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AGRICULTURAL

DISTRICT

PROGRAMS



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DESCRIPTION

Agricultural district programs allow farmers to form special areas where commercial agriculture is encouraged and protected. Programs are authorized by state legislatures and implemented at the local level. Enrollment in agricultural districts is voluntary. In exchange for enrollment, farmers receive a package of benefits, which varies from state to state. Minimum acreage requirements and initial terms of enrollment also vary. Agricultural district programs should not be confused with zoning districts that delineate areas governed by local land use regulations.

There are a total of 19 agricultural district programs in 16 states. California, New Jersey and North Carolina offer farmers two levels of benefits. Minnesota and Virginia have statewide and local agricultural district programs. Minnesota's local program applies to metropolitan areas. Ohio has two statewide programs. Provisions vary widely, but most agricultural district programs are intended to be comprehensive responses to the challenges facing farmers in developing communities.

To maintain a land base for agriculture, some agricultural district programs protect farmland from annexation and eminent domain. Many also require that state agencies limit construction of infrastructure, such as roads and sewers, in agricultural districts. Two states offer participants eligibility for purchase of agricultural conservation easement programs, and two states include a right of first refusal in district agreements to ensure that land will continue to be available for agriculture.

Agricultural district programs help create a more secure climate for agriculture by preventing local governments from passing laws that restrict farm practices and by enhancing protection from private nuisance lawsuits.

To reduce farm operating expenses, programs offer automatic eligibility for differential tax assessment, property tax credits and/or tax exemptions.

Some states encourage local planning by: limiting district authorization to jurisdictions with comprehensive or farmland protection plans, requiring the adoption of land use regulations to protect farmland, involving planning bodies in the development and approval of districts, and limiting non-farm development in and around agricultural districts.

Agricultural district programs are designed to stabilize the land base and to support the business of farming by providing farmers with an attractive package of incentives.

HISTORY

In 1965, California enacted the California Land Conservation Act to preserve agricultural land and open space and promote efficient urban growth patterns. The Williamson Act, as it is commonly known, allows landowners within locally designated "agricultural preserves" to sign renewable 10-year contracts with local governments. Landowners agree to restrict use of property within preserves to agriculture or open space for the term of the contract. In return, the land is assessed at its agricultural use value, providing participants with significant property tax relief.

The New York legislature created a comprehensive agricultural district program in 1971. Article 25 AA of the New York Agriculture and Markets Law made differential assessment available to New York farmers. The program also contained provisions that have been incorporated into other agricultural district laws, including protection against unreasonable local regulations, special review of the use of eminent domain and a requirement that state agency policies support the continuation of farming in agricultural districts.

Between 1971 and 1995, 14 additional states and one region followed the examples set by California and New York. Agricultural district programs continue to evolve.

In 1992, amendments to the New York law reconstituted and strengthened local agricultural advisory committees, added new right-to-farm protections and required local governments to recognize the intent of the agricultural district program when making local land use decisions. In 1998, New York State added a nuisance disclaimer to its district law and a requirement that enrolled farmers adopt sound conservation practices.

A 1994 amendment to California's Williamson Act made it more difficult for local governments to acquire land for public use in agricultural preserves. In 1998, California passed a new law that authorized the creation of Farmland Security

PROVISION	# of Programs with Provision	Agricultural Preserves or Farmland Security Zones Calif.	Agricultural Preservation Districts Del.	Agricultural Areas Ill.	Agricultural Areas Iowa
Limits on non-farm development	14	▲	▲	▲	▲
Limits on use of eminent domain <sup>a</sup>	12	▲			
Local planning requirement <sup>b</sup>	11	▲			▲
Limits on special assessments	11	△		▲	▲
Farmers in districts receive extra right-to-farm protection	9		▲	▲	
Sound conservation practices required <sup>c</sup>	8			▲	
Penalty for early withdrawal from districts	7	▲			
State agency policies must support districts or farming in districts <sup>d</sup>	6			▲	
Agricultural impact statement required for public projects	6				▲
Limits on public investment for non-farm development	5				
Protection from siting of public facilities and improvements (e.g., schools and solid waste mgt. facilities)	5	▲		▲	
Farmers are automatically eligible for differential assessment <sup>e</sup>	4	▲			
Local governments compensated for taxes reduced by differential assessment	4	▲			
Limits on local governments' ability to annex land	4	△			
Landowners adjacent to districts must sign agricultural nuisance disclaimer	3		▲		
Farmer can recover legal fees if he/she wins nuisance lawsuit	3		▲		▲
Soil and water conservation cost sharing for farmers	3				
Enrollment in districts required to be eligible for Purchase of Agricultural Conservation Easements (PACE)	2		▲		
Land Evaluation and Site Assessment (LESA) used to define boundaries of district <sup>f</sup>	2		▲		
Landowner consent required prior to adoption of more restrictive zoning	2				
Enrolled land gets priority in water rights allocation	2				▲
Public entities have right of first refusal to purchase land	2				
Mediation required for land use disputes	1				
Land use controls on adjacent land must consider districts	1				
Farmers may earn up to 25% from non-farm sales and retain exemption from local zoning	1				
Farmers are automatically eligible for annual per acre property tax credit	1				
Limits on rate of property tax increases	1				
Land enrolled in districts exempt from school, real estate transfer, county property and applicable ad valorem taxes	1		▲		
Local governments may offer property tax exemption on new or expanded farm buildings	1				
Buffer strips required for development adjacent to districts	1		▲		
Initial term of enrollment (in years)		10/20*	10	10	3
Minimum acreage requirement		100	200	350	300

▲ Provision included in program.

△ Benefit provided only to landowners who sign FSZ contracts in Calif., enrollees in EVADs in N.C. and participants in “municipally approved” districts in N.J.

■ Minimum acreage requirement established by local entity, but in N.C. it is also tied to qualifications for the state’s present-use-value taxation program.

<sup>a</sup> The degree of protection varies significantly from state to state. N.J. prohibits eminent domain in municipally approved programs; Pa., Utah and Va. can prohibit eminent domain, subject to review by state and/or local officials; Calif., Ky., Minn., Minn. Metro, N.Y., Ohio and Tenn. cannot prohibit eminent domain, but may require prior notification, agricultural impact statements, alternative proposals, and/or public hearings.

<sup>b</sup> Planning requirements vary among states. Calif., Minn. and Minn. Metro require plans (i.e., comprehensive or agricultural land preservation) to be eligible to establish districts, and zoning or other “official controls” to protect farmland. Md., N.J., N.Y., Pa., Utah, Va. and Va. Local involve planning bodies in the development and approval of districts. Iowa requires counties to create land use inventories prior to establishment of districts.

<sup>c</sup> In Md., conservation plans are required for land of lower agricultural capability to be eligible for districts. In N.J. conservation plans are required for participants to

PROVISIONS OF AGRICULTURAL DISTRICT LAWS

Agricultural Districts	Agricultural Preservation Districts ❖	Agricultural Incentive Areas	Agricultural Preserves	Metropolitan Agricultural Preserves	Farmland Preservation Programs and Municipally Approved Farmland Preservation Programs	Agricultural Districts	Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts	Agricultural Districts	Agricultural Security Areas	Agricultural Security Areas	Agricultural Districts	Agricultural Protection Areas	Agricultural Districts	Local Agricultural Districts
Ky.	Md.	Mass.	Minn.	Minn. Metro	N.J.	N.Y.	N.C.	Ohio	Ohio	Pa.	Tenn.	Utah	Va.	Va.
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5	5		8	8	8	8	10	5	10	7	5	20	4 to 10	8
250	50			40	■	500	■	10	500	250	250	■	200	20

receive grants for soil and water conservation projects. N.C. mandates conservation plans for highly erodible land. All other states require conservation practices—Ohio calls for best management practices—but do not stipulate development of a plan.

*d* Ill., N.Y., Pa., Utah, and Va. support agriculture in districts by requiring agencies to modify existing rules and policies that may restrict farming. Utah also prohibits state agencies from enacting unreasonably restrictive rules and policies. Ky. supports districts by requiring state agencies to mitigate the impact of their plans and programs on agriculture within the district.

*e* In Calif., farmers who sign a FSZ contract receive additional property tax relief.

*f* Del. requires use of LESA; Va. suggests it.

\* The initial term is 10 years for Williamson Act contracts and 20 years for FSZ contracts. Each year, contracts automatically are extended for one year unless a notice of non-renewal is submitted.

❖ Maryland's state-level agricultural districts program, administered by MALPF, is being discontinued. All MALPF districts will be terminated by 2012.

## AGRICULTURAL DISTRICT PROGRAMS

For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

[www.farmlandinfo.org](http://www.farmlandinfo.org)

(800) 370-4879

Zones (FSZ). Farmers who elect to sign a 20-year FSZ contract receive expanded district benefits, including a 35 percent reduction in property tax assessments, on top of values calculated under the Williamson Act contracts, and protection from annexation and school sitings on agricultural land.

In 1997, Utah added provisions requiring that landowners adjacent to districts sign a nuisance disclaimer; in 1998, local planning and minimum acreage requirements were added.

In 1998, the Iowa State Supreme Court ruled that the right-to-farm provision contained within Iowa's agricultural district program constituted a taking of property rights without compensation. The Court held that the provision, which immunized farms in agricultural districts from nuisance lawsuits, amounted to an interest in, or easement on, adjacent land without payment of just compensation.

In 2000, Kentucky placed limitations on special assessments on land enrolled in districts. Virginia's state district law also was amended in 2000 to include significant economic consequences for early withdrawal from the program.

More recently, Ohio and North Carolina authorized new benefits and protections to supplement existing provisions. Ohio legislators created a second, stand-alone program, known as agricultural security areas, effective as of 2005. The same year, North Carolina lawmakers amended the existing program to offer landowners the option of establishing Enhanced Voluntary Agricultural Districts (EVADs).

In 2007, the Maryland legislature voted to eliminate agricultural districts from the Maryland Agricultural Land Preservation Foundation (MALPF) Program. As of July 1, 2007, MALPF no longer requires enrollment in a district as a prerequisite for selling an agricultural conservation easement. District petitions will not be accepted by MALPF as of July 1, 2008, and all MALPF districts will be terminated by June 30, 2012. While eliminating agricultural districts at the state level, the 2007 law gave counties the ability to create districts.

### FUNCTIONS & PURPOSES

Agricultural district programs are intended to be comprehensive responses to the challenges facing farmers in developing communities. They can be

designed to protect agricultural land, head off land conflicts, reduce farming expenses and encourage local planning.

### ISSUES TO ADDRESS IN DESIGNING A PROGRAM

- Who will be eligible to enroll land in an agricultural district?
- What are the procedures for enrollment?
- What are the incentives for enrollment?
- What restrictions, if any, are placed on land enrolled in an agricultural district?
- How easy—or difficult—is it to withdraw land from an agricultural district?
- Who has the authority to terminate agricultural district agreements?

### BENEFITS

- Enrollment in an agricultural district is voluntary, making the programs popular with farmers.
- Agricultural district programs are very flexible; benefits and restrictions can be tailored to meet local objectives.
- Agricultural districts provide multiple benefits to farmers, including tax relief, protection from local regulation and eligibility for PACE programs.
- Agricultural districts help secure a critical mass of land to keep farming viable.

### DRAWBACKS

- Sanctions for withdrawing land from agricultural districts may not be strong enough to discourage conversion.
- Limits on non-farm development may not prevent expansion of public services, such as water and sewer lines, into agricultural areas. Some agricultural district laws address this issue; others do not.
- In some states, the benefits provided by agricultural districts are not enough incentive for farmers to enroll.
- In some states, the procedure for creating agricultural districts is lengthy and complex.