

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1133 (Delegate Bridges)
Environment and Transportation

Tree Planting – Urban Trees Program and Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings

This bill establishes an Urban Trees Program, administered by the Chesapeake Bay Trust (CBT), to provide grants to “qualified organizations” for tree-planting projects in underserved areas. Relatedly, the bill establishes a State goal to plant 500,000 native trees in underserved areas by 2030. The Urban Trees Program is primarily funded by a transfer of \$10.0 million annually in fiscal 2022 through 2030 from the Bay Restoration Fund’s (BRF) Wastewater Account. The bill also establishes a Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings. The Maryland Department of the Environment (MDE) and, as necessary, the Department of Natural Resources (DNR), must provide staff for the commission. **The bill generally takes effect June 1, 2021. The commission terminates June 30, 2023, and the provisions relating to the Urban Trees Program and the tree-planting goal terminate June 30, 2030.**

Fiscal Summary

State Effect: Overall finances of the BRF Wastewater Account are not affected; however, the bill redirects \$10.0 million annually from BRF to CBT through FY 2030. To the extent that any public four-year institutions or Baltimore City Community College receive grants under the Urban Trees Program, grant revenues and expenditures increase correspondingly.

Local Effect: Local government grant revenues and expenditures could be affected, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Tree Planting Goal

The bill establishes that it is the policy of the State to support and encourage public and private tree-planting efforts, with a goal of planting and helping to maintain, 500,000 sustainable native tree species by the end of calendar 2030 in “underserved areas,” as defined by the bill. The 500,000 tree-planting goal is in addition to any trees planted pursuant to programs identified in the 2019 Draft Greenhouse Gas (GHG) Emissions Reduction Plan but includes native tree plantings accomplished through State programs and through the efforts of nonprofit and private organizations.

Urban Trees Program – Generally

The stated purpose of the Urban Trees Program, which is administered by CBT, is to plant and maintain native species of trees in underserved areas, in furtherance of the goal described above. Under the program, CBT must make grants to qualified organizations for tree-planting projects in underserved areas. “Qualified organization” means a nonprofit organization, a school, a community association, a service, youth or civic group, an institution of higher education, a county or municipality, or a forest conservancy district board.

Funding for the Urban Trees Program

In fiscal 2022 through 2030, after paying for eligible costs associated with upgrading wastewater treatment plants, as specified, MDE must transfer, from BRF’s Wastewater Account, \$10.0 million annually to CBT for the Urban Trees Program. Funds transferred in accordance with this requirement are supplemental to and may not take the place of funding that otherwise would be appropriated for such purposes.

In addition to money transferred from BRF, the program is funded with any additional funds that may be allocated to CBT through its annual budget process. In addition, CBT must seek federal funds and grants, as well as private donations, to support the program.

Eligible Program Expenses and Grant Agreements

The bill specifies eligible program expenses, which include personnel costs, supplies, site preparation, and other expenses and materials related to planning, implementing, and maintaining tree-planting projects in underserved areas.

A grant agreement must (1) specify the allowed use of the funds provided under the grant and (2) include provisions for verification that tree-planting projects are being implemented and maintained as planned.

Tracking and Reporting Requirements

MDE must track the State's progress toward the tree-planting goal established by the bill. In addition, MDE serves as the lead agency to which CBT sends data regarding tree plantings accomplished through the program.

MDE and CBT must jointly report to specified committees of the General Assembly by December 1, 2021, and annually thereafter, on the State's progress toward meeting the tree-planting goal. Additionally, by October 1 annually, CBT must report to MDE and DNR on the grants awarded by the program during the immediately preceding fiscal year, as specified.

Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings

The bill establishes a Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings. MDE and, as necessary, DNR, must provide staff for the commission. Commission members may not receive compensation but are entitled to reimbursement for expenses, as specified. The commission must develop (1) a plan to achieve the State's carbon mitigation goal of planting 500,000 native trees by 2030; (2) a plan to ensure that the planted trees are properly maintained; (3) recommendations regarding the establishment of a Maryland-based carbon offset market to support the State's tree-planting goals; and (4) recommendations on reviewing State policies to reduce and fully mitigate the clearing of trees during the construction of State highways and other transportation projects. The bill establishes requirements governing what must be included in the plans and recommendations. By October 31, 2022, the commission must report its plan and recommendations to the Governor and the General Assembly.

Current Law:

Tree Planting

Although current law does not establish specific goals related to tree planting in the State, several State laws and programs address forest conservation and tree planting. Examples include:

- The Forest Service within DNR administers Maryland's Forest Conservation Act (FCA), but it is primarily implemented on the local level. FCA establishes minimum

forest conservation requirements for land development, and local governments with planning and zoning authority are required to develop local forest conservation programs that meet or are more stringent than the requirements of FCA. FCA applies to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government, on areas 40,000 square feet (0.9 acres) or greater, subject to certain exceptions.

- Maryland's Roadside Tree Law protects trees along public road rights-of-way; before a roadside tree is trimmed or cared for in any way, a tree care permit must be obtained. Planting a tree within the public road right-of-way also requires a permit. Any work performed on a roadside tree must be done by a roadside tree care expert or a Maryland licensed tree expert.
- DNR launched a Marylanders Plant Trees program in 2009 to encourage citizens and organizations to partner with the State to plant new trees. Citizens can receive a \$25 coupon off the purchase of a native tree at participating nurseries.
- DNR also administers the Tree-Mendous Maryland program, which is aimed at helping restore tree cover on public land and community open space.

Bay Restoration Fund

Chapter 428 of 2004 established BRF, which is administered by the Water Quality Financing Administration within MDE. The primary purpose of the fund is to support upgrades to Maryland's 67 major publicly owned wastewater treatment plants with enhanced nutrient removal technology; funds are also used for septic system upgrade grants, among other things, and the Maryland Department of Agriculture's (MDA) Cover Crop Program.

As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks and Chapter 150 of 2012 doubled the fee for most users. Of the fee revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account, commonly referred to as the Septics Account. The remaining funds collected from users of septic systems and sewage holding tanks (40%) must be transferred to the Maryland Agricultural Water Quality Cost Share Program within MDA to provide financial assistance to farmers for planting cover crops.

Greenhouse Gas Emissions Reduction Act

The Greenhouse Gas Emissions Reduction Act, originally enacted in 2009 and made permanent and expanded in 2016, was enacted in light of Maryland's particular vulnerability to the impacts of climate change. Under the Act, the State was required to develop plans, adopt regulations, and implement programs to GHG emissions by 25% from

2006 levels by 2020 and must further reduce GHG emissions by 40% from 2006 levels by 2030; the 2030 reduction requirement terminates December 31, 2023. In October 2019, MDE released a draft plan to reach the 2030 reduction requirement. Among other things, the draft plan includes plans to plant trees in urban areas.

State Fiscal Effect: Under the bill, after paying for eligible costs associated with upgrading wastewater treatment plants, as specified, MDE must transfer, in fiscal 2022 through 2030, \$10.0 million annually from BRF's Wastewater Account to CBT for the Urban Trees Program. Thus, under the bill, there is \$10.0 million less in annual funding available for currently authorized uses of BRF's Wastewater Account beginning in fiscal 2022. Instead, this funding is redirected to CBT. MDE advises that because it already has plans to spend the available BRF funding on capital projects, the bill could impact or delay those projects due to the required redirection of funding.

MDE can staff the commission, collect data from CBT regarding tree plantings, and work with CBT to submit the required reports using existing budgeted staff and resources. DNR can also assist with staffing the commission, as necessary, with existing budgeted staff and resources. Any expense reimbursements for commission members are assumed to be minimal and absorbable within existing budgeted resources.

To the extent that public four-year institutions (the University System of Maryland, Morgan State University, St. Mary's College of Maryland) and Baltimore City Community College receive grants for tree-planting projects in underserved areas under the Urban Trees Program, grant revenues and expenditures increase correspondingly.

Local Fiscal Effect: Since counties and municipalities are eligible to receive funding from both the BRF Wastewater Account (pursuant to current law) and the Urban Trees Program established by the bill, the overall impact on local governments cannot be estimated at this time. As a result of the redirection of funding, some local governments may benefit and others may receive less funding than they otherwise would have received.

To the extent that local community colleges and local school systems receive grants for tree-planting projects in underserved areas under the Urban Trees Program, grant revenues and expenditures increase correspondingly.

Small Business Effect: The overall effect on small businesses is unclear. As discussed above, the bill redirects funding from BRF to CBT to provide grants for tree-planting projects in underserved areas. Some small businesses are eligible for funding from BRF under current law, so the redirection of funds from BRF could negatively affect any small businesses that otherwise would have received funding from BRF.

On the other hand, small businesses could benefit from the grant funding provided under the Urban Trees Program. To the extent that private career schools and nonpublic elementary and secondary schools receive grants for tree-planting projects in underserved areas under the program, grant revenues and expenditures increase correspondingly. In addition, other small businesses could be contracted by grantees to provide services. For example, native tree nurseries, landscaping companies, tree pruning or maintenance companies, and businesses that sell related equipment or materials (such as mulch) could benefit from an increase in the demand for their services and products.

Additional Comments: CBT advises that the trust is able to implement the Urban Trees Program, as the bill appears to allow CBT to use funding transferred from BRF for personnel costs. CBT notes that the trust plans to hire several new employees to implement the Urban Trees Program but that it aims to use no more than 5% of available funding for administrative costs. Absent any other funding sources or donations identified by CBT, based on the \$10.0 million in annual funding transferred to CBT for the program under the bill, if \$500,000 annually is used for administrative costs, an estimated \$9.5 million is available each year to provide grants to qualifying organizations.

To the extent that Maryland Independent College and University Association institutions receive grants for tree-planting projects in underserved areas, grant revenues and expenditures increase correspondingly.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery and Prince George's counties; cities of Annapolis and Bowie; Maryland Municipal League; Maryland State Department of Education; Baltimore City Community College; University System of Maryland; Maryland Municipal League; Morgan State University; St. Mary's College of Maryland; Maryland Department of the Environment; Department of Natural Resources; Comptroller's Office; Baltimore City Public Schools; Chesapeake Bay Trust; Department of Legislative Services

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Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510