potential increase	Potential increase

- Over the remainder of the FY1998-1999 biennium, the Department of Agriculture's Office of Farmland Preservation would incur only minimal administrative costs related to the coordination of the agricultural easement program.

- The bill creates the Agricultural Easement Purchase Fund, which would allow the Department to purchase agricultural easements directly, or provide grants and matching funds for political subdivisions which intend to purchase agricultural easements. The bill does not appropriate any funds to this account.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Other Local Governments			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

- Counties are permitted to levy sales and use taxes of one-fourth to one-half of one percent to purchase agricultural easements directly, to pay for the debt charges on bonds issued for such purchases, and for their supervision and enforcement.

- Local governments are permitted to levy additional property taxes outside the ten mill limitation to purchase agricultural easements directly, to pay for the debt charges on bonds issued for such purchases, and for their supervision and enforcement.

- Counties could incur costs for the county recorder to maintain the records of agricultural easements and follow the reporting procedures required by the bill. However, any increase in costs could be largely offset by increased fee revenue received under the bill.

Detailed Fiscal Analysis

Provisions Affecting the Department of Agriculture

The bill gives the Director of Agriculture exclusive authority to implement and coordinate an *agricultural* easement program. Currently, this authority rests with the Director of the Department of Natural Resources, whose department administers several kinds of preservation and environmental easement programs. The bill also permits local political subdivisions to implement agricultural easement programs. Language in the bill neither requires these easements to be permanent, nor limits the duration of the easements. The bill allows landowners to sell these easements to the Ohio Department of Agriculture, local government agencies, or private charitable organizations. Finally, easements can be terminated--or "extinguished"--under certain terms prescribed in the legislation.

Purchase of Agricultural Easements

An agricultural easement is a legal agreement between a landowner and another party that restricts land use to agricultural purposes in exchange for money. To establish the price of an agricultural easement, the land is appraised at its potential value for development and then at its value for agricultural purposes. The landowner is then paid the difference to preserve the land exclusively for agricultural use.

Duties of the Office of Farmland Preservation

Provisions in the bill also vest the Office of Farmland Preservation (OFP) with certain administrative duties involved with purchasing agricultural easements across the state. The bill requires county recorders to mail photocopies of all instruments that convey agricultural easements to the state, counties, and municipalities. In turn, the OFP must reimburse the county recorders for the expense of photocopying these instruments.

Agricultural Easement Purchase Fund

The bill also creates the Agricultural Easement Purchase Fund, but does not appropriate any moneys to this account. The Director of Agriculture may use the Fund either to acquire agricultural easements directly from landowners, or offer matching grants to municipalities, counties or townships which intend to purchase agricultural easements. The Fund may consist of federal and state grants, as well as funds raised from private charitable sources. Under very limited circumstances, the bill allows for the Department to sell or "extinguish" agricultural easements it purchases as long as the money is deposited to the Agricultural Easement Purchase Fund. Otherwise, all agricultural easements bought with moneys in the Fund must be perpetual and run with the land.

The bill establishes an incentive and regulatory system that would allow the Ohio Department of Agriculture and local political subdivisions to apply for matching Federal Farmland Protection funds. In 1997, the Natural Resources Conservation Service (NRCS), which administers the Federal Farmland Protection Program, granted local governments and state agencies in 10 states $1.92 million in matching funds for the purchase of agricultural easements. It should also be noted that in its capital request for FY1999-2000, the Ohio Department of Agriculture is seeking $5,000,000 to combine with federal funds for the purchase of agricultural easements, or development rights, across the state.

The bill requires the Department of Agriculture to adopt rules governing applications for matching funds from the Agricultural Easement Purchase Fund. The Department would incur some expense in developing these rules, creating the forms, and reviewing, approving, or denying grant applications from counties, townships, and municipalities that submit requests for matching funds.

The Acquisition of Agricultural Easements by Political Subdivisions

Sales and Use Taxes

The bill permits a board of county commissioners to levy a tax of one-fourth to one-half of one percent on every retail sale in the county in order to provide for the acquisition of agricultural easements, to pay for the debt charges on bonds issued under section 133.60 (see the following section on debt issuance), and for the supervision and enforcement of agricultural easements held by the county. The board may also increase an existing rate of one-fourth of one percent to one-half of one percent to pay the expenses of administering the tax. A county that levies a tax on retail sales for this purpose shall also levy a corresponding rate on storage, use, and consumption in the county as defined in section 5741.023 of the Revised Code.

Property Taxes Levied

S.B. 223 would permit local governments to levy additional property taxes outside the ten-mill limitation to purchase agricultural easements directly. Proceeds from the tax increase may also be used to supervise and enforce the easements or to finance the issuance of general obligation bonds (see following section on debt issuance). Any increase in property taxes outside the ten mill limitation would be subject to voter approval.

Debt Issuance

The bill would permit counties to issue debt for the purpose of acquiring agricultural easements. Bonds and/ or notes issued under section 133.60 of the Revised Code would not constitute general obligation debt of the county, but would instead be secured by revenues from the county's share of the sales and use tax. No reduction in the allocation of sales and use taxes may be made while the bonds and notes issued under section 133.60 are outstanding, unless there are sufficient funds available to meet debt service requirements. Debt issued under this section would have a first claim on the proceeds of the taxes for payment of debt service and would not be included in the calculation of the net indebtedness of a county.

Section 133.61 of the Revised Code permits the legislative authority of counties, townships, and municipalities to issue general obligation debt for the purchase of agricultural easements. Debt issued under this section would be contingent upon voter approval and debt service payments would be provided through a property tax levy. Any additional property tax levied for debt service payments on bonds issued under section 133.61 must be approved by voters as part of the ballot issue approving bond issuance. The tax must be levied at a rate calculated to be sufficient to pay debt charges on the bonds and shall not exceed the life of the indebtedness.

Under both sections 133.60 and 133.61 of the Revised Code, moneys received from bond issuance are to be used exclusively for the purchase of agricultural easements after all issuance and financing costs have been paid.

Provisions Affecting County Recorders

The bill requires county recorders to maintain records regarding agricultural easements granted by political subdivisions within the county. The County Recorder must also mail copies of conveyances and extinguishments of agricultural easements to the Ohio Department of Agriculture's Office of Farmland Preservation.

The bill permits the county recorder to charge a fee to the Office of Farmland Preservation for providing photocopies of agricultural easements as described above. County recorders could charge a fee of five dollars for filing and indexing a record of each easement conveyed and a fee of three dollars for filing and indexing an instrument extinguishing an easement.

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