

SB0119/854631/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 119
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 3 and 4, strike “Fund as a special, nonlapsing fund” and substitute “Account within the Bay Restoration Fund”; in lines 5, 6, and 8, in each instance, strike “Bay Restoration”; in lines 5, 7, 10 and 11, 12, 14, 15, 16 and 17, and 18, in each instance, strike “Clean Water Commerce Fund” and substitute “Account”; strike beginning with “requiring” in line 12 down through the first semicolon in line 14; in line 15, after “used;” insert “limiting the use of the Account to the purchase of certain cost-effective environmental outcomes; requiring that a certain percentage of the Account be used for certain purposes in each fiscal year; specifying that a certain project may include certain environmental outcomes;”; in line 17, strike “accounts and”; strike beginning with “providing” in line 18 down through “State;” in line 23; in line 24, after “person” insert “separately from the property on which the environmental outcome is located”; in line 26, after the first “proposals” insert “, develop and use a certain scoring system, provide each person that submits a proposal with certain information,”; and in the same line, strike “to”.

On page 2, in line 2, strike “establish and implement” and substitute “approve”; in line 6, strike “payment under”; in the same line, strike “certain”; in the same line, after “contract” insert “entered into by the Department under this Act”; in line 7, strike “establish” and substitute “maintain”; in line 8, strike “or” and substitute a comma; in the same line, after “practice” insert “, and environmental outcome”; in line 10, strike “Department” and substitute “Bay Restoration Fund Advisory Committee”; strike beginning with “the” in line 10 down through “law,” in line 11; and in line 15, strike the second “Fund” and substitute “Account”.

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through line 4 on page 3, inclusive.

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AMENDMENT NO. 2

On page 5, in lines 12 and 20, in each instance, strike “**FUND**” and substitute “**ACCOUNT**”.

On page 6, in line 8, strike “**AND**”; and in line 11, after “**COMMISSION**” insert “**;**
AND

(XI) ONE INDIVIDUAL REPRESENTING COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES”;

and in line 27, after “**(2)**” insert “**“ACCOUNT” MEANS THE CLEAN WATER COMMERCE ACCOUNT.**

(3)”.

On page 7, in line 4, strike “**(3)**” and substitute “**(4)(I) “AGRICULTURAL PRACTICE” MEANS A BEST MANAGEMENT PRACTICE THAT IS:**

1. APPROVED BY THE CHESAPEAKE BAY PROGRAM PARTNERSHIP; AND

2. IMPLEMENTED ON LAND OR WATER THAT IS USED FOR THE PRODUCTION OR PROCESSING OF AN AGRICULTURAL CROP.

(II) “AGRICULTURAL PRACTICE” INCLUDES AGRICULTURAL, HORTICULTURAL, SILVICULTURAL, AND AQUACULTURAL OPERATIONS.

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(5);

in line 5, strike “**ADOPTED**” and substitute “**APPROVED**”; in lines 7, 15, and 21, strike “**(4)**”, “**(6)**”, and “**(7)**”, respectively, and substitute “**(6)**”, “**(7) (I)**”, and “**(8)**”, respectively; in lines 7 and 8, strike “**ANY OF THE FOLLOWING QUANTITATIVE OUTCOMES**” and substitute “**NITROGEN LOAD REDUCTIONS**”; in lines 8 and 9, strike “**AT THE EDGE OF TIDE**”; in line 9, strike “**WATERSHED MODEL**” and substitute “**MODELS**”; strike beginning with “**OR**” in line 9 down through “**REDUCTION**” in line 13; strike line 14 in its entirety; in lines 17, 18, and 19, strike “**(I)**”, “**(II)**”, and “**(III)**”, respectively, and substitute “**1.**”, “**2.**”, and “**3.**”, respectively; in line 18, strike “**15**” and substitute “**10**”; strike beginning with “**IS**” in line 19 down through “**PROVIDE**” in line 20 and substitute “**PROVIDES**”; and after line 20, insert:

“(II) “NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT” INCLUDES A PROJECT THAT RETURNS LAND TO NATIVE OR NATURAL LAND COVER, SUCH AS AFFORESTATION OR REFORESTATION PROJECTS.”

On page 8, in line 1, after “**DEPARTMENT**” insert “**OR THE OWNER OF A PROJECT OR PRACTICE**”; in lines 1 and 2, strike “**THE MODEL RESULTS OR THE ACCURATE MEASUREMENT OF**”; in lines 5, 6, 9, 14, 15, 20, and 21, in each instance, strike “**FUND**” and substitute “**ACCOUNT**”; strike beginning with “**(1)**” in line 10 down through “**(F)**” in line 14; in line 15, strike “**DISTRIBUTED**” and substitute “**TRANSFERRED**”; in line 16, after “**SUBTITLE;**” insert “**AND**”; and strike beginning with “**MONEY**” in line 17 down through “**(4)**” in line 19.

AMENDMENT NO. 3

On page 8, in line 21, strike “**(G)**” and substitute “**(F)**”; in line 23, strike “**IN SUPPORT OF**” and substitute “**THAT:**”

(I) SUPPORT”;

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in line 24, after “TMDL” insert “; AND”

(II) HAVE AN EXPECTED LIFE OF AT LEAST 10 YEARS”;

in line 25, strike “IN” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN”; in line 27, strike “PROJECTS ON”; and in the same line, strike “LANDS” and substitute “PRACTICES, WITH PRIORITY GIVEN TO PROJECTS THAT ARE”;

1. A FIXED NATURAL FILTER PRACTICE, AS DEFINED IN § 8-701 OF THE AGRICULTURE ARTICLE; OR

2. AN AGRICULTURAL DITCH MANAGEMENT PRACTICE, AS DEFINED BY THE CHESAPEAKE BAY PROGRAM”.

On page 9, in line 1, after “PROJECTS” insert “, INCLUDING STORMWATER MANAGEMENT AND GREEN INFRASTRUCTURE PROJECTS,”; in the same line, strike “DISADVANTAGED”; in line 2, strike “IMPACTED BY ENVIRONMENTAL JUSTICE CONCERNS,” and substitute “DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS”; in line 7, after “PROJECTS” insert “THAT TAKE INTO CONSIDERATION THE PROJECT’S ECOLOGICAL SUITABILITY, INCLUDING THE HYDROLOGICAL CONDITIONS AND OTHER PHYSICAL CHARACTERISTICS OF THE LOCATION AT WHICH THE PROJECT WILL BE IMPLEMENTED”; after line 7, insert:

“(3) ANY UNENCUMBERED FUNDS NOT USED TO PURCHASE ENVIRONMENTAL OUTCOMES AS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE:

(I) NO LONGER SUBJECT TO THE ALLOCATION REQUIREMENTS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) AVAILABLE FOR USE CONSISTENT WITH THIS SECTION IN SUBSEQUENT FISCAL YEARS.

(4) A PROJECT MAY INCLUDE ENVIRONMENTAL OUTCOMES FROM ONE OR MORE OF THE PROJECT TYPES SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION.;

strike in their entirety lines 8 through 11, inclusive; in lines 12, 17, 19, 21, and 26, strike “(I)”, “(K)”, “(L)”, “(M)”, and “(N)”, respectively, and substitute “(G)”, “(H)”, “(I)”, “(J)”, and “(K)”, respectively; in lines 12 and 18, in each instance, strike “FUND” and substitute “ACCOUNT”; strike in their entirety lines 14 through 16, inclusive; in line 17, strike “ACCOUNTS AND”; in line 20, after “PERSON” insert “SEPARATELY FROM THE PROPERTY ON WHICH THE ENVIRONMENTAL OUTCOME IS LOCATED”; in line 30, after the semicolon insert:

“(II) DEVELOP AND USE A SCORING SYSTEM TO EVALUATE A SUBMITTED FUNDING PROPOSAL;

(III) PROVIDE EACH PERSON THAT SUBMITS A FUNDING PROPOSAL WITH A COPY OF THE SCORING SYSTEM, INCLUDING THE WEIGHT GIVEN TO THE CO-BENEFITS SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION;”;

and in line 31, strike “(II)” and substitute “(IV)”.

On page 10, in line 4, after “(I)” insert “THE LEGAL NAME OF THE PERSON SUBMITTING THE PROPOSAL;

(II)”;

in line 6, strike “(II)” and substitute “(III)”; in line 8, strike “(III)” and substitute “(IV)
THE EXPECTED LIFE OF EACH ENVIRONMENTAL OUTCOME THAT WILL BE
ACHIEVED UNDER THE PROJECTS OR PRACTICES;

(V) TO ENSURE THAT THE APPLICANT HAS THE LEGAL
AUTHORITY TO IMPLEMENT THE PROJECTS OR PRACTICES, A DESCRIPTION OF
THE OWNERSHIP OF EACH PARCEL OF LAND OR FACILITY THAT WILL BE USED IN
THE PROJECTS OR PRACTICES;

(VI)”;

in line 10, strike “(IV)” and substitute “(VII) AN IMPLEMENTATION TIMETABLE
FOR THE PROJECTS OR PRACTICES;

(VIII)”;

in lines 11 and 14, strike “(V)” and “(VI)”, respectively, and substitute “(IX)” and “(XII)”,
respectively; in line 12, after the semicolon insert:

“(X) IF THE PROJECTS OR PRACTICES WILL ACHIEVE A CO-
BENEFIT SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION, A
DESCRIPTION OF THE CO-BENEFIT, INCLUDING AS MUCH INFORMATION AS IS
REASONABLY POSSIBLE REGARDING THE NATURE, EXTENT, DURATION, AND
MEANS OF VERIFYING THE CO-BENEFIT;

(XI) A STATEMENT ON WHETHER ANY PORTION OF THE
PROJECTS OR PRACTICES ARE BEING FUNDED OR WILL BE FUNDED, IN WHOLE

OR IN PART, WITH FEDERAL FUNDS, LOCAL FUNDS, OR STATE FUNDS OTHER THAN FUNDS PROVIDED UNDER THIS SECTION, AND A DESCRIPTION OF ANY SUCH FUNDING, INCLUDING:

1. THE NAME OF THE DEPARTMENT OR AGENCY PROVIDING THE FUNDS;
2. THE AMOUNT OF FUNDING RECEIVED OR THAT WILL BE RECEIVED; AND
3. THE PORTION OF THE PROJECTS OR PRACTICES FOR WHICH THE FUNDS ARE BEING OR WILL BE PROVIDED;”;

in line 26, after “ENHANCING” insert “THE MITIGATION OF AND”; and strike beginning with “ADDRESSING” in line 28 down through “OR” in line 29 and substitute “ALLEVIATING THE ENVIRONMENTAL HARMS AND RISKS BORNE BY COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;”.

On page 11, in line 2, after “WATERSHED” insert “;OR”

D. REDUCTIONS IN PHOSPHORUS OR SEDIMENT LOADS THAT ARE DIRECTLY MEASURED OR MODELED BY THE CHESAPEAKE BAY PROGRAM MODELS AND CAN BE COUNTED TOWARD THE STATE’S POLLUTION LOAD REDUCTIONS REQUIRED UNDER THE CHESAPEAKE BAY TMDL”;

in lines 3, 12, 23, and 26, strike “(O)”, “(P)”, “(Q)”, and “(R)”, respectively, and substitute “(L)”, “(M)”, “(N)”, and “(O)”, respectively; in line 4, strike “ESTABLISH AND IMPLEMENT” and substitute “APPROVE”; in line 9, strike “AND” and substitute “OR”;

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in lines 20 and 21, strike “**PARTNERSHIP ACCOUNTING PROCEDURES**” and substitute “**PROGRAM MODELS**”; and in line 25, strike “**15**” and substitute “**20**”.

On pages 11 and 12, strike beginning with “**(1)**” in line 26 on page 11 down through “**CIRCUMSTANCES.**” in line 6 on page 12 and substitute:

“A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION SHALL:

(1) REQUIRE THE OWNER OF THE PROJECT OR PRACTICE TO PERIODICALLY SUBMIT STATUS UPDATES IN ACCORDANCE WITH THE QUANTIFICATION PLAN FOR THE ENVIRONMENTAL OUTCOMES OF THE PROJECT OR PRACTICE;

(2) REQUIRE THAT PAYMENT FOR ENVIRONMENTAL OUTCOMES BE CONDITIONED ON THE ACHIEVEMENT AND VERIFICATION OF THE ENVIRONMENTAL OUTCOMES IN ACCORDANCE WITH THE QUANTIFICATION PLAN;

(3) INCLUDE A SCHEDULE OF PAYMENTS THAT WILL BE MADE AS ENVIRONMENTAL OUTCOMES ARE ACHIEVED AND VERIFIED; AND

(4) REQUIRE REPORTING ON THE AMOUNT OF NITROGEN AND, TO THE EXTENT THAT IT CAN BE FEASIBLY DETERMINED WITHOUT SIGNIFICANT EXPENSE, PHOSPHORUS AND SEDIMENT THAT ARE REMOVED ANNUALLY BY THE PROJECT OR PRACTICE.”.

On page 12, in lines 7, 14, and 20, strike “**(S)**”, “**(T)**”, and “**(U)**”, respectively, and substitute “**(P)**”, “**(Q)**”, and “**(R)**”, respectively; in line 8, strike “**ESTABLISH**” and substitute “**MAINTAIN**”; in the same line, after “**A**” insert “**PUBLIC**”; in the same line,

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strike “, INCLUDING” and substitute “FOR THE ENVIRONMENTAL OUTCOMES OF EACH PROJECT OR PRACTICE THAT INCLUDES:”

(I) A DESCRIPTION OF THE PROJECT OR PRACTICE AND THE ASSOCIATED”;

strike beginning with “, OF” in line 8 down through “PRACTICE” in line 11 and substitute “; AND”

(II) TO ENSURE THAT THE ENVIRONMENTAL OUTCOMES ARE MAINTAINED FOR THE LIFE EXPECTANCY OF THE ENVIRONMENTAL OUTCOME, A SUMMARY OF THE CONTRACT PROVISIONS FOR THE PROJECT OR PRACTICE”;

in line 14, after “(1)” insert “(I)”; in the same line, strike “PARAGRAPH (2)” and substitute “SUBPARAGRAPH (II)”; in the same line, strike “SUBSECTION” and substitute “PARAGRAPH”; in line 17, strike “(2)” and substitute “(II)”; and after line 19, insert:

“(2) (I) AN ENVIRONMENTAL OUTCOME THAT IS FUNDED ENTIRELY WITH PUBLIC FUNDS IS NOT ELIGIBLE TO BE PURCHASED WITH FUNDS FROM THE ACCOUNT.

(II) IF AN ENVIRONMENTAL OUTCOME IS PARTIALLY FUNDED WITH PUBLIC FUNDS AND IS VERIFIED UNDER SUBSECTION (L) OF THIS SECTION, FUNDS FROM THE ACCOUNT MAY BE USED TO PURCHASE THE REMAINING PORTION OF THE ENVIRONMENTAL OUTCOME THAT IS NOT FUNDED WITH PUBLIC FUNDS.”.

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On page 12, in line 20, strike “**ON**” and substitute “**IN CONJUNCTION WITH THE REPORT REQUIRED UNDER § 9-1605.2(J)(6) OF THIS SUBTITLE, ON**”; in the same line, strike “**DEPARTMENT**” and substitute “**BAY RESTORATION FUND ADVISORY COMMITTEE**”; in line 21, strike “**TO THE BAY RESTORATION FUND ADVISORY COMMITTEE AND**”; and in line 22, after the comma insert “**TO**”.

On page 13, in lines 1 and 2, strike “**, PHOSPHORUS, OR SEDIMENT**”; in line 8, strike “**INFORMATION ON THE**” and substitute “**THE**”; in line 10, strike “**, PHOSPHORUS, AND SEDIMENT**”; in line 12, strike “**RECOMMENDATIONS REGARDING**”; in line 14, strike “**FUND**” and substitute “**ACCOUNT**”; in line 15, after “**FUND**” insert “**, INCLUDING AN ASSESSMENT AND RECOMMENDATION ON POSSIBLE CHANGES TO THE PERCENTAGES SPECIFIED UNDER SUBSECTION (F) OF THIS SECTION**”; in line 16, strike “**(V)**” and substitute “**(S)**”; and strike in their entirety lines 18 through 32, inclusive.