



HANDBOOK

Ohio County Commissioners

Published by: County Commissioners Association of Ohio

37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

CHAPTER 95

AGRICULTURAL EASEMENTS

**Latest Revision
December, 2006**

95.01 INTRODUCTION

S. B. 223 of the 122nd General Assembly authorized the acquisition of agricultural easements by county commissioners, township trustees, municipalities, and the director of agriculture, and by a charitable organization or land trust dedicated to the preservation and protection of land.

S. B. 223 was signed by Governor Nancy Hollister and became effective on April 5, 1999. Parts of the original law were then amended in 2001 as a part of the implementing legislation for the Clean Ohio program which was previously approved by the electors and provided for \$400 Million to preserve farmland and greenspace, develop recreational trails, clean up Brownfield's and provide funding for certain other environmental initiatives (Am. Sub. H. B. 3, effective 7-26-01). Under this legislation \$25 Million was provided for farmland preservation grants over a four year period. Another change in the law has also granted authority for a soil and water conservation district to hold agricultural easements (ORC 5301.68 as amended by S. B. 202, effective 4-15-05).

The original agricultural easement law was sponsored by Senator Grace Drake (R-Solon). The legislation was in response to recommendations made in 1997 by Governor Voinovich's Farmland Preservation Task Force. Another recommendation of the task force resulted in the establishment of an Office of Farmland Preservation in the Ohio Department of Agriculture. This office serves and advocate for farmland preservation and has an excellent web site which can be accessed at: <http://www.ohioagriculture.gov/farmland/farm-index.stm> .

The law was enacted to provide specific statutory authority for these entities to acquire and hold easements to preserve the agricultural use of land. Concern had arisen in

recent years that the law authorizing these entities to acquire and hold conservation easements did not specifically permit them to acquire and hold agricultural easements.

With the passage of S. B. 223, state law now contains separate definitions for conservation easements and agricultural easements. Following are these two definitions as specified in ORC Section 5301.67:

"Conservation easement" means an incorporeal right or interest in land that is held for the public purpose of retaining land, water, or wetland areas predominantly in their natural, scenic, open, or wooded condition, including, without limitation, the use of land in agriculture when consistent with and in furtherance of the purpose of retaining those areas in such a condition, or retaining their use predominantly as suitable habitat for fish, plants, or wildlife; that imposes any limitations on the use or development of the areas that are appropriate at the time of creation of the conservation easement to achieve one or more of those purposes; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

"Agricultural easement" means an incorporeal right or interest in land that is held for the public purpose of retaining the use of land predominantly in agriculture; that imposes any limitations on the use or development of the land that are appropriate at the time of creation of the easement to achieve that purpose; that is in the form of articles of dedication, easement, covenant, restriction, or condition; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

Holders of conservation easements are authorized to use the land for agriculture only when agricultural use is consistent with and furthers the purpose of retaining the land:

1. In a natural, scenic, open or wooded condition, or
2. As a suitable habitat for fish, plants, or wildlife (ORC 5301.67(A)).

Holders of agricultural easements, on the other hand, have broader authority in that they may use the easement to retain the use of the land "predominantly in agriculture." (ORC 5301.67(C)).

Under provisions of the law, landowners may grant agricultural easements to counties, townships, municipal corporations, soil and water conservation districts, charitable organizations (land trusts), or the director of agriculture only for land that is valued for purposes of real property taxation at its current agricultural use valuation (CAUV) or is a homestead at the time the easement is granted.

Generally, the law authorizes a county to take the following actions related to agricultural easements:

1. Purchase agricultural easements with money from the county general fund, a special revenue fund for purchasing easements, or with matching grant money from the state's Agricultural Easement Purchase Fund (AEPF) or from the Clean

Ohio Agricultural Easement Fund. The law also authorizes townships, municipalities, soil and water conservation districts, charitable organizations, and the director of agriculture to purchase agricultural easements.

2. Acquire agricultural easements by gift, devise, and bequest as well as by purchase.
3. Name an officer, department or division to supervise and enforce any agricultural easement it may purchase or otherwise acquire.
4. Extinguish any agricultural easement it may acquire, in accordance with the terms and conditions set forth in the contract conveying the easement.
5. Finance the purchase of agricultural easements by a number of methods, including:
 - a. Receiving and spending matching grant money from the state's Agricultural Easement Purchase Fund (AEPF) or the Clean Ohio Agricultural Easement Fund, in accordance with procedures and eligibility criteria established by the director.
 - b. Levying a property tax, for up to five years with voter approval, for the purpose of acquiring, supervising or enforcing agricultural easements.
 - c. Levying a sales and use tax, with voter approval, to raise revenue to acquire agricultural easements and pay debt service on bonds issued to finance those purchases, or to supervise or enforce any agricultural easements held by the county.
 - d. Issuing revenue bonds and notes for the purpose of acquiring easements, with repayment pledged with sales and use tax revenues. These bonds are exempt from the statutory county debt limits.
 - e. Issuing general obligation bonds, with voter approval, for the sole purpose of acquiring agricultural easements. Debt service on the bonds would be financed by voter approved property tax levy.

The law also imposes a number of additional duties on the director which will be explained later in this chapter. The agricultural easement law raises a number of questions and concerns of interest to counties. At the end of this chapter is a series of questions and answers on agricultural easements and the law. For additional information refer to County Advisory Bulletin 99-05 published in June of 1999 and can be found at: <http://www.ccao.org/newsletter/cab199905.htm>.

95.02 STATE FUNDING FOR AGRICULTURAL EASEMENTS

When S. B. 223 was enacted no funding was provided although the legislation established the Agricultural Easement Purchase Fund (AEPF). The AEPF was to be comprised of revenues if the director sells real or personal property related to an agricultural easement that he held by the state. The Fund was also to receive any funds received from the extinguishment of state or locally held agricultural easements if they were extinguished, and gifts, bequests and contributions received by the director. Virtually no dollars have ever flowed to local governments or land trusts from this Fund.

When the Clean Ohio enabling legislation was enacted in 2001 the legislature also established the Clean Ohio Agricultural Easement Fund to receive the money that was to be derived from the bond issue that would fund the entire Clean Ohio program. The legislation provided that 12.5% of the proceeds of the bonds to be issued were to go to this fund, along with the interest earning from the Fund. Thus, approximately \$25 Million for farmland preservation was to be provided to this Fund over a four year period.

While there are two funds from which matching grants are authorized under state law, virtually all of the money that has been received to date for the purchase of agricultural easements has come from the Clean Ohio Agricultural Easement Fund.

95.03 PURCHASING AGRICULTURAL EASEMENTS - ORC 5301.691

A county is authorized to purchase agricultural easements in the name of the county. To purchase an easement, a county may use money from its general fund that is not required by law or charter to be used for another specified purpose. A county also may use money from a special county fund created for the purpose of purchasing agricultural easements or matching grant money received from the director from either the Agricultural Easement Purchase Fund (AEPF) or the Clean Ohio Agricultural Easement Fund. (ORC 5301.691(B)(1)).

An agricultural easement purchased by a county without the use of money from the state's Clean Ohio Agricultural Easement Fund (See ORC 90.21 (G)) or Agricultural Easement Purchase Fund may be perpetual or may be for a specified period of time. The easement also must "run with the land" which means that it must be transferred to any new owner (ORC 5301.691(D)(2)).

An agricultural easement purchased wholly or in part by a county with money from either state fund, however, must be perpetual and must run with the land. (ORC 5301.691(D)(1)).

A contract for an agricultural easement purchased by a county, township or municipality for a specified period of time must, at a minimum, include provisions specifying:

1. The price or other consideration to be paid for the agricultural easement, as well as the manner of payment;
2. Whether the agricultural easement is renewable, and, if so, the procedures for renewal;
3. The circumstances under which the agricultural easement may be extinguished; and
4. The method for determining the amount of money, if any, that will be due to the county upon extinguishment. (ORC 5301.691(D)(2)).

The law also authorizes municipalities, townships, soil and water districts, and the Director of Agriculture to purchase agricultural easements. Purchases made by the director with moneys credited to the Agricultural Easement Purchase Fund (AEPF) or the Clean Ohio Agricultural Easement Fund must be perpetual and must run with the land.

Also, when the director intends to purchase an easement in the name of the state, at least 30 days before purchasing an agricultural easement, the director must provide written notice of the intention to purchase the easement to the county and either the township or the municipality in which the land is located. (ORC 5301.691(A)(2)).

If any county, township or municipality requests an informational meeting within 30 days of receiving notice, the director must meet with the entity requesting the meeting. The director cannot proceed with any proposed purchase of an agricultural easement until after the meeting is concluded. The director also may request a meeting on his or her own initiative. (ORC 5301.691(A)(1) and (2)).

The law also authorizes certain charitable organizations, more commonly referred to as land trusts, to acquire and hold agricultural easements. These organizations must be exempt from federal taxation, described as an exempt organization, and organized for land preservation or protection purposes. (ORC 5301.68, 5301.69).

95.04 ACQUIRING AGRICULTURAL EASEMENTS BY GIFT, DEVISE OR BEQUEST - ORC 5301.691 (B) (2)

S. B. 223 authorizes a county, township, municipality, land trust, or the director to acquire easements by gift, devise or bequest. Like an easement acquired by purchase, an easement acquired by gift, devise or bequest must be on land that qualifies for CAUV or is a homestead at the time the easement is granted by the owner.

95.05 RECORDING OF AGRICULTURAL EASEMENTS

Agricultural easements must be executed and recorded in the same way that other instruments conveying interests in land are executed and recorded (ORC 5301.68). In

addition, the county recorder is required, after the recording and indexing of an instrument conveying or extinguishing an agricultural easement, to send a copy of the instrument to the Office of Farmland Preservation. The office is required to pay the applicable fees to the county recorder.

95.06 SUPERVISING AND ENFORCING AGRICULTURAL EASEMENTS - ORC 5301.691 (E)

After a county acquires an agricultural easement, it must name an appropriate administrative officer, department or division to supervise and enforce the easement.

A county may contract with a board of park commissioners of a metropolitan or township park district or a board of supervisors of a soil and water conservation district having jurisdiction in the county, or with a charitable organization to supervise the agricultural easement on behalf of the county. The contract must specify a method for determining the amounts of money, if any, that will be paid by the county as the holder of the easement to the supervising entity.

If the agricultural easement is purchased with a matching grant from the Clean Ohio Agricultural Easement Fund, then the county must make an annual monitoring visit to the land subject to the easement. The purpose is to ensure that no development that is prohibited under the terms of the easement has taken place. In addition, a written annual monitoring report must be submitted to the Office of Farmland Preservation in the Department of Agriculture. Likewise, the county must take corrective action in accordance with rules of the director to enforce the terms of any agricultural easement (ORC 5301.691(E)(2)).

95.07 EXTINGUISHING AGRICULTURAL EASEMENTS - ORC 5301.691 (G)

A county that acquires an agricultural easement also may extinguish the easement if certain conditions are met. A county may extinguish an agricultural easement in two situations:

1. If an unexpected change in the condition on the land subject to the easement or surrounding land make it impossible or impractical to continue to use the land for the purposes described in the easement; or
2. If the requirements of the easement are extinguished by judicial proceedings.

When extinguishing an agricultural easement, a county also must adhere to any terms and conditions of the contract that conveyed the easement. Any contract that extinguishes an agricultural easement must be executed and recorded in the same manner as any other contract that conveys or terminates an interest in real property. (ORC 5301.691(G)).

In the case of an agricultural easement held by the director and purchased with monies from the AEPF, the director must notify a county, municipality or township in which the land is located at least 30 days before extinguishment. The director must also conduct an informational meeting with the affected county, municipality or township if one is requested. (ORC 5301.691(A)(2)).

95.08 FINANCING THE ACQUISITION OF AGRICULTURAL EASEMENTS

Ohio law provides a number of methods by which revenue may be raised by counties and other entities for the purchase of agricultural easements. A county may purchase an agricultural easement with a matching grant from the state's Clean Ohio Agricultural Easement Fund, the Agricultural Easement Purchase Fund (AEPF), with money in the county general fund that is not required by law or charter to be used for another specified purpose, or with money in a special fund for purchasing easements.

To raise money to acquire an agricultural easement, a county may impose a voter-approved property or sales tax and may issue revenue or general obligation bonds. The law also authorizes a county to receive and expend grants from any public or private source for the purpose of purchasing, supervising and enforcing an agricultural easement.

A county may use matching grants provided by the director from the Clean Ohio Agricultural Easement Fund or the Agricultural Easement Purchase Fund (AEPF) to acquire agricultural easements. Any easement purchased by a county with these matching grants must be in accordance with criteria and procedures established by the director (ORC 901.22 A)).

Any instrument that conveys an agricultural easement purchased wholly or in part with money from either state fund must include the provisions required by ORC Section 901.22(A)(2).

These provisions require:

1. That an agricultural easement may be extinguished only in two circumstances. The first circumstance is if an unexpected change in the conditions of the land, or the conditions surrounding the land, makes it impossible or impractical to continue using the land for the purposes described in the easement. The second circumstance is if the requirements of the agricultural easement are extinguished by judicial proceedings.
2. That a county or other holder of an agricultural easement must be paid money whenever the land subject to the easement is sold, exchanged or passed by involuntary conversion. The amount of money paid must be "at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired."

3. That a county or other holder of an agricultural easement must return a percentage of any money it receives from a sale of land to the director. The percentage returned must be equal to the percentage of the easement purchase price that was financed by the director through the state matching grant program.

95.09 PROPERTY TAX REVENUE - ORC 5705.19 (RR)

The law authorizes a county, as well as a township or municipality, to levy a property tax for the purposes of acquiring, supervising or enforcing an agricultural easement. Any property tax proposed for this purpose is outside the ten-mill limitation and must be approved by voters. The property tax may be levied for up to five years.

95.10 SALES AND USE TAX REVENUE AND REVENUE BONDS - ORC 5739.026 (A) (9), 133.60 and 5739.026 (C) (2) (d)

Ohio law also authorizes a county to levy a sales and use tax for the purposes of providing revenue to acquire agricultural easements, paying debt service on bonds issued to finance the purchase of easements or providing revenue for the cost of supervising or enforcing an agricultural easement held by the county. This sales and use tax must be approved by voters.

A county may issue bonds and notes for the purpose of acquiring easements and may pledge sales and use tax revenues for repayment of the bonds or notes. The issuance of these bonds and notes is subject to the provisions of the state's uniform bond law (ORC Chapter 133), except that the maturity periods cannot extend beyond the expiration of the sales and use tax revenue pledged to their repayment. These bonds and notes are not general obligations of the county. All moneys raised must be used exclusively for the acquisition, supervision or enforcement of easements, after the payment of issuance and financing costs.

Bonds issued by a county for the purpose of acquiring easements, and to which sales and use tax revenues have been pledged for repayment, are exempt from the statutory county debt limit.

95.10 GENERAL OBLIGATION BONDS - ORC 133.61

A county, as well as a municipal corporation or township, is authorized to issue general obligation bonds, with voter approval, for the exclusive purpose of acquiring agricultural easements. These bonds must be issued in accordance with the provisions of the uniform bond law that governs the issuance of voted general obligation bonds by political subdivisions. Debt service on these bonds is provided through the levy of a property tax.

95.11 ADDITIONAL DUTIES OF THE DIRECTOR OF AGRICULTURE- ORC 901.22 (B), (C) AND (E)

In addition to establishing procedures and criteria for the matching grant program, the director is required to monitor the effectiveness of the easement program in furthering farmland preservation and submit an annual report on that subject to the Ohio House of Representatives and the Ohio Senate.

The report must include the following information to determine the effectiveness of the agricultural easement program:

1. The number of agricultural easements purchased during the preceding year;
2. The location of these easements;
3. The amount of local government monies used by counties, townships and municipalities to purchase agricultural easements; and
4. The number and amount of state matching grants given to purchase agricultural easements.

The report must also include the following information on each county:

1. The total number of acres in the county
2. The number of acres in current agricultural use
3. The number of acres preserved for agricultural use in the preceding year, and
4. The average cost per acre of land preserved for agricultural use in the preceding year.

Under the law, the director is authorized, but not required, to provide technical assistance to counties, townships, municipalities, soil and water conservation districts, and charitable organizations, including land trusts, that are developing a program to acquire agricultural easements.

Finally, the director receives advice from a Farmland Preservation Advisory Board of 12 members including one county commissioner. The Advisory Board helps in the design and implementation of the grant program and in the selection of applications for funding.

QUESTIONS AND ANSWERS ON AGRICULTURAL EASEMENTS

What Does This All Mean for Counties?

Q-1 WHAT IS AN AGRICULTURAL EASEMENT?

A-1 An agricultural easement is a legal document between two parties that imposes limitations on the use or development of agricultural land for the purpose of retaining the use of the land predominantly in agriculture. The legal document may be in the form of articles of dedication, an easement, covenant, restriction or coordination, and must be executed and recorded like other instruments that convey interests in land. An agricultural easement also includes provisions whereby the holder of the easement may enter the property to ensure compliance with the provision of the easement. Agricultural easement is defined in ORC Section 5301.67 (C).

Q-2 I'VE HEARD OF CONSERVATION EASEMENTS. HOW ARE THEY DIFFERENT FROM AGRICULTURAL EASEMENTS?

A-2 Conservation easements and agricultural easements are similar, but there are important distinctions. Under an agricultural easement the limitations on use or development are for the purpose of “retaining the use of land predominately in agriculture.” Under a conservation easement, the purpose of the limitations on use or development are for the purpose of “retaining land, water, or wetland areas in their natural, scenic, open, or wooded condition...or retaining their use predominantly as suitable habitats for fish, plants, or wildlife.” Under conservation easement the use of land in agriculture is allowed if it is consistent with furthering the retention of the land for the specified purposes, but not if the predominant purpose is to retain the use of land in agriculture. The definition of conservation easement is in ORC Section 5301.67 (A).

Q-3 I HEAR A LOT OF TALK ABOUT PDR. WHAT IS THE RELATIONSHIP OF AGRICULTURE EASEMENTS TO PDR?

A-3 PDR stands for Purchase of Development Rights. Under a PDR program, a landowner may be willing to place development limitations on his/her land in return for a cash payment to compensate for the reduced value of the land with the development limitations.

Under this situation, an agricultural easement is the mechanism or procedure used to place the limitations on the land in return for the cash payment.

However, agricultural easements may also be granted by landowners without cash payment or other forms of compensation to the land owner. For example, the law specifically allows counties to acquire agricultural easements by “gift, devise, or bequest.” In these cases any terms may be included in the easement to preserve estate tax advantages of such a bequest by a landowner.

Q-4 ON WHAT LAND MAY AN AGRICULTURAL EASEMENT BE GRANTED?

A-4 The land must be valued for real property tax purposes at current agricultural use value (CAUV) under ORC Section 5713.31.

Q-5 WHICH ENTITIES MAY ACQUIRE AGRICULTURAL EASEMENTS?

A-5 If a landowner desires to grant an agricultural easement it may only be executed with and held by: (1) the legislative authority of a county, municipality or township; (2) the Director of Agriculture; (3) a soil and water conservation district or (4) a charitable organization, often known as a non-profit land trust, that is tax exempt and meets the requirements of ORC 5301.69 (B).

Agricultural easements can not be acquired or held by organizations that may acquire conservation easements, including metropolitan and township park districts, or conservancy districts.

Q-6 AFTER AN AGRICULTURAL EASEMENT IS RECORDED HOW IS THE COUNTY SURE THE OWNER IS IN COMPLIANCE WITH THE PROVISIONS OF THE EASEMENT?

A-6 The county must name an administrative officer, department or division to supervise and enforce provisions included in the easement. This could include an employee or officer under the county commissioners. The law also specifically authorizes the commissioners to contract with a metropolitan or township park district, a soil and water conservation district, or a qualified non-profit charitable organization to supervise and enforce the easement. It appears that conservancy districts were inadvertently left out of the law for this purpose.

Q-7 HOW LONG DOES AN AGRICULTURAL EASEMENT LAST?

A-7 It depends on how the instrument conveying the easement is worded. If a county is the holder of an easement and state monies from either the Agricultural Easement Purchase Fund (AEPF) or the Clean Ohio Agricultural Easement Fund are used, the easement must be perpetual and run with the land.

Q-8 WHAT PROVISIONS NEED TO BE INCLUDED IN AN INSTRUMENT CONVEYING AN AGRICULTURAL EASEMENT TO A COUNTY?

A-8 It depends on whether the easement is being donated or purchased. It also depends on whether state monies from either of the two state funds that have been established to provide funding for agricultural easements are being used to purchase the easement.

Q-8A WHAT IF THE EASEMENT BEING CONVEYED TO THE COUNTY IS A GIFT OR BEQUEST?

A-8A The law does not specifically require any provisions be included in such an instrument. The easement is essentially a private transaction between the county and the landowner. The statute does authorize that any terms may be included in the easement needed to preserve favorable income and estate tax consequences for the landowner or his/her estate.

Q-8B WHAT IF THE COUNTY IS PURCHASING THE EASEMENT WITH ITS OWN MONEY AND THE EASEMENT IS FOR A LIMITED NUMBER OF YEARS, NOT PERPETUAL?

A-8B Where the easement is time limited, the instrument conveying the easement must include provisions that address the following topics: (1) what will be paid and manner of payment; (2) if the easement is renewable and procedures for renewal; (3) circumstances under which easement may be extinguished; and (4) the method to determine the amount of money, if any, due the county by the landowner upon extinguishment.

Q-8C WHAT IF THE EASEMENT IS PURCHASED USING MATCHING MONIES FROM THE STATE?

A-8C First, remember that the easement must be perpetual and can not be for a specified period of time in order to qualify for state funding from either state fund.

The law also requires the Director of Agriculture, by rule, to establish provisions that counties must include in instruments conveying an agricultural easement to a county. These rules must include the following provisions:

1. A provision stating that the easement may be extinguished only if an unexpected change in "the conditions of or surrounding the land..." makes it impossible or impractical to continue the use of land as specified in the easement, or if the requirements of the easement are extinguished by a court.
2. A provision requiring that upon sale, exchange, or involuntary conversion of land subject to the easement that the landowner must pay the county

an amount of money equal to at least the proportionate value of the easement compared to the total value of the land at the time the easement was acquired.

- 3. A provision that requires the county to remit to the state an amount of money equal to the percent of the original cost of the easement if received from the state for the purchase of the easement.

Q-9 GEE, THAT IS REALLY CONFUSING. CAN YOU GIVE ME AN EXAMPLE?

A-9 Sure. Let’s say a county decides to purchase an easement on land that is valued today at \$1 million. Let’s assume the county has agreed to pay the landowner \$250,000 in matching monies from the Agricultural Easement Purchase Fund (AEPF) or the Clean Ohio Easement Fund. In this case the original financing package looks like this:

Total Value of Land	\$1,000,000
Value of Easement	\$250,000
Easement as Percent of Total Value	25%
State Matching Monies from AEPF	\$125,000
State Matching Monies as a Percent of Value of Easement	50%

Under this example, the instrument conveying the easement to the county must include a provision that requires the county to be paid 25% of the future value of the land if the land is sold, exchanged, or involuntarily converted after execution of the easement. The instrument conveying the easement must also contain a provision requiring the county to pay the state 50% of any money it receives, should such a situation occur in the future.

For now let’s assume that 15 years after the easement is executed a court extinguishes the easement. The landowner sells the land and is now valued at \$2.5 million.

Under this example, the landowner must repay the county \$625,000 (25% of \$2.5 million). The county, in turn, would repay the state \$312,000 (50% of \$625,000) which would be re-deposited in the appropriate state fund.

Q-10 IN THE PREVIOUS EXAMPLE, DO THE REQUIRED PROVISIONS RELATING TO REPAYMENTS BY THE LANDOWNER ALSO APPLY TO INSTRUMENTS CONVEYING EASEMENTS WHERE ONLY COUNTY MONIES ARE USED?

A-10 No. the law does not require the inclusion of any such provisions in instruments conveying easements to counties if the easement is perpetual and involves no state monies. The county could, however, include such a provision within an easement assuming the landowner consents. In such a situation, however, the relative percentages are subject to negotiation between the county and the landowner. In the previous example, state monies are involved. These repayment percentages were calculated as required by the statute and must be included in the instrument conveying the easement to the county, if state monies are involved from either state fund that may make grants for agricultural easements.

In the case of easements held by the county that are time limited and involve no state matching monies, the law requires the instrument conveying the easement to include such a provision.

State law, however, does not require any repayment to the county upon extinguishment of a time limited easement. Unlike situations where state funds are involved, the law does not specify any formula by which repayment must take place. Any such provisions are solely subject to negotiation between the county and the landowner.

So what does the law require in such situations? A specific provision in the instrument conveying the easement that includes the method of determining repayment upon extinguishment of the easement if such a provision is negotiated. If no payments to the county are a part of the negotiation, the instrument must include a provision that explicitly states this fact.

Q-11 HOW MUCH MONEY IS IN THE STATE AGRICULTURAL EASEMENT PURCHASE FUND (AEPF) AND CLEAN OHIO AGRICULTURAL EASEMENT FUND? HOW DO I APPLY FOR A MATCHING GRANT?

A-11 Very few state dollars have ever been appropriated to the AEPF. Some federal funds may have flowed through this fund. Most of the money that has been distributed for grants to local governments and land trusts for the purchase of agricultural easements has come from the Clean Ohio Agricultural Easement Fund. With the passage of Governor Taft's "Clean Ohio" initiative and the enactment of enabling legislation in 2001, \$25 Million of the total of \$400 Million issued on the program was for farmland preservation.

The Director of Agriculture has responsibility to establish procedures and eligibility criteria for matching grants. For more information refer to Section 901.22 of the Revised Code. In addition, the law establishes a Farmland

Preservation Advisory Board that makes recommendations to the Director of Agriculture on projects to be funded.

Q-12 *WHAT IS THE POWER OF A BOARD OF COUNTY COMMISSIONERS WHEN IT COMES FOR PAYING FOR THE PURCHASE OF AGRICULTURAL EASEMENTS?*

A-12 The law gives counties broad authority to generate money to purchase agricultural easements. Counties may use general fund monies, although it is not anticipated that many will use this authority.

Counties may also submit to the electors the question of an increase in the real property or sales and use tax for the purpose of acquiring agricultural easements. Counties may also vote approval general obligation bonds and may pledge sales tax revenue enacted for the purchase of agricultural easements to repay revenue bonds which may also be issued by the county.