

Report Highlights

Agricultural Conservation Easement Purchase Program

Senate Resolution 195 directed the Legislative Budget and Finance Committee to conduct a comprehensive review of the Agricultural Conservation Easement Purchase (ACE) program. This state/county program purchases the development rights of select farms as a way to permanently preserve farmland.

Key findings include:

- **The criteria used in PA to select ACE farms is similar to the criteria used in other states.** State law outlines the criteria counties must use to select an ACE farm, such as size, soil quality, and development pressure. Counties can add other criteria if approved by the State Board. County officials are generally satisfied with the criteria and process used to select farms for the ACE program.
- **PA's selection criteria place a strong priority on preserving farms near areas of high development pressure.** In 1994, ACE program criteria were changed to place an even greater emphasis on preserving farms close to areas of development. However, both developers and county farmland preservation officials voiced frustration that these criteria direct ACE funds to high-cost farms in the direct path of development, rather than to "better-value" farmlands that may have greater long-term benefits for agriculture.
- **ACE farms are still being farmed.** The resolution cited concern that some ACE farms may no longer be used for agricultural purposes. Under the program guidelines, ACE farms must continue to use the preserved land for agricultural production. This requirement is checked as part of the annual inspections counties are to conduct of all ACE farms. Although some counties are behind in their annual inspections, we found no evidence of ACE farms not continuing to be used for agricultural purposes.
- **PA has one of the most successful farmland preservation programs in the nation.** As of mid-June 2008, 3,579 farms and 395,636 acres of farmland have been preserved under the ACE program. Total purchase price (county and state) for these easements was \$940.2 million, an average of \$2,377 per acre.
- **The provision in PA law that allows easements to be extinguished after 25 years causes concern.** Under PA law, if after 25 years, eased land is no longer "viable agricultural land", the easement can be extinguished. However, there are several legal and practical reasons why it is unlikely an easement could be extinguished. Nevertheless, virtually all the stakeholders we contacted favored removal of the 25-year extinguishment provision.
- **Commonwealth costs have been as high as \$35,379/acre.** Prior to 2001, state costs were statutorily capped at \$10,000/acre for the purchase of an ACE. The cap was removed in 2001. Since then, the ACE program has purchased 36 easements, totaling 2,613 acres, where state costs have exceeded \$10,000/acre.
- **Tax credit programs have been successful in preserving land in other states.** Twelve states use tax credits in lieu of cash payments for conservation easements, including agricultural easements.
- **Other issues.** The resolution identifies 19 specific areas to be included in the report. Other issues include: preserving small farms, requiring local financial participation, options for maximizing the dollars available, providing transitional guidance to farmers, new possible sources of dedicated funding, feasibility of providing property tax incentives for preserved farms, the feasibility of expanding mineral extraction rights, and the effectiveness of the Agricultural Lands Condemnation Approval Board.