

HOUSE BILL 863

M4, M1

7lr0506

By: **Delegates Barve, Davis, Fraser–Hidalgo, Frick, Gilchrist, Hixson, Jalisi, Robinson, and Stein**

Introduced and read first time: February 3, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **State Agricultural and Conservation Property Interests – Solar Facilities**
3 **(Right to Solar Farm)**

4 FOR the purpose of exempting a certain facility that generates electricity by utilizing solar
5 energy from certain development restrictions under an agricultural land
6 preservation easement; altering the limitation on the percentage of the land subject
7 to an agricultural land preservation easement that may be used for the generation
8 of electricity from solar energy; authorizing the Maryland Environmental Trust to
9 lease properties for the generation of electricity by a facility utilizing solar energy
10 subject to a certain limitation; authorizing the Rural Legacy Board to use or sell
11 certain interests in land for the generation of electricity by a facility utilizing solar
12 energy subject to a certain limitation; making certain stylistic changes; and
13 generally relating to State agricultural and conservation property interests.

14 BY repealing and reenacting, without amendments,
15 Article – Agriculture
16 Section 2–513(c)(1)
17 Annotated Code of Maryland
18 (2016 Replacement Volume)

19 BY repealing and reenacting, with amendments,
20 Article – Agriculture
21 Section 2–513(c)(2), (3), and (4)
22 Annotated Code of Maryland
23 (2016 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article – Natural Resources
26 Section 3–208
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2012 Replacement Volume and 2016 Supplement)

BY adding to

Article – Natural Resources

Section 5–9A–05(p)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Agriculture

2–513.

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Authorized renewable energy source” means the following energy sources:

1. Solar;

2. Wind;

3. Anaerobic digestion of poultry litter if placed on fallow land; and

4. Anaerobic digestion of livestock manure if placed on fallow land.

(iii) “Reference point” means a point on the Patuxent Naval Air Station centered at 38.29667N and 76.37668W.

(2) Subject to paragraph (4) of this subsection, any easement approved for purchase by the Board of Public Works after June 30, 2014, shall authorize the landowner to request approval, with a favorable recommendation of the local agricultural advisory board and if not prohibited by federal, State, and local laws and regulations, to use the land subject to the easement for the generation of electricity by a facility utilizing an authorized renewable energy source provided that:

(i) **[The] FOR GENERATION OF ELECTRICITY FROM WIND OR THE ANAEROBIC DIGESTION OF POULTRY LITTER OR LIVESTOCK MANURE, THE** facility occupies no more than 5% or 5 acres, whichever is less, of the land subject to the easement:

1 1. Including permanent roads or structures that are
2 necessary for access for operation and maintenance purposes; and

3 2. Not including any temporary impacts necessary for
4 construction of the facility;

5 (ii) **FOR GENERATION OF ELECTRICITY FROM SOLAR ENERGY:**

6 1. **THE FACILITY OCCUPIES NO MORE THAN 25% OF THE**
7 **LAND SUBJECT TO THE EASEMENT:**

8 A. **INCLUDING PERMANENT ROADS OR STRUCTURES**
9 **THAT ARE NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE PURPOSES;**
10 **AND**

11 B. **NOT INCLUDING ANY TEMPORARY IMPACTS**
12 **NECESSARY FOR CONSTRUCTION OF THE FACILITY; AND**

13 2. **THE TOTAL AMOUNT OF LAND AUTHORIZED TO BE**
14 **USED FOR THE GENERATION OF ELECTRICITY FROM SOLAR ENERGY DOES NOT**
15 **EXCEED 3% OF THE LAND ACQUIRED UNDER THIS SUBTITLE;**

16 (III) The Foundation determines that authorizing the landowner to
17 use the land subject to the easement for the generation of electricity [by a facility utilizing
18 an authorized renewable energy source] **FROM WIND OR THE ANAEROBIC DIGESTION OF**
19 **POULTRY LITTER OR LIVESTOCK MANURE** will not[:

20 1. Interfere] **INTERFERE** significantly with the agricultural
21 use of the land subject to the easement; [and

22 2. Interfere]

23 (IV) **THE FOUNDATION DETERMINES THAT AUTHORIZING THE**
24 **LANDOWNER TO USE THE LAND SUBJECT TO THE EASEMENT FOR THE GENERATION**
25 **OF ELECTRICITY BY A FACILITY UTILIZING AN AUTHORIZED RENEWABLE ENERGY**
26 **SOURCE WILL NOT INTERFERE** with State, local, or federal restrictions placed on funds
27 used by the Foundation to purchase the easement; and

28 [(iii)] (V) For generation of electricity from wind, the generating
29 station's wind turbines:

30 1. Are not located in an area where the wind turbines could
31 create Doppler radar interference for missions at the Patuxent River Naval Air Station;
32 and

1 2. Do not exceed the maximum height above ground level
2 within the area specified in paragraph (5) of this subsection.

3 (3) Subject to paragraph (4) of this subsection, a written request of a
4 landowner, with a favorable recommendation of the local agricultural advisory board and
5 if not prohibited by federal, State, and local laws, may be approved by the Foundation to
6 amend an existing easement to authorize the landowner to use the land subject to the
7 easement for the generation of electricity by a facility utilizing an authorized renewable
8 energy source provided that:

9 (i) **[The] FOR GENERATION OF ELECTRICITY FROM WIND OR**
10 **THE ANAEROBIC DIGESTION OF POULTRY LITTER OR LIVESTOCK MANURE, THE**
11 facility occupies no more than 5% or 5 acres, whichever is less, of the land subject to the
12 easement:

13 1. Including permanent roads or structures that are
14 necessary for access for operation and maintenance purposes; and

15 2. Not including any temporary impacts necessary for
16 construction of the facility;

17 (ii) **FOR GENERATION OF ELECTRICITY FROM SOLAR ENERGY:**

18 1. **THE FACILITY OCCUPIES NO MORE THAN 25% OF THE**
19 **LAND SUBJECT TO THE EASEMENT:**

20 A. **INCLUDING PERMANENT ROADS OR STRUCTURES**
21 **THAT ARE NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE PURPOSES;**
22 **AND**

23 B. **NOT INCLUDING ANY TEMPORARY IMPACTS**
24 **NECESSARY FOR CONSTRUCTION OF THE FACILITY; AND**

25 2. **THE TOTAL AMOUNT OF LAND AUTHORIZED TO BE**
26 **USED FOR THE GENERATION OF ELECTRICITY FROM SOLAR ENERGY DOES NOT**
27 **EXCEED 3% OF THE LAND ACQUIRED UNDER THIS SUBTITLE;**

28 (III) The Foundation determines that authorizing the landowner to
29 use the land subject to the easement for the generation of electricity [by a facility utilizing
30 an authorized renewable energy source] **FROM WIND OR THE ANAEROBIC DIGESTION OF**
31 **POULTRY LITTER OR LIVESTOCK MANURE** will not[:

32 1. Interfere] **INTERFERE** significantly with the agricultural
33 use of the land subject to the easement; [and

1 2. Interfere]

2 **(IV) THE FOUNDATION DETERMINES THAT AUTHORIZING THE**
3 **LANDOWNER TO USE THE LAND SUBJECT TO THE EASEMENT FOR THE GENERATION**
4 **OF ELECTRICITY BY A FACILITY UTILIZING AN AUTHORIZED RENEWABLE ENERGY**
5 **SOURCE WILL NOT INTERFERE** with State, local, or federal restrictions placed on funds
6 used by the Foundation to purchase the easement; and

7 [(iii)] **(V)** For generation of electricity from wind, the generating
8 station's wind turbines:

9 1. Are not located in an area where the wind turbines could
10 create Doppler radar interference for missions at the Patuxent River Naval Air Station;
11 and

12 2. Do not exceed the maximum height above ground level
13 within the area specified in paragraph (5) of this subsection.

14 (4) (i) The Foundation may not approve the use of land subject to an
15 easement for the generation of electricity [by a facility utilizing an authorized renewable
16 energy source] **FROM WIND OR THE ANAEROBIC DIGESTION OF POULTRY LITTER OR**
17 **LIVESTOCK MANURE** after June 30, 2019.

18 (ii) This paragraph may not be construed to prohibit the use of land
19 subject to an easement for the generation of electricity in accordance with this subsection
20 that was approved by the Foundation before July 1, 2019.

21 **Article – Natural Resources**

22 3–208.

23 **(A)** Subject to the limitations of § 3–207 of this subtitle, the Trust may improve,
24 sell, convey, assign, lease, or otherwise transfer or dispose of any property, or interest in
25 property, it holds, and enter into any **ASSOCIATED** contract, easement, or other legal
26 arrangement [incident thereto] **ON TERMS AND CONDITIONS THE TRUSTEES DEEM**
27 **APPROPRIATE**, including [but not limited to,] the authority to [lease]:

28 **(1)** **LEASE** properties for various commercial and residential uses
29 consistent with the purposes of the Trust [on terms and conditions the trustees deem
30 appropriate]; **AND**

31 **(2)** **LEASE PROPERTIES FOR THE GENERATION OF ELECTRICITY**
32 **FROM SOLAR ENERGY PROVIDED THAT:**

1 **(I) THE FACILITY OCCUPIES NO MORE THAN 25% OF THE LAND**
2 **SUBJECT TO THE LEASE:**

3 **1. INCLUDING PERMANENT ROADS OR STRUCTURES**
4 **THAT ARE NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE PURPOSES;**
5 **AND**

6 **2. NOT INCLUDING ANY TEMPORARY IMPACTS**
7 **NECESSARY FOR CONSTRUCTION OF THE FACILITY; AND**

8 **(II) THE TOTAL AMOUNT OF LAND AUTHORIZED TO BE USED**
9 **FOR THE GENERATION OF ELECTRICITY FROM SOLAR ENERGY DOES NOT EXCEED**
10 **3% OF THE LAND ACQUIRED UNDER THIS SUBTITLE.**

11 **(B)** Any lease the trustees make shall be in immediate furtherance of the purposes
12 of the Trust and not merely for investment purposes.

13 **(C)** Notwithstanding any provision of law to the contrary, a lease the Trust makes
14 may not be subject to redemption at the option of the tenant, unless expressly provided.

15 5-9A-05.

16 **(P) ANY INTEREST IN LAND THAT THE BOARD ACQUIRES UNDER THIS**
17 **SUBTITLE MAY BE USED OR SOLD FOR THE GENERATION OF ELECTRICITY BY A**
18 **FACILITY UTILIZING SOLAR ENERGY PROVIDED THAT:**

19 **(1) THE FACILITY OCCUPIES NO MORE THAN 25% OF THE LAND**
20 **ACQUIRED:**

21 **(i) INCLUDING PERMANENT ROADS OR STRUCTURES THAT ARE**
22 **NECESSARY FOR ACCESS FOR OPERATION AND MAINTENANCE PURPOSES; AND**

23 **(ii) NOT INCLUDING ANY TEMPORARY IMPACTS NECESSARY**
24 **FOR CONSTRUCTION OF THE FACILITY; AND**

25 **(2) THE TOTAL AMOUNT OF LAND AUTHORIZED TO BE USED FOR THE**
26 **GENERATION OF ELECTRICITY FROM SOLAR ENERGY DOES NOT EXCEED 3% OF THE**
27 **LAND ACQUIRED UNDER THIS SUBTITLE.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2017.