

REPORT OF THE SUBCOMMITTEE STUDYING

AGRICULTURAL LAND PRESERVATION

TO

THE GOVERNOR

AND

THE GENERAL ASSEMBLY OF VIRGINIA



HOUSE DOCUMENT NO. 19

**COMMONWEALTH OF VIRGINIA
RICHMOND
1981**

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**Report of the Subcommittee Studying
Agricultural Land Preservation
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1981**

To: Honorable John N. Dalton, Governor of Virginia
and
The General Assembly of Virginia

Conclusions:

Every year much of Virginia's prime farmland is being lost or withdrawn from production. Although a nationwide occurrence, the loss rate in Virginia is higher than in most of the country. This loss, if not addressed soon, will result in serious damage to the state's overall economy because agriculture is its leading industry. More seriously, from a national perspective, our leading position in worldwide food production will be jeopardized, if present trends continue.

In addition to the activity of private developers, actions of state agencies have been responsible for much of the conversion of farmland to non-agricultural uses. On the local level, county and city governments do not have sufficient authority to protect prime farmland and, at the same time, provide for the growth that is occurring and will continue to occur.

Recommendations:

1. There should be an explicit state policy on the preservation of farmland, declaring that all state agencies consider the impact on farmland of their regulations and projects and that the agencies should take every feasible step to minimize that impact as much as possible.
2. Ongoing farm operations should not be hampered by nuisance suits or ordinances instigated by non-farmers who have recently moved into an area.
3. Preservation of agricultural and forestal land should be allowed to express the explicit purposes of local comprehensive plans and zoning ordinances.
4. Local governments should be able to acquire scenic easements from individual landowners for periods of less than thirty years.
5. The subcommittee should continue in existence for another year in order to consider other methods of farmland preservation, both at the state and local level, and to evaluate those programs already in existence in Virginia.

Introduction

Despite its wane in this century, farming is still important to the nation and to the state of Virginia. The United States is the world's largest food producer and the dependence of other countries on food from this country will increase. Even now, our agricultural exports prevent us from having a large deficit in our balance of trade. Agriculture is Virginia's largest industry. The Department of Agriculture and Consumer Services estimates that farming and directly related activities contribute about \$4.6 billion to the state's economy annually. It is imperative that any factor adversely effecting agriculture be assessed most carefully.

The land is basic to farming. This may seem like a truism, but so much attention is paid to technological developments in agriculture, such as new machinery, new fertilizers and pesticides, new growing techniques, and new seeds, that we tend to take the land for granted until it is no longer there. And it is disappearing.

Agricultural land is lost in a number of ways. A significant amount either blows or washes away

through erosion. Another large portion is lost because it is converted to non-farm uses. It is this latter type of loss with which this report is concerned.

Because this problem has only recently become one of concern, we are not sure exactly how much farmland is disappearing. A national study sponsored by the federal government estimates that the country experienced an annual conversion of 3 million acres of agricultural land between 1967 and 1977. About one-third of that land was prime agricultural land before it was converted. That same study estimated that in the same time period Virginia lost 140,000 acres per year to other uses. If the present loss trend continues, Virginia will lose, by the year 2000, an additional 1 million acres of farmland, a third of which will be prime land. Because of difficulties in gathering data and in defining agricultural land, the figures are only estimates and will vary with the source. The exact figures are not that important however. What is important and is agreed upon, is that prime farmland is being lost from production at an alarming rate.

The concern over this problem has been widespread enough that the national government has formed the interdepartmental National Agricultural Lands Study, due to report in early 1981. The states have taken the lead, however, and several have enacted a variety of programs designed to preserve farmland.

In 1980, the General Assembly of Virginia directed the Agriculture Committee of the House of Delegates and the Senate Committee on Agriculture, Conservation and Natural Resources to investigate the status of farm preservation programs in the state. (Included in the appendix is House Joint Resolution No. 40, commissioning this study.) This subcommittee was appointed to carry out this request. In addition to a number of meetings and a public hearing in Leesburg, the members of the subcommittee attended a seminar on agricultural land preservation sponsored by the Frances Lewis Law Center of Washington and Lee University for the benefit of the subcommittee. The seminar was one of the best of its kind that we have ever attended in our roles as legislators. The information and perspectives we gained there added immeasurably to our deliberations in the course of this study. We are most grateful to Washington and Lee University and its law center for sponsoring this activity.

Governmental Activities

Farmland is converted by either the actions of governmental agencies or by the individual decisions of its owners. The role of governmental agencies is just coming to be appreciated and understood. A number of examples can illustrate the problem. Citizens in rural, predominantly agricultural counties must rely on individual lot systems for sewage disposal. The State Health Department regulations emphasize septic tank or drainfield systems and tend to discourage alternative means. In many counties, land which has adequate soil quality and quantity for such systems are also the prime agricultural soils. Furthermore, one-fourth acre or more usually must be reserved for each drainfield. The result is the required usage of large areas of farmland for subdivisions.

Another conflict often comes with the State Department of Highways and Transportation. That department has attempted to reserve 200-foot rights-of-way when agricultural districts were formed in some counties. These rights-of-way had no relation to the counties' comprehensive plans and were apparently only contingency requests. Nevertheless, they involved large amounts of farmland and would have interfered with the basic purpose of the agricultural district.

There have also been instances in which the State Water Control Board has approved the location of water treatment facilities near prime agricultural land. Such a move could very well open that area to development pressures.

Recommendation

It should be explicit state policy that state agency regulations and actions be promulgated only after their impact on farmland is carefully considered. We recommend the adoption of such a policy. We recognize that farmland preservation considerations cannot always take precedence, but they should figure in the balance. In any event, farmland loss should be kept to the minimum possible.

We recommend that each state agency review its policies and actions to ensure compliance with

this policy. An interdepartmental committee would exist to consider any questions which might arise and to report to the Governor and General Assembly on the status of farmland. In any case in which significant farmland were threatened by state agency action, such action would have to be reviewed by the Commissioner of Agriculture and Consumer Services before its implementation. The Commissioner would assess the impact on farmland and make recommendations.

Development

Harder to deal with is the conversion of farmland for residential or commercial development by individual owners. It is a familiar story in swiftly urbanizing areas. At first, a few people are attracted to the outer fringes of the urban area by the availability of more space at a relatively low cost, more pleasant surroundings, or for a variety of other reasons. The development of road systems and water and sewage systems accelerate the movement. Home builders and commercial developers are able to get more money per acre for their uses than a farmer gets for his use. Steadily, the market value of land rises as more and more people move to the once rural area, which steadily becomes a suburb. The best land for handling the development is also prime farmland. It percs well and has a good topography. Once the land is converted from farm use, it is usually lost forever.

Although conversion activity handsomely benefits a great number of individual farmers who have farms in the path of development, it has detrimental effects on society and other individual farmers as well. The most significant potential effect on society is the loss of productive farmland. If such loss is great enough, the result could be higher food prices or even shortages of some products. Virginia's farms now produce about half of the state's demand for food. Based on population projections, the Commonwealth will need an *additional* 1.5 million acres by the year 2000 just to continue producing this half. Another, less tangible, effect is the aesthetic loss. The existence of open fields and woodlands has an uplifting effect on many people. There is a lifestyle associated with the rural, farming environment which is worth preserving.

As farmers sell their land to developers, problems are created for those farmers who do not sell and who wish to remain in farming. The increase in the value of their land does not benefit them so long as they do not sell, but only increases their property taxes. Furthermore, farming activities are just not compatible with areas of even moderate density. Residents of subdivisions complain about evening plowing, fertilizer and manure spreading, pesticide applications, barnyard smells and other normal agricultural activities. They often go so far as to persuade the local governing body to pass nuisance ordinances aimed at such annoyances. On the other hand, farmers have to contend with residential pets chasing farm stock or kids tearing up fences and fields. Slow-moving farm machinery on roads made busy by suburbanite traffic present a hazard to farmer and suburbanite alike. People moving to the rural areas from the city often miss the services they had in the city and soon demand that the local government build parks, swimming pools, libraries, better schools, etc. The government will have to turn to the real estate tax for the funds to meet these demands, which means the farmer must bear a disproportionate share because his base is in land.

As more and more farmers grab the rising price they can get for their land, the remaining farmers come under more pressure. As the farming community gets smaller, the supporting industries for agriculture—the feed store, the equipment dealer, the friendly banker—leave. Those remaining on the farm become more isolated. They are not likely to be joined in farming because the land prices are so high that younger people cannot afford to buy the land necessary to start farming.

Several states have recognized these problems for some time and have developed means of dealing with them. The solutions have their roots in each state's political and economic environment and may not be applicable or transferrable to another state. But it is instructive to examine them and to assess their results.

Right to farm

Several states have enacted laws designed to protect farmers from complaints of their newly-settled suburban neighbors. These laws generally prohibit farming activities being judged a nuisance in a civil suit or outlawed by ordinance as a nuisance, if the activity is a normal agricultural one, the farm has been in operation a certain length of time, and the activities are not carried out in a negligent manner. These issues raise the tough questions of respective rights to use

and enjoy land. The statutes which have been passed seem to have struck a fair balance.

Recommendations

Last year, the House of Delegates Committee on Agriculture considered and carried over House Bill 152, which would have protected farming operations from being declared nuisances. This subcommittee considered that bill, and a substitute version of it, and we recommend its passage.

Deferred taxes and districts

The most widely used approach to preserving farmland has been to lessen the tax burden. Most states now allow land to be assessed for taxation purposes on the basis of its actual use rather than on the fair market value of its highest and best use. The effect is to lower the property tax bill for owners of farmland. Quite often, the locality uses a system of tax deferral in which the farmer must pay the accumulated difference between use-value assessment and market value assessment if the land is converted from farm use. While providing financial relief for the farmer, which is sometimes necessary for him to remain in agriculture, it is generally agreed that use-value taxation is not an effective method of preserving agricultural land. At best, it is a holding action, allowing the farmer to stay in business for a while longer. The tax break will not offset the profit he can reap from selling his land. A significant disadvantage is that loopholes allow speculators to get tax breaks when they are planning from the beginning to either sell the land or develop it themselves, whenever conditions become favorable. For farmland preservation purposes, the inherent flaw in use-value taxation is that it is designed to protect the farmer, not the land itself.

Another approach has been the use of agricultural districts. These are areas of land which have been officially designated by the local governing body as being agricultural in nature. The creation of the district is at the instigation of the owners of the land included. The districts are established for a specified period of time, during which the land is granted use-value assessment and is protected from governmental actions that would encourage development, such as special assessments and expenditure of public funds for non-farm related purposes.

Virginia has adopted both use-value assessment and agricultural district programs, on a local option basis. Within their limits, the programs have been successful, with both local governments and citizens generally satisfied. As of December 31, 1980, thirteencounties had adopted ordinances creating 46 agricultural districts, encompassing a total of 174,923 acres and 68 counties and cities had adopted some form of use-value assessment.

Recommendation

There have been a number of minor problems with both programs. Most of these are just a matter of clarification. The subcommittee is recommending that it be allowed to continue its study for another year. One of the reasons for the continuation would be to study these questions and see if any changes are needed.

Development Rights

A few states have experimented with development rights in their efforts to preserve agricultural land. The development right of real property is the legal right to convert the use of that property to one more intense than the present use. It is an inherent aspect of land ownership. By law, that right can be made separable, so that the right to develop the land changes hands, but not actual title to the property. Development Rights can be purchased by the government (PDR) or by private individuals (transfer of development rights, or TDR). In either case, it is a method of retaining the land in agricultural use, while compensating the owner, or farmer, for lost market value.

If the government purchases the development rights, it can do so directly after statutorily creating them or by obtaining an easement on the land, whereby the owner agrees never to develop it. In both situations, the owner is paid the difference between the use-value assessment and fair market value. Connecticut, Maine, Maryland, New Jersey, New York, and Massachusetts are among the states which have either a state PDR program or allow it at the local level. The biggest drawback is the large cost to the government.

Transfer of development rights is more complicated. Under such a system, the local government

designates certain agricultural areas it wishes to preserve as "sending zones" and certain areas which can be developed as "receiving zones". The owners of property within the receiving zone may develop their property more intensely than would be allowed by the normal zoning if they purchase a specified number of development rights from owners of land in the sending zone. Agriculture land is preserved, farmers are compensated for the lost market value, and development is directed into the desired areas. In addition, the cost of farmland from which the development rights have been severed should more closely reflect the agricultural, rather than the speculative, value, therefore making it easier for farmers to acquire more land.

Unfortunately, it does not work as simply as it would seem. The chief problem in getting a TDR program implemented is that of balancing market forces so that a developer will have sufficient incentive to acquire development rights from farmers and farmers will be willing to sell. Nevertheless, Maryland, New Jersey, Florida and New York, among others, have initiated programs. So far, they have not been an overwhelming success; in the approximately five years of their existence, only 184 acres have been transferred. Officials in two Maryland counties, however, Montgomery and Calvert, are optimistic about the prospects for recently enacted TDR programs and they report strong interest from developers and farmers.

Recommendation

Because of the complexities and the uncertainties involved and the current unwillingness by any locality to experiment with them, the subcommittee does not recommend that local government be allowed to enact a TDR program at this time. The concept does have the potential for achieving an equitable balancing of private property rights and the broader public objectives of farmland preservations, and should be studied further, both by the General Assembly and those counties interested.

It would seem that in the Open Space Land Act, passed several years ago, local governments have the authority to purchase development rights. The only change we recommend in that legislation is a reduction in allowable duration of the easement from 30 to 5 years. The original 30-year limit was for the purpose of conformity to federal tax law. The federal law is being changed to require perpetual easements, so the 30-year standard is no longer needed. With more flexible terms, local governments can experiment with leasing development rights, an approach some have expressed an interest in.

Planning

Zoning and planning activities are crucial to land use questions and the preservation of farmland is no exception. Several states have made extensive and innovative use of zoning powers. It is generally agreed that the most effective method of preserving farmland is to zone it for exclusive agricultural use. Several states and localities have gone this far, each with its own twist. Black Hawk County, Iowa, for example, zones as exclusively agricultural those areas whose soils meet a minimum USDA soil rating. The state of Oregon has one of the most comprehensive approaches. The actual zoning is conducted by the local governments, but the state establishes the guidelines. Each locality is required to identify its urban growth boundary which separates its developed or developable land from farmland. Within the boundary there is to be a twenty-year supply of buildable land. Land outside the boundary is to be used exclusively for farm use.

All land use decisions in Virginia are made at the local level. The law requires each county and city to have a comprehensive plan and a subdivision ordinance and authorizes them to enact a zoning ordinance. The statutes do not explicitly set forth agricultural land preservation as a permitted purpose of local comprehensive plans or as a criterion for consideration in preparing and enacting zoning ordinances. Many local governments feel they would be on stronger legal ground in their efforts to preserve farmland if such express authority were granted.

Local governments should be better equipped to deal with the growth that will come, not to impede it, but to manage it for the best interests of all. Good planning and zoning practices will enable a locality to preserve its prime farmland, minimize the impact of development on it, and avoid the "leap-frog" development patterns that work a hardship on the farmer who does not want to sell. They will make it possible for the county to develop its services more efficiently and therefore keep everyone's taxes down.

Recommendation

We strongly support the retention of land use decisions at the local level. We recommend that the preservation of farmland be clearly delineated as a legitimate purpose of local planning and zoning efforts.

Statewide Programs

Wisconsin and Michigan have combined several types of programs into state-supported farmland preservation programs. Both use the basic concept of a circuit breaker tax in granting farmers state tax relief in return for not developing their land. In Michigan, the farmer conveys to the state a development rights easement for at least 10 years. In return for agreeing not to build non-farm structures or to sell the land without the permission of the state, the farmer receives a credit on his state tax equal to the amount his property tax exceeds 7% of his income. His land is also exempt from special assessments, he is eligible for use-value assessment, and he gets a break on inheritance taxes.

The Wisconsin plan is a little more complex and requires some action by local government. If his land is in an exclusive agricultural use zone, a farmer is eligible for a maximum \$4,200 against his state income tax. The actual credit he receives depends on his household income, the amount of property tax, and other actions by the county.

Both state programs have proved successful. Over 2.5 million acres have been set aside in Wisconsin and about 1.5 million acres in Michigan. A major advantage is that the cost is borne equally by all the state taxpayers rather than those of the individual counties.

Recommendation

We are not recommending that Virginia adopt any similar statewide program at this time. The programs in other states deserve further study to see if they may be adapted to Virginia, however.

Summary

The table on the next page, prepared from data furnished by the National Agricultural Lands Study, clearly shows that Virginia has a significant farmland conversion problem. Only six other states had a higher percentage of its agricultural land base converted to non-farm use during the period 1967-1977. Only four states are expected to have as much or more acreage converted by the year 2000. On the other hand, Virginia has a minimum level of programs designed to preserve its farmland, compared to some of the other states. States such as Wisconsin, Michigan, Oregon, and Maryland, which have a large variety of programs, or integrated approaches, have, overall, a lower actual conversion rate and a lower predicted future conversion rate.

We recognize that the problem is not uniform throughout Virginia. The farmland loss in the state varies from county to county. The growth pressures that Loudoun, Fauquier, and Culpeper Counties face do not confront Buchanan, Henry, or Pulaski, for example. Thus any program adopted must be locally oriented. At the same time, it must be recognized that no area is immune to future pressures on its farmland. Each local governing body should be able to devise a program in which both rational growth and farming can be accommodated. We feel that the recommendations contained in this report will, if adopted, prove to be major steps in bringing this about.

AGRICULTURAL LAND LOSS, and PRESERVATION PROGRAMS IMPLEMENTED BY EACH STATE

SUMMARY		AMERICA'S LAND BASE IN 1977				PROGRAMS AND ADMINISTRATIVE MECHANISMS FOR THE PRESERVATION OF FARMLAND														
		CROPLAND (1000 ACRES)		ESTIMATED LOSS OF CROPLAND (1000 ACRES)		REAL PROPERTY OR STATE INCOME TAX INCENTIVES														
		(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)				
STATE	1977	1967-77	% of 1977	1000	Differential Appraisal for State Inheritance	Preferential Assessment	Deferred Taxation	Restrictive Agreements	Land Use Change Taxes	State Income Tax Credits	Agricultural Districts	Agricultural Zoning	Exclusive Agricultural Zoning	Purchase of Development Rights	Transfer of Development Rights	Transfer of Development Rights Management in Metropolitan Areas	Executive Order to mitigate Farmland conversion by State Agencies	High-to-Low Level		
Alabama	0.8	3.0	3	444	+															
Alaska	-	-	-	-																
Arizona	19.4	0.8	19	140	+															
Arkansas	20.4	1.3	20	276	+															
California	81.0	3.8	15	1200																
Colorado	30.1	1.0	19	45																
Connecticut	4.0	22.0	75	276																
Delaware	6.7	1.4	13	46																
Florida	22.2	4.4	24	100																
Georgia	19.0	4.4	14	100																
Hawaii	23.0	1.1	26	46																
Idaho	26.6	1.0	4	138																
Illinois	0.3	1.4	4	80																
Indiana	0.1	1.7	2	575																
Iowa	0.1	1.1	1	147																
Kansas	11.0	-	-	-																
Kentucky	1.1	1.4	7	4																
Louisiana	14.0	1.1	1	144																
Maine	2.4	0	-	-																
Maryland	1.3	17.4	43	575																
Massachusetts	1.4	9.4	11	140																
Michigan	2.4	4.4	11	111																
Minnesota	1.7	1.2	7	168																
Mississippi	1.8	1.7	7	552																
Missouri	5.3	1.1	1	168																
Montana	11.4	0.6	23	276																
Nebraska	32.4	0.5	1	184																
Nevada	92.6	0	-	-																
New Hampshire	0	4.3	111	-																
New Jersey	14.9	54.2	9	115																
New Mexico	47.0	0.6	44	-																
New York	1.2	3.3	16	621																
North Carolina	4.0	5.0	17	966																
North Dakota	0.3	0.7	2	230																
Ohio	0.4	6.2	9	1000																
Oklahoma	6.0	0.6	1	184																
Oregon	39.0	1.0	9	207																
Pennsylvania	0.2	5.7	21	966																
Rhode Island	0	42.2	111	-																
South Carolina	1.3	5.9	20	690																
South Dakota	2.6	1.2	8	414																
Tennessee	0.5	3.4	9	575																
Texas	26.0	1.5	5	1700																
Utah	63.0	2.2	35	230																
Vermont	1.2	4.3	43	161																
Virginia	2.6	7.0	24	1000																
Washington	22.0	2.2	23	460																
West Virginia	1.0	3.7	73	168																
Wisconsin	2.9	0.6	1	358																
Wyoming	56.0	0	-	-																

1. From Agricultural Lands Sheet, Interim report No 2 & Fact Sheets: National Agricultural Lands Study, (NALS): 1981
 2. Programs adopted largely by January 1981. To be corrected and updated as necessary. See NALS for specific variations. (X, State program; +, Local Program).
 3. Includes cropland, Pastureland, Rangeland and Forestland; direct, and indirect secondary impacts by "idling".
 4. Extrapolation from current conversion rate. Includes prime and unique lands. Some State and local perceptions of "importance" may differ. Numbers should be considered averages within 10% variation.
 5. Federal standards used in computation or S = state formula; 0 = other formula used.
 6. Protect farming from: (a) Private nuisance lawsuits; (b) local government ordinances and private nuisance lawsuits; (c) State regulations; (d) State regulations but only in Exclusive Farm Zones

HIGH LEVEL PROGRAMS: Four or more features with three or more programs from (a) to (k).
 High Land Conversion, 1967-1977 (7% or more); and low level programs (two features or less from (a) to (k)).
 High Irrigation rate (more than 25% of cropland); and low level programs (two features or less from (a) to (k)).
 High level programs being developed
 COMPREHENSIVE, INTEGRATED PROGRAMS
 - Unknown condition within column

The specific legislative proposals embodying the recommendations of this report are attached in the appendix. We urge their passage by the General Assembly.

Respectfully submitted,

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APPENDIX

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Item 1

HOUSE JOINT RESOLUTION NO. 40

Requesting the Agriculture, Conservation and Natural Resources Committee of the Senate and the Agriculture Committee of the House of Delegates to establish a Joint Agriculture Land Preservation Subcommittee.

WHEREAS, agriculture, including forestry, is the largest industry in the Commonwealth and a mainstay of the State's economy; and

WHEREAS, the agricultural lifestyle and rural culture is a cherished tradition in Virginia, dating back to colonial times; and

WHEREAS, many rural localities in Virginia, especially those immediately adjacent to urban areas, are quickly losing prime farmland to the increasing pressures of urban development; and

WHEREAS, the burden and responsibility for preserving agricultural land should rest primarily with the local unit of government, with appropriate State and federal agencies, as well as Virginia Polytechnic Institute and State University, providing technical assistance; and

WHEREAS, some localities in the Commonwealth have a strong commitment to farmland preservation and are willing to develop local option pilot programs; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, that the Agriculture, Conservation and Natural Resources Committee of the Senate and the Agriculture Committee of the House of Delegates are requested to establish a Joint Agriculture Land Preservation Subcommittee.

The subcommittee shall monitor pilot programs developed at the local level in the jurisdictions currently seeking methods to protect productive farmland in a manner that is acceptable and equitable to the landowner as well as the general public. The subcommittee shall also assess farmland preservation programs in other states for their applicability to the Commonwealth. Upon completion of its work the subcommittee shall introduce such legislation as it deems appropriate into the nineteen hundred eighty-one session of the General Assembly.

The subcommittee shall consist of nine members, four of whom shall be appointed by the Chairman of the Agriculture, Conservation and Natural Resources Committee of the Senate, from the membership thereof, and five members who shall be appointed by the Chairman of the Agriculture Committee of the House of Delegates, from the membership thereof.

All agencies of the Commonwealth, including Virginia Polytechnic Institute and State University, are requested to cooperate with the subcommittee.

Item 2a

A bill to amend the Code of Virginia by adding in Title 3.1 a new chapter numbered 3.2, containing sections numbered 3.1-18.4 through 3.1-18.6, establishing a state policy regarding the preservation of agricultural land.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.1 a new chapter number 3.2 containing sections numbered 3.1-18.4 through 3.1-18.6 as follows:

Chapter 3.2

Preservation of Agricultural Land

§ 3.1-18.4. Legislative findings, purpose.—A. The General Assembly finds that, overall, much of the prime agricultural land of the Commonwealth is being converted to non-agricultural uses at a rapid rate. This land is irreplaceable and the loss of it could seriously undermine Virginia's food production capability. Agriculture and agriculturally related enterprises comprise the largest segment of the state's economy and any threat to it should be carefully considered.

The policies and actions of various state agencies account for a significant portion of the land being converted to non-farm use. It is necessary that state policies and actions be reviewed and analyzed with regard to their impact on agricultural land.

B. It is the policy of the Commonwealth that none of its agencies promulgate any regulation or undertake any capital project or other activity which would result in the significant loss of, or encroachment upon, farmland, without first considering that impact upon farmland. If, after consideration, the action by the agency is still deemed necessary, it shall investigate alternatives which would not damage farmland. If alternative approaches are not available or feasible, the agency shall, in proceeding, take whatever steps possible to mitigate the effect on farmland.

§ 3.1-18.5. Agency compliance.— Each of the following agencies shall prepare a plan for the implementation of the farmland preservation policy set forth in this chapter:

- 1. Department of Highways and Transportation*
- 2. Department of Health*
- 3. State Water Control Board*
- 4. Division of Industrial Development*
- 5. Department of Conservation and Economic Development*
- 6. State Corporation Commission*
- 7. State Air Pollution Control Board*

The plan shall contain an analysis of the impact which the agency's regulations, projects, and activities have on the conversion of farmland. It shall also set forth measures the agency will use to ensure that farmland preservation is a consideration in all future agency decisions.

Each agency will consult with the Department of Agriculture and Consumer Services in the development of its plan.

§ 3.1-18.6. Departmental review.— Whenever the actions of any state agency or the construction of any state-funded capital project would cause, or lead to, a significant loss of agricultural land, the proposed action or project shall be submitted to the Commissioner, prior to its becoming effective or being undertaken, for his review and comment. The Commissioner shall review the

proposal, assess its effect on agricultural land, and make such recommendations to the Governor as he deems appropriate, consistent with the policy set forth in this chapter.

Item 2b

A BILL to amend and reenact §§ 10-152 and 10-158 of the Code of Virginia, decreasing the time limitations for open space easements.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10-152 and 10-158 of the Code of Virginia are amended and reenacted as follows:

§ 10-152. Authority of public bodies to acquire or designate property for use as open-space land. To carry out the purposes of this chapter, any public body may (a) acquire by purchase, gift, devise, bequest, grant or otherwise title to or any interests or rights of not less than ~~thirty~~ *thirty five* years' duration in real property that will provide a means for the preservation or provision of open-space land and (b) designate any real property in which it has an interest of not less than ~~thirty~~ *thirty five* years' duration to be retained and used for the preservation and provision of open-space land. Any such interest may also be perpetual. The use of the real property for open-space land shall conform to the official comprehensive plan for the area in which the property is located. No property or interest therein shall be acquired by eminent domain by any public body for the purposes of this chapter, provided, however, this provision shall in no way limit the power of eminent domain as it was ~~possessed~~ by any public body prior to the passage of this chapter.

§ 10-158. Acquisition of title subject to reservation of farming or timber rights; acquisition of easements, etc.; property to be made available for farming and timber uses. Any public body is hereby expressly authorized, without limiting the authority of the public body to acquire unrestricted fee simple title to tracts, to acquire, by gift or purchase, (1) fee simple title to such land subject to reservation of rights to use such lands for farming or to reservation of timber rights thereon, or (2) easements in gross or such other interests in real estate of not less than ~~thirty~~ *thirty five* years' duration as are designed to maintain the character of such land as open-space land. Any such interest may also be perpetual. Whenever practicable in the judgment of such public body, real property acquired pursuant to this chapter shall be made available for agricultural and timbering uses which are compatible with the purposes of this chapter.

Item 2c

A BILL to amend and reenact §§ 15.1-427, 15.1-447, and 15.1-490 of the Code of Virginia, relating to the purposes of a local comprehensive plan and the drawing of zoning ordinances.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-427, 15.1-447, and 15.1-490 of the Code of Virginia are amended and reenacted as follows:

§ 15.1-427. Declaration of legislative intent.—This chapter is intended to encourage local governments to improve public health, safety, convenience and welfare of its citizens and to plan for the future development of communities to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry and business be recognized in future growth; that residential areas be provided with healthy surrounding for family life; *that agricultural and forestal land be preserved*; and that the growth of the community be consonant with the efficient and economical use of public funds.

§ 15.1-447. Surveys and studies to be made in preparation of plan; implementation of plan. (1) In the preparation of a comprehensive plan, the local commission shall survey and study such matters as the following:

(a) Use of land, *preservation of agricultural and forestal land*, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, population factors, employment and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, transportation facilities, the need for housing, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

(b) Probable future economic and population growth of the territory and requirements therefor.

(2) The comprehensive plan shall recommend methods of implementation. Unless otherwise required by this chapter these may include but need not be limited to:

(a) An official map;

(b) A capital improvements program;

(c) A subdivision ordinance; and

(d) A zoning ordinance and zoning district maps.

(e) [Repealed.]

The requirement for the local commission to survey and study production of food and fiber in the preparation of a comprehensive plan shall not affect any comprehensive plan adopted prior to January one, nineteen hundred eighty-one.

§ 15.1-490. Matters to be considered in drawing zoning ordinances and districts. Zoning ordinances and districts shall be drawn with reasonable consideration for the existing use and character of property, the existing land use plan, the comprehensive plan where adopted, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for housing, schools, parks, playgrounds, recreation areas, and other public services; for the conservation of natural resources; and preservation of flood plains ; *for the preservation of agricultural and forestal lands*; and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the county or municipality.

HOUSE JOINT RESOLUTION NO.

Directing the joint subcommittee studying agricultural land preservation to continue its study.

WHEREAS, the General Assembly in 1980 directed the House of Delegates Committee on Agriculture and the Senate Committee on Agriculture, Conservation and Natural Resources to study jointly locally proposed programs for the preservation of agricultural land; and

WHEREAS, the joint subcommittee appointed to conduct this study has made much progress in acquainting itself with the complex issues involved; and

WHEREAS, that subcommittee has made some recommendations but has not had sufficient time to thoroughly consider all aspects of the subject; and

WHEREAS, some land governments feel they will, in the coming year, possibly be in a position to request authority to experiment with some new concepts, such as the transfer of development rights; and

WHEREAS, the Commonwealth's existing programs of use-value assessment and agricultural districts need some modification and clarification; now therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the joint subcommittee of the House of Delegates Committee on Agriculture and the Senate Committee on Agriculture, Conservation and Natural Resources studying agricultural land be continued. The subcommittee shall continue its investigation of the feasibility of development rights transfer and other local programs designed to preserve farmland. It shall also consider the desirability of state-sponsored initiatives, such as tax credits. Finally, it shall evaluate the use-value assessment and agricultural district legislation presently in effect. The subcommittee shall make any recommendations it feels necessary to the 1982 General Assembly.

