

1 AMENDMENT TO HOUSE BILL 2485

2 AMENDMENT NO. _____. Amend House Bill 2485 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Farmland Protection Act.

6 Section 5. Statement of legislative intent. It is the
7 policy of the State, as declared in the Farmland Preservation
8 Act (505 ILCS 75/) to conserve, protect, and encourage the
9 development and improvement of its agricultural lands for the
10 production of food, fiber, and other agricultural products.
11 It is also the policy of this State to conserve and protect
12 agricultural lands as valued natural and ecological
13 resources, which provide needed open spaces for clean air and
14 water sheds as well as for aesthetic purposes.

15 Agriculture in many parts of Illinois is under intense
16 development pressure from expanding metropolitan areas.
17 Approximately 4,000,000 acres of land in farms was converted
18 to other land uses between 1950 and 2001. This pressure takes
19 the form of scattered development in wide belts around
20 urbanizing areas, which create land uses that conflict with
21 the management of agricultural operations. When scattered
22 development extends into agricultural areas, land prices

1 begin to rise, making it difficult for existing farms to
2 expand their operations and new farms to begin operation.

3 Certain agricultural lands in urbanizing areas constitute
4 prime and soil resources of local, State, and national
5 importance. It is the purpose of this Act to provide local
6 government with a means by which farmland may be protected
7 and by which agricultural communities may be enhanced so as
8 to remain a viable segment of this State's economy.

9 It is further the purpose of this Act to:

10 (1) Encourage landowners to make a long-term
11 commitment to agriculture by offering them financial
12 incentives and security of land use.

13 (2) Protect farming operations in locally
14 designated areas from incompatible non-farm land uses
15 that may render agricultural production impracticable.

16 (3) Ensure the permanent conservation of productive
17 agricultural lands, through the use of Agricultural
18 Conservation Easements under the Illinois Real Property
19 Conservation Rights Act (765 ILCS 120/) in order to
20 protect and enhance the economy of the State.

21 (4) Provide compensation to landowners in exchange
22 for the relinquishment of the right to develop their
23 private property.

24 (5) Create an Illinois Farmland Protection Fund
25 Program to assist units of local government in funding
26 farmland protection plans and obtaining matching federal
27 Farmland and Ranch Protection Program funding for the
28 purchase of Agricultural Conservation Easements.

29 (6) This Act does not replace or supersede any
30 existing local farmland protection program enacted prior
31 to the passing of this Act.

32 Section 10. Definitions. As used in this Act, unless the
33 context otherwise requires, the terms specified in this

1 Section have the following meaning ascribed to them:

2 "Act" means Illinois Farmland Protection Act.

3 "Agricultural area" means an area of not less than 350
4 acres of viable farmland in accordance with the Agricultural
5 Areas Conservation and Protection Act (505 ILCS 5/).

6 "Agricultural conservation easement" means an interest in
7 land, less than fee simple, that represents the right to
8 prevent the development or improvement of the land for any
9 purpose other than agricultural production. The owner of the
10 farmland may grant the easement to any third party or to the
11 State, to a non-governmental organization, or to a local
12 government.

13 "Agricultural production" means the production for
14 commercial purposes of crops, livestock, and livestock and
15 aquatic products, but not land or portions thereof used for
16 the processing of these crops, livestock or livestock or
17 aquatic products.

18 "Board" means a county or township board or the corporate
19 authorities of a municipality.

20 "Crops, livestock, and livestock and aquatic products"
21 include, but are not limited to, the following: legumes; hay;
22 grain; fruit; truck or vegetable crops; floriculture;
23 horticulture; mushroom growing; nurseries; orchards;
24 forestry; greenhouses and aquatic products as defined in the
25 Aquaculture Development Act; the keeping, raising and feeding
26 of livestock or poultry, including dairying, poultry, swine,
27 sheep, beef cattle, pony and horse production; fur and
28 wildlife farms; farm buildings used for growing, harvesting
29 and preparing crop products for market, or for use on the
30 farm; roadside stands; farm buildings for storing,
31 maintaining, and protecting farm machinery and equipment from
32 the elements, for housing livestock or poultry and for
33 preparing livestock or poultry products for market; and farm
34 dwellings occupied by farm owners, operators, tenants, or

1 seasonal or year-round hired workers.

2 "Department" means the Illinois Department of
3 Agriculture.

4 "Farmland protection plan" means the written plan adopted
5 by a board to implement a farmland protection program and
6 includes goals, policies, and procedures for preserving
7 viable farmland identified within the jurisdiction of the
8 local government and includes properly adopted amendments or
9 additions to the plan.

10 "Farmland protection program" means a program with the
11 purpose of protecting parcels of farmland with a local
12 government through the sale or donation of agricultural
13 conservation easements for farmland protection purposes.

14 "Farmland protection purposes" includes (i) the
15 preservation and maintenance of farmland threatened by
16 encroachment from non-agricultural uses; (ii) the management
17 and use of that property in a manner and with restrictions
18 that will leave it unimpaired for the benefit of future
19 generations; and (iii) otherwise promoting the conservation
20 of the natural resources of the local government.

21 "Local government" means a county, township, or
22 municipality.

23 "Viable farmland" means any land suitable for
24 agricultural production and that will continue to be
25 economically feasible for this use if real estate taxes, farm
26 use restrictions, and speculative activities are limited to
27 levels approximating those in commercial agricultural areas
28 that are not influenced by the proximity of urban and related
29 non-agricultural development.

30 Section 15. Farmland protection plan; petition.

31 (a) A board desiring to enter into a farmland protection
32 program may do so only after adoption of a farmland
33 protection plan under Section 20. The board shall commence

1 preparation of a farmland protection plan under that Section
2 through either a majority vote of the board or through the
3 filing with the local government clerk or appropriate office
4 of a petition signed by not less than 5% or 50, whichever is
5 greater, of the registered voters of the local government,
6 according to the voting registration records at the time the
7 petition is filed, recommending that the board commence
8 preparation of a farmland protection plan.

9 (b) A proposed farmland protection plan shall: (i)
10 identify all farmland within the local government that the
11 board deems potentially necessary to protect with
12 agricultural conservation easements in order to accomplish
13 the purposes of the farmland protection program; (ii) state
14 the ways in which the acquisition of agricultural
15 conservation easements on tracts of farmland in the local
16 government will further the farmland protection purposes;
17 (iii) state the estimated costs of implementing the proposed
18 plan; (iv) state the approximate tax, per \$100 of assessed
19 value, that will be levied to provide the necessary funds for
20 implementing the proposed plan; (v) state the estimated
21 timetable for implementing the proposed plan; and (vi)
22 establish standards and procedures for establishing
23 priorities for the acquisition of agricultural conservation
24 easements on parcels identified in the plan.

25 Section 20. Eligibility. Only viable farmland planned
26 and zoned for agricultural use through the local government's
27 most current comprehensive plan and zoning ordinance and
28 identified in a farmland protection plan shall be eligible
29 for the purchase of an agricultural conservation easement as
30 part of an approved farmland protection program. The board
31 may purchase agricultural conservation easements only from
32 willing owners and may not exercise its power of eminent
33 domain to acquire these interests. Farmland recorded as part

1 of an agricultural area in accordance with the Agricultural
2 Areas Conservation and Protection Act and located within the
3 farmland protection plan should be given preference in the
4 creation of the farmland protection plan.

5 Section 25. Public hearing.

6 (a) Before adopting a farmland protection plan or an
7 amendment to an existing plan, the board must conduct a
8 public hearing on the plan or amendment, recommend adoption
9 of the farmland protection plan or receive a recommendation
10 by petition of the voters of the local government under
11 Section 30 that the farmland protection plan be adopted, and
12 submit the question of adoption of the farmland protection
13 plan to the local government voters under Section 30.

14 (b) The board must cause to be prepared a notice of the
15 public hearing stating the date, time, place, and purpose of
16 the hearing. The local government clerk must cause the notice
17 to be published in a newspaper of general circulation in the
18 local government not less than 15 nor more than 30 days
19 before the date of the hearing. The local government must
20 also meet any additional notice requirements required by
21 local law. A copy of the proposed plan also shall be filed
22 with the local government clerk, who shall make it available
23 to the general public for inspection after publication of the
24 notice of public hearing.

25 (c) At the public hearing, all persons desiring to offer
26 statements or other evidence in support of or in opposition
27 to the proposed plan must be afforded an opportunity to do so
28 orally, in writing, or both. Public comments or suggestions
29 that do not materially change the geographical limits or
30 functionality of the farmland protection plan may be
31 incorporated into the farmland protection plan without
32 requiring a new public hearing.

33 (d) Within 60 days after the public hearing, the board

1 shall consider all of the evidence before it and shall, based
2 upon that evidence, recommend the adoption or rejection of
3 the proposed farmland protection plan in whole or in part.
4 The board's recommendation must be in writing. If the board
5 does not recommend adoption or rejection of the proposed
6 farmland protection plan, or if a petition from the voters of
7 the local government recommending adoption of the farmland
8 protection plan is not filed with the local government clerk
9 within 60 days after the public hearing, the farmland
10 protection plan may not be subsequently adopted unless
11 another public hearing is held and notice given as provided
12 in this Section. A recommendation by the board or by petition
13 under this subsection (d) to adopt a farmland protection plan
14 shall be made no later than 138 calendar days before the next
15 regular election in order for the question of the adoption of
16 the farmland protection plan to appear on the ballot at that
17 election. If the question of the adoption of the farmland
18 protection plan does not appear on the ballot, the farmland
19 protection plan may not be subsequently adopted unless
20 another public hearing is held and notice given under this
21 Section.

22 Section 30. Referendum on recommended plan; petition.

23 (a) If the board recommends adoption of a farmland
24 protection plan or if a petition is filed by not less than 5%
25 or 50, whichever is greater, of the registered voters of the
26 local government, according to the voting registration
27 records at the time the petition is filed, recommending
28 adoption of the farmland protection plan, then the board,
29 within 30 days after making the recommendation or after the
30 filing of the petition, shall file a petition with the local
31 government clerk or appropriate office, requesting the clerk
32 to submit to the voters of the local government the question
33 of whether the local government shall adopt the farmland

1 protection plan and enter into a farmland protection program,
2 with the power to acquire farmland by purchasing agricultural
3 conservation easements on designated properties in the local
4 government and with the power to issue bonds for those
5 purposes under this Act. The local government clerk shall
6 certify that proposition to the proper election officials,
7 who shall submit the proposition to the local government
8 voters at the next regular election. The referendum shall be
9 conducted and notice given in accordance with the general
10 election law.

11 (b) The question submitted to the voters at the election
12 shall be in substantially the following form:

13 Shall (name of local government) adopt the farmland
14 protection plan considered at the public hearing on
15 (date) and enter upon a farmland protection program, and
16 shall the (local government board) have the power (i) to
17 acquire agricultural conservation easements on viable
18 farmland by purchase from willing owners, (ii) to issue
19 bonds for farmland protection purposes in an amount not
20 exceeding 5.75% of the valuation of all taxable property
21 in the local government, and (iii) to levy a tax to pay
22 the principal of and interest on those bonds, as provided
23 in (appropriate section of pertinent code)?

24 The votes shall be recorded as "Yes" or "No".

25 (c) If a majority of the voters voting at the election
26 on the question vote in favor of the question, the local
27 government shall thereafter adopt the farmland protection
28 plan. If the proposition does not receive the approval of a
29 majority of the voters voting at the election on the
30 question, no proposition may be submitted to the voters under
31 this Section less than 11 months after the date of the
32 election.

33 Section 35. Amendments or additions to plan. If the

1 board recommends any amendments or additions to a plan that
2 has been adopted by a local government, no property that is
3 the subject of the amendment or addition may be restricted
4 through an agricultural conservation easement until the
5 revised plan is approved by the voters at a referendum under
6 Section 30 unless the amendments or additions do not provide
7 for expenditures in excess of those provided in the original
8 plan.

9 Section 40. Municipalities; notice and objections.
10 Within 10 days after publishing the notice of the proposed
11 farmland protection plan within a newspaper as provided under
12 Section 25 of this Act, if the farmland protection plan
13 recommended for adoption under Section 25 contains property
14 that is situated within one and one-half miles of the
15 corporate limits of any municipality, the board shall notify
16 the municipal authorities of the affected municipality of
17 this proposed farmland protection plan. The municipal
18 authorities may object to the proposal if the objection is
19 presented to a board member within 30 days of the municipal
20 authority's receipt of the notice of the proposal. Upon
21 receipt of the objection by the board member, the proposed
22 farmland protection plan shall be modified to exclude the
23 real estate within one and one-half miles of the corporate
24 limits of the municipality unless the property in question is
25 approved for inclusion in the farmland protection plan by a
26 favorable vote of three-fourths of all members of the board.
27 If no objection is received within the specified time period,
28 the affected real estate shall be included in the farmland
29 protection plan.

30 Section 45. Powers of the board. In any local government
31 in which the establishment of a farmland protection program
32 has been authorized by the voters under this Act, the board,

1 to the extent necessary to carry out the purposes of this Act
2 and in addition to any other powers, duties, and functions
3 vested in a local government by law (but subject to
4 limitations and restrictions imposed by this or any other
5 law), has the powers enumerated in Sections 50 through 65.

6 Section 50. Study; coordinated plan. The board may study
7 and ascertain the viable farmland resources in the local
8 government, the need for preserving those resources, and the
9 extent to which those needs are being currently met. The
10 board may prepare and adopt a coordinated plan of areas to
11 meet those needs that refers to and complements farmland
12 protection plans and other land conservation plans enacted or
13 planned by the local government or adjacent local
14 governments.

15 Section 55. Acceptance of money and personal property.
16 The board may accept on behalf of the local government gifts,
17 grants, bequests, contributions, and appropriations of money
18 and other personal property for farmland protection purposes.

19 Section 60. Executive officer. The board may employ and
20 fix the compensation of an executive officer who shall be
21 responsible to the board for the carrying out of its
22 policies. The executive officer shall have the power,
23 subject to the approval of the board, to employ and fix the
24 compensation of assistants and employees as the board
25 considers necessary for carrying out the purposes and
26 provisions of this Act.

27 Section 65. Borrowing money; bonds. The local government
28 board may borrow money and issue bonds through a referendum
29 for the purpose of acquiring agricultural conservation
30 easements on viable farmland for farmland protection

1 purposes, as defined in Section 10, pursuant to a farmland
2 protection program adopted in and for the local government in
3 any amount not to exceed 5.75% on the valuation of taxable
4 property in the local government, to be ascertained by the
5 last assessment for State and county taxes previous to the
6 incurring of the indebtedness.

7 Whenever the board desires to issue bonds under this Act,
8 or whenever the board receives a petition from not less than
9 5% or 50, whichever is greater, of the registered voters of
10 the local government, according to the voting registration
11 records at the time the petition is filed, requesting the
12 board to issue bonds under this Act, the board, concurrently
13 with the filing of a petition with the local government clerk
14 or appropriate office requesting it to submit to the voters
15 of the local government at the next election the question of
16 whether or not to adopt a farmland protection plan and enter
17 upon a farmland protection program, shall certify that
18 proposition to the proper election officials who shall submit
19 to the voters of the local government at the next election
20 the question of whether or not the board shall issue bonds to
21 finance a farmland protection program and provide for the
22 levy and collection of a direct annual tax upon all taxable
23 property within the local government to meet the principal
24 and interest on the bonds as they mature. This tax shall be
25 in addition to and in excess of any other tax authorized to
26 be levied by the local government. The election shall be
27 conducted and notice given in accordance with the general
28 election law. The question submitted to the voters at the
29 election shall be in substantially the following form:

30 Shall (name of the local government) issue bonds to
31 finance the acquisition of agricultural conservation
32 easements on viable farmland for farmland protection
33 purposes as provided by the Illinois Farmland Protection
34 Act and levy and collect property taxes, in excess of any

1 other tax authorized to be levied by the local
2 government, sufficient to meet the principal and interest
3 on the bonds as they mature, but not in an amount in
4 excess of 5.75% on the valuation of taxable property in
5 the local government?

6 The votes shall be recorded as "Yes" or "No".

7 If a majority of the voters voting on the question vote
8 in favor of the question, the board shall issue bonds as
9 provided in this Act provided that the bonds are issued
10 within 6 months after the voters vote favorably on the
11 question. If the proposition does not receive the approval of
12 a majority of the voters voting at the election on the
13 question, no proposition may be submitted to such voters
14 pursuant to this Section less than 11 months after the date
15 of the election.

16 The board shall then adopt a resolution authorizing the
17 issuance of the bonds, prescribing all the details thereof,
18 and stating the time or times when the principal of and the
19 interest on the bonds become payable, and the place of
20 payment of the bonds. The bonds must, however, be payable
21 within not less than 3 nor more than 40 years from the date
22 of issue, and be issued to bear interest at, but not to
23 exceed the maximum rate authorized by the Bond Authorization
24 Act. The resolution shall provide for the levy and collection
25 of a direct annual tax upon all the taxable property within
26 the corporate limits of the local government sufficient to
27 meet the principal of and interest on the bonds as they
28 mature. This tax shall be in addition to and in excess of any
29 other tax authorized to be levied by the local government.

30 A certified copy of the resolution providing for the
31 issuance of the bonds shall be filed with the county clerk of
32 the county in which the local government is located and
33 constitutes the basis and authority of the county clerk for
34 the extension and collection of the tax necessary to pay the

1 principal of and interest upon the bonds issued under the
2 resolution.

3 With respect to instruments for the payment of money
4 issued under this Section, it is the intention of the General
5 Assembly (i) that the Omnibus Bond Acts are and always have
6 been supplementary grants of power to issue instruments in
7 accordance with the Omnibus Bond Acts, regardless of any
8 provision of this Act that may appear to be or to have been
9 more restrictive than those Acts, (ii) that the provisions of
10 this Section are not a limitation on the supplementary
11 authority granted by the Omnibus Bonds Acts, and (iii) that
12 instruments issued under this Section within the
13 supplementary authority granted by the Omnibus Bond Acts are
14 not invalid because of any provision of this Act that may
15 appear to be or to have been more restrictive than those
16 Acts.

17 Section 70. Report. No later than March 31 of each
18 calendar year, the board of any local government that has
19 established a farmland protection program under the
20 provisions of this Act shall file with the local government
21 clerk or appropriate office a report describing the actions
22 taken by the board to implement its farmland protection plan.
23 This report must include at least the following information:

24 (1) The amount of taxes levied and received by the
25 local government in the preceding calendar year.

26 (2) The amount of all monies spent in the preceding
27 calendar year in implementing the farmland protection
28 plan and the specific purposes for which all monies were
29 spent.

30 (3) The legal and common descriptions of all
31 agricultural conservation easements acquired in the
32 preceding calendar year.

33 (4) The current total projection of farmland area

1 to be protected under the farmland protection program.
2 This report must be provided to the Department within 30
3 days after the report's formal filing with the local
4 government clerk or appropriate office.

5 Section 75. Illinois Farmland Protection Fund Program.

6 (a) The provision of lands for the conservation of
7 agricultural resources for protecting the public health,
8 prosperity, and general welfare is the proper responsibility
9 of State government. Lands now dedicated to these purposes
10 are not adequate to protect the quality of life and meet the
11 needs of an expanding population. Agricultural lands provide
12 critical food and fiber and the best, most productive and
13 most viable are in need of protection. The opportunity to
14 acquire agricultural conservation easements on lands in many
15 communities that are available and appropriate for these
16 purposes will gradually disappear as their value and
17 corresponding cost increases due to the encroachment of urban
18 development. It is desirable to encourage partnerships among
19 federal, State, and local governments, non-governmental
20 organizations and not-for-profit corporations for the
21 acquisition of agricultural conservation easements from
22 willing owners. It is necessary and desirable to provide
23 assistance in the form of grants to local governments to
24 acquire strategic agricultural conservation easements for
25 viable farmland.

26 (b) The Department has the following authority:

27 (1) To develop and administer rules for carrying
28 out the Illinois Farmland Protection Fund Program.

29 (2) To award grants to local governments under this
30 Act, subject to annual State appropriations for the
31 purpose of farmland protection.

32 (3) To acquire agricultural conservation easements
33 from willing owners.

1 (4) To execute contracts, grant agreements,
2 memoranda of understanding, intergovernmental cooperation
3 agreements, and any other agreements with other State
4 agencies, non-governmental organizations and local
5 governments that are necessary to implement this Act.

6 (5) To accept grants, loans, or appropriations from
7 the federal government or the State, or any agency or
8 instrumentality thereof, for the purposes of the
9 Department under this Act, and to enter into any
10 agreement with the federal government or the State, or
11 any agency or instrumentality thereof, in relationship to
12 the grants, or appropriations.

13 (6) To establish application, eligibility,
14 selection, notification, contract, and other procedures,
15 rules, guidelines, directives, or regulations deemed
16 necessary and appropriate to carry out the provisions of
17 this Act.

18 (7) To fix, determine, charge, and collect any
19 premiums, fees, charges, costs, and expenses, including,
20 without limitation, any application fees, commitment
21 fees, program fees, or financing charges from any person
22 in connection with its activities under this Act.

23 (8) To report annually to the Governor and the
24 General Assembly on the progress made in implementing
25 this Act and on the status of all agricultural
26 conservation easements acquired pursuant to the Act.

27 (c) From appropriations for these purposes, the
28 Department may award grants to units of local government as
29 financial assistance for the purpose of purchasing
30 agricultural conservation easements on agricultural lands if
31 the Department determines that the property interests are
32 sufficient to carry out the purposes of this Act. The
33 Department shall adopt rules concerning the selection or
34 grant recipients, amount of grant awards, and eligibility

1 requirements. The rules may include the following additional
2 requirements:

3 (1) No more than \$2,000,000 may be awarded to any
4 grantee for a single project for any fiscal year.

5 (2) Any grant under this Act must be conditioned
6 upon the grantee providing a required match as defined by
7 rule.

8 (3) Funds may be used only to purchase interests in
9 land from willing owners and may not involve the use of
10 eminent domain.

11 (4) The Department may make available to local
12 governments, grants for the preparation of farmland
13 protection plans subject to the Department's rules and
14 annual State appropriations.

15 (5) Grantees must agree to manage lands in
16 accordance with the terms of the grant. Any changes in
17 management must be approved by the Department before
18 implementation.

19 (d) The Department shall create the Illinois Farmland
20 Protection Advisory Board, which shall have responsibility to
21 review and provide recommendations to the Department on the
22 Illinois Farmland Protection Fund Program, as set forth in
23 this Section.

24 The Board shall be composed of the following: the
25 Director of Agriculture, the President of the Association of
26 Illinois Soil and Water Conservation Districts, the Natural
27 Resources Conservation Service State Conservationist, and the
28 University of Illinois Extension Director, or their
29 respective designees. Additionally, the Director of
30 Agriculture shall appoint a member from a State or national
31 farmland protection non-governmental organization, a member
32 from a State agricultural non-governmental organization, and
33 an Illinois farmer. The Board must choose a Chairperson to
34 serve 2 years on a rotating basis."