

SENATE BILL 932

M4, M3, M1

4lr3246
CF HB 1042

By: **Senators Elfreth, Gallion, Gile, Hester, and Jackson**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2024

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural BMP ~~Best in Show~~ Priority Environmental Stewardship**
3 **Program – Established**

4 FOR the purpose of establishing the Maryland Agricultural BMP ~~Best in Show~~ Priority
5 Environmental Stewardship Program to provide and prioritize the use of certain
6 funding relating to agricultural best management practices and to increase the
7 cost-effectiveness and environmental, social, and health impacts of State-funded
8 best management practices in a certain manner; ~~requiring the Department of~~
9 ~~Agriculture to administer and manage certain competitive grants under the Program~~
10 ~~in a certain manner~~; establishing the Maryland Agricultural BMP ~~Best in Show~~ Priority
11 Environmental Stewardship Account in the Department of Agriculture;
12 requiring an applicant for a grant under the Program to provide certain information
13 relating to proposed best management practices; and generally relating to
14 agricultural best management practices.

15 BY adding to

16 Article – Agriculture

17 Section 2–2301 and 2–2302 to be under the new subtitle “Subtitle 23. Maryland
18 Agricultural BMP ~~Best in Show~~ Priority Environmental Stewardship
19 Program”

20 Annotated Code of Maryland

21 (2016 Replacement Volume and 2023 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – Environment

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.



1 Section 9–1605.4(b) and (f)(1)
 2 Annotated Code of Maryland
 3 (2014 Replacement Volume and 2023 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Environment
 6 Section 9–1605.4(f)(3)
 7 Annotated Code of Maryland
 8 (2014 Replacement Volume and 2023 Supplement)

9 BY repealing and reenacting, without amendments,
 10 Article – Natural Resources
 11 Section 8–2A–02(a)
 12 Annotated Code of Maryland
 13 (2023 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article – Natural Resources
 16 Section 8–2A–02(f)(1)
 17 Annotated Code of Maryland
 18 (2023 Replacement Volume and 2023 Supplement)

19 BY adding to
 20 Article – Natural Resources
 21 Section 8–2A–02(f)(5)
 22 Annotated Code of Maryland
 23 (2023 Replacement Volume and 2023 Supplement)

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

26 **Article – Agriculture**

27 **SUBTITLE 23. MARYLAND AGRICULTURAL BMP ~~BEST-IN-SHOW~~ PRIORITY**
 28 **ENVIRONMENTAL STEWARDSHIP PROGRAM.**

29 **2–2301.**

30 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 31 **INDICATED.**

32 **(B) “AGRICULTURAL LAND TRANSITION” MEANS THE IDENTIFICATION OF**
 33 **AGRICULTURAL LANDS THAT ARE FACING LOSS OR SIGNIFICANT REDUCTION OF**
 34 **AGRICULTURAL PRODUCTION CAPACITY DUE TO PREDICTED SALTWATER**
 35 **INTRUSION OR FREQUENT FLOODING AND THE RESULTING IMPLEMENTATION OF**

1 BEST MANAGEMENT PRACTICES TO CONVERT THOSE LANDS TO FUNCTIONING
2 WETLANDS, STREAMS, OR FOREST BUFFER HABITAT.

3 (C) "BEST MANAGEMENT PRACTICE" MEANS A CONSERVATION OR
4 POLLUTION CONTROL PRACTICE THAT:

5 (1) REDUCES SOIL OR NUTRIENT LOSS DUE TO FARMING PRACTICES;
6 OR

7 (2) MANAGES OR MITIGATES THE IMPACT OF POLLUTANTS, ANIMAL
8 WASTES, OR AGRICULTURAL CHEMICALS ON WATERS OF THE STATE OR THE
9 ENVIRONMENT.

10 (D) "ECOLOGICAL TIPPING POINT" MEANS A CONDITION IN WHICH AN
11 ECOLOGICALLY DEGRADED OR IMPAIRED STREAM SEGMENT HAS IMPROVED
12 ENOUGH SUCH THAT MONITORING DATA SHOWS NEWLY HEALTHY BENTHIC
13 POPULATIONS AND BIOTIC INTEGRITY OR WATER QUALITY THAT SUPPORTS ALL
14 DESIGNATED USES, INCLUDING SIGNIFICANTLY ENHANCED LIVING RESOURCES.

15 (E) "PROGRAM" MEANS THE MARYLAND AGRICULTURAL BMP ~~BEST-IN-~~
16 ~~SHOW~~ PRIORITY ENVIRONMENTAL STEWARDSHIP PROGRAM ESTABLISHED UNDER
17 § 2-2302 OF THIS SUBTITLE.

18 (F) "SHALLOW WATER HABITAT" MEANS THE PORTION OF THE
19 CHESAPEAKE AND ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES FOR WHICH
20 THE STATE HAS ADOPTED WATER QUALITY CRITERIA TO SUPPORT SUBMERGED
21 AQUATIC VEGETATION.

22 2-2302.

23 (A) THERE IS A MARYLAND AGRICULTURAL BMP ~~BEST-IN-SHOW~~ PRIORITY
24 ENVIRONMENTAL STEWARDSHIP PROGRAM.

25 (B) THE PURPOSE OF THE PROGRAM IS TO:

26 (1) PROVIDE GREATER FUNDING NEEDED TO PROVIDE PRODUCERS
27 WITH GREATER INCENTIVES TO PARTICIPATE IN THE ~~COORDINATED FUNDING~~
28 ADOPTION OF MULTIPLE HIGH-PRIORITY AGRICULTURAL BEST MANAGEMENT
29 PRACTICES WITHIN INDIVIDUAL AGRICULTURAL OPERATIONS OR ACROSS
30 MULTIPLE OPERATIONS IN CLOSE PROXIMITY;

31 (2) PRIORITIZE THE USE OF AGRICULTURAL COST-SHARE FUNDING
32 AND OTHER STATE FUNDS TO SUPPORT THE COORDINATED ESTABLISHMENT OF
33 BEST MANAGEMENT PRACTICES IN LOCATIONS MOST LIKELY TO HAVE A

1 SHORT-TERM BENEFICIAL IMPACT ON WATER QUALITY, LIVING RESOURCES, OR
2 PUBLIC HEALTH; AND

3 (3) INCREASE THE COST-EFFECTIVENESS AND ENVIRONMENTAL,
4 SOCIAL, AND HEALTH IMPACTS OF STATE-FUNDED BEST MANAGEMENT PRACTICES
5 THROUGH GREATER COORDINATION, PLANNING, TARGETING, OR USE OF
6 HIGH-PRIORITY PRACTICES THAT PROVIDE ENVIRONMENTAL, SOCIAL, AND
7 RESILIENCY BENEFITS IN ADDITION TO NUTRIENT AND SEDIMENT REDUCTION.

8 (C) ~~TO CARRY OUT THE PURPOSE OF THE PROGRAM~~ SUBJECT TO THE
9 DISCRETION OF THE SECRETARY, THE DEPARTMENT SHALL:

10 (1) ASSIGN A PROGRAM ADMINISTRATOR AND PROVIDE FOR
11 ADEQUATE ADMINISTRATIVE SUPPORT;

12 (2) ~~DEVELOP, ADVERTISE, AND RECEIVE COMPETITIVE PROGRAM~~
13 ~~GRANT APPLICATIONS~~ A LIST OF HIGH-PRIORITY BEST MANAGEMENT PRACTICES,
14 INCLUDING:

15 (I) NATURAL FILTERS;

16 (II) VEGETATED ENVIRONMENTAL BUFFERS;

17 (III) WILDLIFE AND POLLINATOR HABITATS;

18 (IV) SHALLOW WATER AND AQUATIC ORGANISM HABITATS;

19 (V) AGRICULTURAL LAND TRANSITION PRACTICES; AND

20 (VI) AGRICULTURAL DITCH MANAGEMENT PRACTICES;

21 (3) ~~EVALUATE APPLICATIONS AND SELECT GRANTEEES NOT LESS~~
22 ~~THAN ANNUALLY~~ DEVELOP CRITERIA FOR EVALUATING APPLICATIONS INCLUDING
23 CONSIDERATIONS OF:

24 (I) PROXIMITY TO WATERS OF THE STATE;

25 (II) KNOWN ENVIRONMENTAL OR HYDROLOGIC INFORMATION,
26 INCLUDING GROUNDWATER TRANSPORT RATES, POLLUTANT ATTENUATION,
27 POLLUTANT DELIVERY RATIOS, AND SOIL TYPES;

28 (III) POTENTIALLY REDUCING THE POLLUTION OF THE WATERS
29 OF THE STATE SUFFICIENT ENOUGH TO REACH AN ECOLOGICAL TIPPING POINT;

1 **(IV) THE LOCATION WITHIN THE BUFFER OF THE CHESAPEAKE**
2 **AND ATLANTIC COASTAL BAYS CRITICAL AREA OR OTHER AREA DESIGNATED FOR**
3 **REGULATION OR SPECIAL PROTECTION UNDER A FEDERAL OR STATE LAW; AND**

4 **(V) OVERBURDENED AND UNDERSERVED COMMUNITIES;**

5 **~~(4) ADMINISTER AND MANAGE GRANTS UNDER THE PROGRAM,~~**
6 **~~INCLUDING BY MONITORING AND EVALUATING STATE FUNDED BEST MANAGEMENT~~**
7 **~~PRACTICES DEVELOP A PAYMENT SCHEDULE; AND~~**

8 **~~(5) COORDINATE WITH THE DEPARTMENT OF NATURAL RESOURCES~~**
9 **~~AND THE DEPARTMENT OF THE ENVIRONMENT TO PROVIDE TECHNICAL~~**
10 **~~ASSISTANCE AND GUIDANCE TO APPLICANTS AND GRANTEEES, INCLUDING METHODS~~**
11 **~~AND PROCEDURES FOR MONITORING, EVALUATING, AND VERIFYING PROJECT~~**
12 **~~OUTCOMES DEVELOP A MAP, IN CONSULTATION WITH THE DEPARTMENT OF THE~~**
13 **ENVIRONMENT AND THE DEPARTMENT OF NATURAL RESOURCES, THAT**
14 **PRIORITIZES AREAS OF THE STATE FOR FUNDING UNDER THE PROGRAM IN**
15 **CONSIDERATION OF THE MOST EFFECTIVE BASINS, IMPAIRMENT STATUS UNDER**
16 **SECTION 303(D) OF THE CLEAN WATER ACT, AND SPECIFICALLY DESIGNATED**
17 **WATERSHEDS.**

18 **~~(D) (1) THERE IS A MARYLAND AGRICULTURAL BMP BEST-IN-SHOW~~**
19 **PRIORITY ENVIRONMENTAL STEWARDSHIP ACCOUNT IN THE DEPARTMENT.**

20 **~~(2) THE MARYLAND AGRICULTURAL BMP BEST-IN-SHOW PRIORITY~~**
21 **ENVIRONMENTAL STEWARDSHIP ACCOUNT, FOR FISCAL YEARS 2026 THROUGH**
22 **2030, CONSISTS OF:**

23 **~~(I) NOT MORE THAN \$2,000,000 PER YEAR OF THE REVENUES~~**
24 **~~TRANSFERRED TO THE DEPARTMENT FROM THE BAY RESTORATION FUND UNDER~~**
25 **~~§ 9-1605.2(H)(2)(II) OF THE ENVIRONMENT ARTICLE;~~**

26 **~~(II) NOT MORE THAN \$3,000,000 PER YEAR OF THE REVENUES~~**
27 **~~TRANSFERRED TO THE DEPARTMENT FROM THE CHESAPEAKE AND ATLANTIC~~**
28 **~~COASTAL BAYS 2010 TRUST FUND UNDER § 8-2A-02(F)(5) OF THE NATURAL~~**
29 **~~RESOURCES ARTICLE;~~**

30 **~~(III) ANY AGRICULTURAL COST-SHARE FUNDING PROVIDED BY~~**
31 **~~THE DEPARTMENT UNDER § 8-704 OF THIS ARTICLE FOR THE PURPOSE OF THE~~**
32 **~~PROGRAM; AND~~**

33 **~~(IV) ANY FUNDS NOT MORE THAN \$3,000,000 TRANSFERRED TO~~**
34 **~~THE DEPARTMENT FROM THE CLEAN WATER COMMERCE ACCOUNT UNDER §~~**
35 **~~9-1605.4(F)(3)(III) OF THE ENVIRONMENT ARTICLE.~~**

1 (3) AT THE END OF EACH FISCAL YEAR, ANY UNUSED FUNDS
2 REMAINING IN THE ACCOUNT MAY BE RETURNED TO THE SOURCE FROM WHICH THE
3 FUNDS WERE RECEIVED.

4 (E) (1) AN APPLICANT FOR A GRANT UNDER THIS SECTION SHALL
5 DEMONSTRATE THAT ANY AGRICULTURAL OPERATION ON WHICH BEST
6 MANAGEMENT PRACTICES ARE TO BE ESTABLISHED ARE IN COMPLIANCE WITH ANY
7 NUTRIENT MANAGEMENT PLAN OR CONSERVATION PLAN REQUIRED UNDER THIS
8 ARTICLE.

9 (2) AN APPLICANT SHALL INCLUDE A PLAN FOR THE
10 IMPLEMENTATION OF:

11 (I) NOT LESS THAN ~~FIVE~~ THREE DIFFERENT TYPES OF BEST
12 MANAGEMENT PRACTICES, WITH PRIORITY CONSIDERATION GIVEN TO THOSE
13 PRACTICES LISTED UNDER ~~PARAGRAPH (4)(II) OF THIS SUBSECTION~~ SUBSECTION
14 (C)(2) OF THIS SECTION, DESIGNED TO FUNCTION AS PART OF A COMMON PLAN TO
15 MAXIMIZE IMPACT AND EFFICIENCY; OR

16 (II) FOR AN OPERATION LOCATED IN AN OVERBURDENED
17 COMMUNITY OR UNDERSERVED COMMUNITY, AS DEFINED IN § 1-701 OF THE
18 ENVIRONMENT ARTICLE, A VEGETATIVE ENVIRONMENTAL BUFFER, HEDGEROW,
19 WINDBREAK, OR OTHER BEST MANAGEMENT PRACTICE OR COMBINATION OF
20 PRACTICES DESIGNED TO REDUCE EXPOSURE TO AIR EMISSIONS FROM REGULATED
21 POINT SOURCES OF POLLUTION.

22 ~~(3) AN APPLICANT SHALL:~~

23 ~~(I) PROVIDE AN IMPLEMENTATION AND MONITORING PLAN~~
24 ~~SUFFICIENT TO EVALUATE ACHIEVEMENT OF THE ENVIRONMENTAL, SOCIAL,~~
25 ~~RESILIENCY, NUTRIENT REDUCTION, AND SEDIMENT REDUCTION OUTCOMES OF~~
26 ~~THE PROJECT;~~

27 ~~(II) IDENTIFY THE WATER QUALITY, LIVING RESOURCE, OR~~
28 ~~OTHER ENVIRONMENTAL AND SOCIAL BENEFITS ANTICIPATED FROM THE BEST~~
29 ~~MANAGEMENT PRACTICES, ALONG WITH THE ANTICIPATED TIMELINE FOR~~
30 ~~ACHIEVEMENT OF THE BENEFITS;~~

31 ~~(III) DESCRIBE ANY KNOWN AND RELEVANT ENVIRONMENTAL~~
32 ~~FEATURES THAT DEMONSTRATE HOW THE SPECIFIC LOCATIONS FOR BEST~~
33 ~~MANAGEMENT PRACTICE ESTABLISHMENT ARE LIKELY TO PROVIDE A~~
34 ~~PARTICULARLY ROBUST AND ACCELERATED RESPONSE, INCLUDING~~
35 ~~CONSIDERATIONS OF:~~

1 ~~1. PROXIMITY TO WATERS OF THE STATE;~~

2 ~~2. KNOWN ENVIRONMENTAL OR HYDROLOGIC~~
3 ~~INFORMATION, INCLUDING GROUNDWATER TRANSPORT RATES, POLLUTANT~~
4 ~~ATTENUATION, POLLUTANT DELIVERY RATIOS, AND SOIL TYPES;~~

5 ~~3. ATTAINMENT STATUS OF WATER QUALITY~~
6 ~~STANDARDS;~~

7 ~~4. LOCATION WITHIN THE BUFFER OF A CHESAPEAKE~~
8 ~~OR ATLANTIC COASTAL BAYS CRITICAL AREA OR OTHER AREA DESIGNATED FOR~~
9 ~~REGULATION OR SPECIAL PROTECTION UNDER A STATE OR FEDERAL LAW; AND~~

10 ~~5. HUMAN POLLUTANT EXPOSURE PATHWAYS,~~
11 ~~INCLUDING PROXIMITY TO NEARBY RESIDENTIAL AREAS AND ANTICIPATED~~
12 ~~IMPROVEMENTS TO DRINKING WATER, AIR QUALITY, AND REDUCTION OF EXPOSURE~~
13 ~~TO RUNOFF; AND~~

14 ~~(IV) ALLOW THE DEPARTMENT TO INSPECT AND EVALUATE~~
15 ~~BEST MANAGEMENT PRACTICE EFFECTIVENESS, INCLUDING THROUGH~~
16 ~~MONITORING AND SAMPLING ACTIVITIES, ON AN AGREED-ON SCHEDULE.~~

17 ~~(4) (i) WHEN EVALUATING APPLICATIONS FOR THE USE OF FUNDS~~
18 ~~UNDER THIS SECTION, THE DEPARTMENT SHALL PRIORITIZE BEST MANAGEMENT~~
19 ~~PRACTICES THAT THE APPLICANT DEMONSTRATES ARE:~~

20 ~~1. IN CLOSE PROXIMITY AND LIKELY TO PROVIDE~~
21 ~~ENHANCED AND ACCELERATED BENEFITS TO A PARTICULAR AREA OF SHALLOW~~
22 ~~WATER HABITAT;~~

23 ~~2. POTENTIALLY CAPABLE OF REDUCING POLLUTION TO~~
24 ~~WATERS OF THE STATE SUFFICIENT TO REACH AN ECOLOGICAL TIPPING POINT; OR~~

25 ~~3. LIKELY TO REDUCE HEALTH BURDENS FOR NEARBY~~
26 ~~RESIDENTS THROUGH THE REDUCTION OF EXPOSURE TO AIR POLLUTANTS OR~~
27 ~~CONTAMINATED DRINKING WATER.~~

28 ~~(H) PRIORITY BEST MANAGEMENT PRACTICES INCLUDE:~~

29 ~~1. VEGETATIVE ENVIRONMENTAL BUFFERS,~~
30 ~~HEDGEROWS, WINDBREAKS, OR OTHER PRACTICES DESIGNED TO REDUCE THE~~
31 ~~TRANSPORT OF AIR EMISSIONS AND DEPOSITION;~~

~~2. STREAM EXCLUSION FENCING;~~

~~3. RIPARIAN TREE PLANTING AND OTHER HIGH IMPACT
FIXED NATURAL FILTER PRACTICES AS DEFINED IN § 8-701 OF THIS ARTICLE;~~

~~4. WETLAND RESTORATION OR ESTABLISHMENT;~~

~~5. LAND RETIREMENT AND CONSERVATION;~~

~~6. SMALL SCALE URBAN AGRICULTURAL PRACTICES;~~

~~7. AGRICULTURAL LAND TRANSITION PRACTICES;~~

~~8. MUSSEL RESTORATION;~~

~~9. BIORETENTION; AND~~

~~10. AGRICULTURAL DITCH MANAGEMENT PRACTICES,
INCLUDING DENITRIFYING BIOREACTORS.~~

~~(F) (1) THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE:~~

~~(I) A BEST MANAGEMENT PRACTICE PAYMENT SCHEDULE;~~

~~(II) ANY CRITERIA USED FOR THE EVALUATION OF
COMPETITIVE APPLICATIONS AND SELECTION OF GRANTEEES;~~

~~(III) THE PROCEDURES FOR MEASURING THE EFFECTIVENESS
OF BEST MANAGEMENT PRACTICES THAT ARE TO BE INCLUDED IN ANY GRANT
AGREEMENT; AND~~

~~(IV) A MAP PROVIDED BY OR PRODUCED IN CONSULTATION
WITH THE DEPARTMENT OF NATURAL RESOURCES THAT DEPICTS AREAS OF THE
STATE TO BE PRIORITIZED FOR FUNDING UNDER THE PROGRAM WITH SPECIAL
CONSIDERATION GIVEN TO:~~

~~1. OVERBURDENED AND UNDERSERVED COMMUNITIES;~~

~~OR~~

~~2. LOCATIONS IDENTIFIED UNDER SUBSECTION
(E)(3)(III) OF THIS SECTION.~~

~~(2) THE FIVE OR MORE PRACTICES PROPOSED BY A GRANT
APPLICANT UNDER SUBSECTION (E)(4)(II) OF THIS SECTION MUST MEET THE SAME~~

~~1 COMPETITIVE FUNDING CRITERIA AS THE CHESAPEAKE AND ATLANTIC COASTAL~~
~~2 BAYS 2010 TRUST FUND UNDER § 8-2A-02 OF THE NATURAL RESOURCES ARTICLE.~~

Article – Environment

4 9–1605.4.

5 (b) There is a Clean Water Commerce Account.

6 (f) (1) Subject to the provisions of this subsection, the Account may be used
 7 only for the purchase of cost-effective environmental outcomes that:

8 (i) Support the State’s efforts to achieve the Chesapeake Bay
 9 TMDL; and

10 (ii) Have an expected life of at least 10 years.

11 (3) Any unencumbered funds not used to purchase environmental
 12 outcomes as specified under paragraph (2) of this subsection are:

13 (i) No longer subject to the allocation requirements specified under
 14 paragraph (2) of this subsection; [and]

15 (ii) Available for use consistent with this section in subsequent fiscal
 16 years; AND

17 (III) SUBJECT TO TRANSFER TO THE DEPARTMENT OF
 18 AGRICULTURE TO BE USED IN ACCORDANCE WITH § 2–2302 OF THE AGRICULTURE
 19 ARTICLE.

Article – Natural Resources

21 8–2A–02.

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

23 (f) (1) The Fund may be used only for the implementation of [nonpoint source
 24 pollution control projects to]:

25 (i) **NONPOINT SOURCE POLLUTION CONTROL PROJECTS THAT:**

26 1. Support State and local watershed implementation plans
 27 by targeting limited financial resources on the most effective nonpoint source pollution
 28 control projects; and

1 **2. IMPROVE THE HEALTH OF THE ATLANTIC COASTAL**
2 **BAYS AND THEIR TRIBUTARIES; OR**

3 (ii) [Improve the health of the Atlantic Coastal Bays and their
4 tributaries] **BEST MANAGEMENT PRACTICES IN ACCORDANCE WITH § 2-2302 OF THE**
5 **AGRICULTURE ARTICLE.**

6 **(5) UP TO \$3,000,000 OF THE FUND MAY BE TRANSFERRED TO THE**
7 **DEPARTMENT OF AGRICULTURE ANNUALLY TO BE USED IN ACCORDANCE WITH §**
8 **2-2302 OF THE AGRICULTURE ARTICLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.