

# SENATE BILL 645

M1, M4

6lr2810  
CF 6lr3373

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By: **Senators King, Middleton, Bates, Cassilly, Eckardt, Edwards, Feldman, Kagan, Madaleno, Manno, Mathias, Norman, Pinsky, Ready, Serafini, and Young**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund – Allocation of Funds**

3 FOR the purpose of repealing references to the “Chesapeake 2000 Agreement” in certain  
4 provisions of law and substituting references to the “2014 Chesapeake Bay  
5 Watershed Agreement”; repealing references to the term “tributary strategies” in  
6 certain provisions of law and substituting references to the term “watershed  
7 implementation plan”; requiring money in the Chesapeake and Atlantic Coastal  
8 Bays 2010 Trust Fund, beginning in a certain fiscal year, to be allocated in  
9 accordance with certain provisions of law; requiring a certain minimum amount of  
10 money in the Trust Fund to be allocated to the Department of Agriculture annually  
11 for certain purposes; requiring a certain percentage of money in the Trust Fund to  
12 be allocated to the BayStat Subcabinet agencies annually for a certain purpose;  
13 requiring a certain percentage of money in the Trust Fund to be allocated to the  
14 Department of Agriculture annually for certain purposes; authorizing the BayStat  
15 Subcabinet to determine the use of any remaining money in the Trust Fund under  
16 certain circumstances; establishing the intent of the General Assembly that money  
17 in the Trust Fund not be redirected or allocated to the General Fund or any other  
18 special fund; making clarifying changes; defining a certain term; and generally  
19 relating to the allocation of money in the Chesapeake and Atlantic Coastal Bays 2010  
20 Trust Fund.

21 BY repealing and reenacting, with amendments,  
22 Article – Natural Resources  
23 Section 8–2A–01, 8–2A–02, and 8–2A–04  
24 Annotated Code of Maryland  
25 (2012 Replacement Volume and 2015 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
27 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Natural Resources**

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8–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) “BayStat Program” means the program established under § 8–2A–03 of this subtitle.

(c) (1) “Nonpoint source pollution control project” means a project to improve water quality by a reduction of nitrogen, phosphorus, or sediment pollution.

(2) “Nonpoint source pollution control project” includes:

(i) An agricultural best management implementation practice, including cover crops, riparian forested buffer, manure processing, grassed waterways, animal waste storage structures, and livestock fencing;

(ii) An urban or suburban stormwater practice;

(iii) A sustainable forest management practice, including a forest stewardship plan or a nonornamental urban and suburban tree planting project;

(iv) Stream and wetland restoration;

(v) Riparian buffer planting;

(vi) A project that demonstrates the effectiveness of an innovative nonpoint source pollution reduction measure provided that the measure is capable of integration into existing nonpoint source pollution programs;

(vii) Technical assistance necessary to implement a nonpoint source pollution control project;

(viii) Improvement of a municipal park located on or adjacent to a waterway, provided that the improvement is limited to state-of-the-art and sustainable nonpoint source pollution control measures that demonstrably improve water quality by reducing nitrogen, phosphorus, and sediment pollution; and

(ix) Strategic monitoring of water quality improvements from nonpoint source pollution control projects that have been funded, in whole or in part, with grants from the Trust Fund.

(d) [“Tributary strategies” means each of Maryland’s 10 watershed-specific plans as amended from time to time to reduce the amount of nitrogen, phosphorus, and sediment pollution that enters the Chesapeake and Atlantic Coastal Bays and their tributaries.

1 (e)] “Trust Fund” means the Chesapeake and Atlantic Coastal Bays 2010 Trust  
2 Fund.

3 (E) “**WATERSHED IMPLEMENTATION PLAN**” MEANS A PLAN TO ACHIEVE THE  
4 **NUTRIENT AND SEDIMENT LIMITS REQUIRED UNDER THE CHESAPEAKE BAY TOTAL**  
5 **MAXIMUM DAILY LOAD.**

6 8–2A–02.

7 (a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

8 (b) The purpose of the Fund is to provide financial assistance necessary to  
9 advance Maryland’s progress in meeting the goals established in the [Chesapeake 2000  
10 Agreement] **2014 CHESAPEAKE BAY WATERSHED AGREEMENT** for the restoration of  
11 the Chesapeake Bay and its tributaries, including the Patuxent River, and to restore the  
12 health of the Atlantic Coastal Bays and their tributaries, by focusing limited financial  
13 resources on nonpoint source pollution control projects in all regions of the State.

14 (c) The Secretary shall administer the Fund.

15 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of  
16 the State Finance and Procurement Article.

17 (2) The Treasurer shall hold the Fund separately, and the Comptroller  
18 shall account for the Fund.

19 (e) The Fund consists of:

20 (1) Money appropriated in the State budget for the Fund;

21 (2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of the  
22 Tax – General Article; and

23 (3) Any other money from any other source accepted for the benefit of the  
24 Fund.

25 (f) (1) The Fund may be used only for the implementation of nonpoint source  
26 pollution control projects to [achieve the State’s tributary strategy] **IMPLEMENT THE**  
27 **STATE’S WATERSHED IMPLEMENTATION PLAN** developed in accordance with the  
28 [Chesapeake 2000 Agreement] **2014 CHESAPEAKE BAY WATERSHED AGREEMENT** and  
29 to improve the health of the Atlantic Coastal Bays and their tributaries.

30 (2) It is the intent of the General Assembly that, when possible, moneys in  
31 the Fund shall be granted to local governments and other political subdivisions for  
32 agricultural, forestry, stream and wetland restoration, and urban and suburban

1 stormwater nonpoint source pollution control projects, including up to 25% in matching  
2 funds to local governments and other political subdivisions that have enacted a stormwater  
3 remediation fee under § 4-202.1 of the Environment Article.

4 **(G) (1) BEGINNING IN FISCAL YEAR 2017, MONEY IN THE FUND SHALL BE**  
5 **ALLOCATED IN ACCORDANCE WITH THIS SUBSECTION.**

6 **(2) (I) A MINIMUM OF \$5,000,000 SHALL BE ALLOCATED TO THE**  
7 **DEPARTMENT OF AGRICULTURE ANNUALLY FOR DISTRIBUTION TO SOIL**  
8 **CONSERVATION DISTRICTS TO ASSIST FARMERS AND COUNTIES WITH NONPOINT**  
9 **SOURCE POLLUTION CONTROL PROJECTS.**

10 **(II) THE FUNDS UNDER SUBPARAGRAPH (I) OF THIS**  
11 **PARAGRAPH:**

12 **1. SHALL BE DISTRIBUTED TO A SOIL CONSERVATION**  
13 **DISTRICT BASED ON THE WORKLOAD OF THE DISTRICT, AS DETERMINED BY THE**  
14 **DEPARTMENT OF AGRICULTURE;**

15 **2. MAY BE USED BY A SOIL CONSERVATION DISTRICT TO**  
16 **PAY FOR TECHNICAL AND ADMINISTRATIVE STAFF, INCLUDING SOIL CONSERVATION**  
17 **DISTRICT MANAGERS AND ADMINISTRATIVE POSITIONS FUNDED JOINTLY WITH A**  
18 **LOCAL GOVERNMENT, WHO ARE REQUIRED TO SUPPORT THE IMPLEMENTATION OF**  
19 **NONPOINT SOURCE BEST MANAGEMENT PRACTICES; AND**

20 **3. SHALL BE ADJUSTED ANNUALLY TO PROVIDE SALARY**  
21 **ADJUSTMENTS COMMENSURATE WITH STATE EMPLOYEES.**

22 **(3) AFTER THE ALLOCATION REQUIRED UNDER PARAGRAPH (2) OF**  
23 **THIS SUBSECTION IS MADE:**

24 **(I) A MINIMUM OF 45% OF THE MONEY IN THE FUND SHALL BE**  
25 **ALLOCATED TO THE BAYSTAT SUBCABINET AGENCIES TO ADMINISTER A**  
26 **COMPETITIVE GRANT PROGRAM TO PROVIDE FUNDING FOR URBAN, SUBURBAN, AND**  
27 **AGRICULTURAL NONPOINT SOURCE POLLUTION CONTROL PROJECTS; AND**

28 **(II) A MINIMUM OF 40% OF THE MONEY IN THE FUND SHALL BE**  
29 **ALLOCATED TO THE DEPARTMENT OF AGRICULTURE FOR AGRICULTURAL**  
30 **NONPOINT SOURCE POLLUTION CONTROL PROJECTS, INCLUDING COVER CROPS,**  
31 **MANURE STORAGE, OR OTHER BEST MANAGEMENT PRACTICES, INCLUDING**  
32 **INNOVATIVE BEST MANAGEMENT PRACTICES, TO MEET THE STATE'S**  
33 **AGRICULTURAL WATERSHED IMPLEMENTATION GOALS.**

1           **(4) THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN**  
2 **ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER**  
3 **GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT**  
4 **SUBCABINET AGENCIES.**

5           **(5) AFTER THE ALLOCATIONS IN PARAGRAPHS (2) AND (3) OF THIS**  
6 **SUBSECTION HAVE BEEN MADE, THE BAYSTAT SUBCABINET SHALL DETERMINE THE**  
7 **USE OF ANY REMAINING MONEY IN THE FUND.**

8           **[(g)] (H)** (1) The Treasurer shall invest the money of the Fund in the same  
9 manner as other State money may be invested.

10           (2) Any investment earnings of the Fund shall be retained to the credit of  
11 the Fund.

12           **[(h)] (I)** (1) Money expended from the Fund for the restoration of the  
13 Chesapeake and Atlantic Coastal Bays and their tributaries, including the Patuxent River,  
14 is supplemental to and is not intended to take the place of funding that otherwise would be  
15 appropriated for bay restoration.

16           **(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT MONEY IN**  
17 **THE FUND NOT BE REDIRECTED OR ALLOCATED TO THE GENERAL FUND OR ANY**  
18 **OTHER SPECIAL FUND.**

19 8-2A-04.

20           (a) The BayStat Program shall direct the administration of the Trust Fund in  
21 accordance with this section.

22           (b) (1) The BayStat Program shall implement nonpoint source pollution  
23 reduction measures to [achieve the tributary strategies] **IMPLEMENT THE STATE'S**  
24 **WATERSHED IMPLEMENTATION PLAN** by targeting funds, geographically and by  
25 practice, to proven, scientifically based projects that provide the most cost-effective and  
26 measurable water quality benefits to the Chesapeake and Atlantic Coastal Bays.

27           (2) To the maximum extent practicable, the BayStat Program shall  
28 distribute the Trust Fund moneys on a competitive basis.

29           (c) (1) The BayStat Program shall distribute funds from the Trust Fund to the  
30 BayStat Subcabinet agencies in accordance with the final work and expenditure plans.

31           (2) The BayStat Subcabinet agencies shall administer the funds **FOR THE**  
32 **COMPETITIVE GRANT PROGRAM FOR URBAN AND SUBURBAN NONPOINT SOURCE**  
33 **POLLUTION CONTROL PROJECTS** in accordance with the final work and expenditure  
34 plans, including the distribution of funds:

- 1 (i) Through grants to:
- 2 1. Counties;
- 3 2. Bicounty agencies;
- 4 3. Municipalities;
- 5 4. Forest conservancy district boards;
- 6 5. Soil conservation districts;
- 7 6. Academic institutions; and
- 8 7. Nonprofit organizations having a demonstrated ability to
- 9 implement nonpoint source pollution control projects;
- 10 (ii) To the Chesapeake and Atlantic Coastal Bays Nonpoint Source
- 11 Fund established under § 9–1605.3 of the Environment Article;
- 12 (iii) To the Maryland Agricultural Cost–Share Program established
- 13 under Title 8, Subtitle 7 of the Agriculture Article for nonpoint source pollution control
- 14 projects; and
- 15 (iv) To the Mel Noland Woodland Incentives Fund established under
- 16 § 5–307 of this article.
- 17 (3) (i) The BayStat Program shall develop solicitations, guidelines, and
- 18 applications for Trust Fund grants that shall include consideration of the extent to which
- 19 a proposed project, both geographically and by practice, will deliver the greatest, most
- 20 cost–effective, and measurable nonpoint source pollution reduction per Trust Fund dollar.
- 21 (ii) The BayStat Program shall encourage and consider multi–year,
- 22 multi–partner proposals, local match or cost–share agreements, or similar actions proposed
- 23 by a grant applicant in evaluating a Trust Fund grant application.
- 24 (d) Any grant agreement regarding funds from the Trust Fund shall:
- 25 (1) Specify the use of the funds provided under the grant, accountability
- 26 measures, and performance requirements;
- 27 (2) Take into account the need for efficient, multi–year funding and
- 28 administration; and
- 29 (3) Include provisions for verification that practices are being
- 30 implemented.

1 (e) (1) A recipient of funds from the Trust Fund in any fiscal year shall submit  
2 an annual report to the BayStat Program by November 1 of the next fiscal year.

3 (2) The report required under paragraph (1) of this subsection shall  
4 include:

5 (i) For agencies receiving moneys from the Trust Fund:

6 1. A description of how the funds were allocated, including:

7 A. The number and amounts of grants awards; and

8 B. Direct expenditures by the agency;

9 2. How funding was leveraged; and

10 3. Estimated or calculated nutrient reductions associated  
11 with Trust Fund expenditures.

12 (ii) For recipients of competitive grants from the Trust Fund, a  
13 description of funded projects, including:

14 1. Project location;

15 2. Description of practices implemented;

16 3. Timeframes for project completion;

17 4. Estimated or calculated nutrient reductions; and

18 5. Provisions for long-term maintenance of practices.

19 (f) Funds from the Trust Fund may not be used to enable an individual cited for  
20 noncompliance with a nonpoint source pollution control law or regulation to achieve  
21 compliance.

22 (g) (1) There is a BayStat Program Scientific Advisory Panel.

23 (2) The Governor shall appoint the chair and members of the BayStat  
24 Program Scientific Advisory Panel.

25 (3) The BayStat Program Scientific Advisory Panel shall include scientists  
26 and other technical experts with demonstrated expertise in the disciplines related to  
27 protection and restoration of the Chesapeake and Atlantic Coastal Bays.

28 (4) The BayStat Program Scientific Advisory Panel shall:

- 1 (i) On or before August 1, annually provide recommendations to the  
2 BayStat Subcabinet on the use of funds of the Trust Fund for the following fiscal year;
- 3 (ii) Monitor the distribution of funds from the Trust Fund;
- 4 (iii) Review the categories of grants made in the previous year to  
5 assess nutrient loading reduction estimates and cost efficiencies and the effectiveness of  
6 any innovative nonpoint source pollution reduction measure;
- 7 (iv) Review the proposed annual work plan and advise the BayStat  
8 Subcabinet of any recommended changes;
- 9 (v) On request by the BayStat Subcabinet, review individual grant  
10 applications; and
- 11 (vi) Annually review any Trust Fund moneys that are not distributed  
12 on a competitive basis to assess whether those moneys may be distributed on a competitive  
13 basis.
- 14 [(h) The BayStat Subcabinet agencies may distribute to an administrative cost  
15 account the amount that is necessary to administer grant programs, not to exceed 1.5% of  
16 the allocations to the BayStat Subcabinet agencies.]
- 17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2016.