

SENATE BILL 314

M3

(71r0057)

ENROLLED BILL

— *Education, Health, and Environmental Affairs/Environment and Transportation* —

Introduced by **The President (By Request – Administration) and Senators Bates, Cassilly, Edwards, Hershey, Hough, Jennings, Klausmeier, Mathias, Middleton, Norman, Reilly, Salling, Serafini, and Simonaire**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Clean Water Commerce Act of 2017**

3 FOR the purpose of authorizing funds in the Bay Restoration Fund to be used for the costs
4 associated with the purchase of certain nutrient ~~credits~~ load reductions, not to exceed
5 a certain amount per year in certain years; requiring certain regulations to be
6 adopted in a certain manner and in accordance with certain requirements; requiring
7 the Department of the Environment to consult with the Secretary of ~~Agriculture and~~
8 Transportation, the Secretary of Natural Resources, the Secretary of Commerce, the
9 Secretary of Agriculture, and certain stakeholders when developing certain
10 regulations; requiring the load reductions purchased under this Act to be consistent
11 with certain accounting procedures; requiring the Department to report to the Bay
12 Restoration Fund Advisory Committee annually on the implementation of this Act;
13 requiring the Department, on or before a certain date, to report to certain committees

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 of the General Assembly on the implementation of this Act; authorizing the
2 Department to enter into any contracts under this Act until a certain date; providing
3 that contracts entered into by the Department under this Act may be funded for a
4 certain period of time; providing for the termination of this Act; and generally
5 relating to the use of funds in the Bay Restoration Fund.

6 BY repealing and reenacting, without amendments,

7 Article – Environment

8 Section 9–1605.2(a)(1) and (i)(1)

9 Annotated Code of Maryland

10 (2014 Replacement Volume and 2016 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article – Environment

13 Section 9–1605.2(i)(2) and (l)

14 Annotated Code of Maryland

15 (2014 Replacement Volume and 2016 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

17 That the Laws of Maryland read as follows:

18 **Article – Environment**

19 9–1605.2.

20 (a) (1) There is a Bay Restoration Fund.

21 (i) (1) In this subsection, “eligible costs” means the additional costs that would
22 be attributable to upgrading a wastewater facility from biological nutrient removal to
23 enhanced nutrient removal, as determined by the Department.

24 (2) Funds in the Bay Restoration Fund shall be used only:

25 (i) To award grants for up to 100% of eligible costs of projects
26 relating to planning, design, construction, and upgrade of a wastewater facility for flows up
27 to the design capacity of the wastewater facility, as approved by the Department, to achieve
28 enhanced nutrient removal in accordance with paragraph (3) of this subsection;

29 (ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total
30 cost of projects, as approved by the Department, relating to combined sewer overflows
31 abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including
32 pumping stations;

33 (iii) In fiscal years 2010 and thereafter, for a portion of the operation
34 and maintenance costs related to the enhanced nutrient removal technology, which may
35 not exceed 10% of the total restoration fee collected from users of wastewater facilities
36 under this section by the Comptroller annually;

1 (iv) In fiscal years 2018 and thereafter, after payment of outstanding
2 bonds and the allocation of funds to other required uses of the Bay Restoration Fund for
3 funding in the following order of priority:

4 1. For funding an upgrade of a wastewater facility to
5 enhanced nutrient removal at wastewater facilities with a design capacity of 500,000
6 gallons or more per day;

7 2. For funding for the most cost-effective enhanced nutrient
8 removal upgrades at wastewater facilities with a design capacity of less than 500,000
9 gallons per day; and

10 3. As determined by the Department and based on water
11 quality and public health benefits, for the following:

12 A. For costs identified under item (ii) of this paragraph;

13 B. For costs identified under subsection (h)(2)(i)1 of this
14 section; and

15 C. With respect to a local government that has enacted and
16 implemented a system of charges to fully fund the implementation of a stormwater
17 management program, for grants to the local government for a portion of the costs of the
18 most cost-effective and efficient stormwater control measures, as determined and approved
19 by the Department, from the restoration fees collected annually by the Comptroller from
20 users of wastewater facilities under this section;

21 (v) As a source of revenue or security for the payment of principal
22 and interest on bonds issued by the Administration if the proceeds of the sale of the bonds
23 will be deposited in the Bay Restoration Fund;

24 (vi) To earn interest on Bay Restoration Fund accounts;

25 (vii) For the reasonable costs of administering the Bay Restoration
26 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of
27 wastewater facilities that are collected by the Comptroller annually;

28 (viii) For the reasonable administrative costs incurred by a local
29 government or a billing authority for a water or wastewater facility collecting the
30 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by
31 that local government or billing authority;

32 (ix) For future upgrades of wastewater facilities to achieve additional
33 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)
34 of this subsection;

(x) For costs associated with the issuance of bonds;

(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on-site sewage disposal systems and cover crop activities; [and]

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4-202.1(k)(3) of this article; AND

(XIII) ~~FOR~~ AFTER FUNDING ANY ELIGIBLE COSTS IDENTIFIED UNDER ITEM (IV) 1 AND 2 OF THIS PARAGRAPH, FOR COSTS ASSOCIATED WITH THE PURCHASE OF COST-EFFECTIVE NITROGEN AND, PHOSPHORUS, OR SEDIMENT LOAD REDUCTIONS ~~NUTRIENT CREDITS~~ IN SUPPORT OF THE STATE'S EFFORTS TO RESTORE THE HEALTH OF THE CHESAPEAKE BAY, NOT TO EXCEED \$4,000,000 IN FISCAL YEAR 2018, \$6,000,000 IN FISCAL YEAR 2019, AND \$10,000,000 PER YEAR IN FISCAL YEARS 2020 AND 2021.

(3) THE NITROGEN, PHOSPHORUS, AND SEDIMENT LOAD REDUCTIONS PURCHASED UNDER ~~SUBPARAGRAPH~~ PARAGRAPH (2)(XIII) OF THIS SUBSECTION:

(I) CANNOT BE FROM THE AGRICULTURAL SECTOR; AND

(II) MUST BE CREATED ON OR AFTER JULY 1, 2017.

(1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

(2) REGULATIONS ADOPTED TO CARRY OUT SUBSECTION (I)(2)(XIII) OF THIS SECTION SHALL ~~BE~~:

(I) BE ADOPTED BEFORE THE PURCHASE OF ANY LOAD REDUCTIONS;

(II) SPECIFY THAT A LOAD REDUCTION PURCHASED SHOULD PROVIDE THE LOWEST COST PER POUND IN REDUCTION AND BE PURCHASED IN ACCORDANCE WITH A COMPETITIVE PROCESS; AND

(III) BE ADOPTED IN CONSULTATION WITH THE SECRETARY OF ~~AGRICULTURE AND~~ TRANSPORTATION, THE SECRETARY OF NATURAL RESOURCES, THE SECRETARY OF COMMERCE, THE SECRETARY OF AGRICULTURE, AND PUBLIC AND PRIVATE SECTOR STAKEHOLDERS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions
2 purchased under § 9-1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1
3 of this Act, must be consistent with the Chesapeake Bay Program Partnership Accounting
4 Procedures.

5 SECTION 3. AND BE IT FURTHER ENACTED, That:

6 (a) Beginning July 1, 2018, the Department of the Environment shall report each
7 year to the Bay Restoration Fund Advisory Committee on the implementation of this Act.

8 (b) On or before October 1, 2020, the Department of the Environment shall report,
9 in accordance with § 2-1246 of the State Government Article, to the House Environment
10 and Transportation Committee and the Senate Education, Health, and Environmental
11 Affairs Committee on the implementation of this Act.

12 SECTION 4. AND BE IT FURTHER ENACTED, That:

13 (a) The Department of the Environment may enter into any contracts for the
14 purchase of nutrient load reductions under this Act until June 30, 2021.

15 (b) Any contract entered into by the Department of the Environment under this
16 Act may be funded for the expected life of the best management practice resulting from a
17 nutrient load reduction.

18 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2017. It shall remain effective for a period of 4 years and, at the end of June 30,
20 2021, with no further action required by the General Assembly, this Act shall be abrogated
21 and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.