



**The Maryland Department of the Environment
Secretary Serena McIlwain**

Senate Bill 726

Bay Restoration Fund – Authorized Uses – Decommission of Wastewater Treatment Lagoon

Position: Oppose

Committee: Education, Energy, and the Environment

Date: February 20 2024

From: Jeremy D. Baker

The Maryland Department of the Environment (MDE) **OPPOSES** SB 726.

Bill Summary

Senate Bill 726 would amend the Bay Restoration Fund (BRF) wastewater funding section of the Environment Article by adding to the authorized uses of BRF to include a requirement to pay 100% of the following costs:

- (1) the costs of decommissioning a wastewater treatment lagoon that is located, at least in part, in a floodplain designated by the Federal Emergency Management Agency as a Special Flood Hazard Area Zone A or Zone V and not intended for use with a new wastewater treatment system; and
- (2) the costs for the purchase and installation of all pump stations and related systems necessary to redirect wastewater out of the floodplain to another wastewater treatment facility.

The new authorized uses would take effect beginning in FY 2026. The lagoon decommissioning is required to be done consistent with MDE Land and Materials Administration requirements.

Position Rationale

The BRF provides grant funding to upgrade wastewater treatment plants (WWTP) to Enhanced Nutrient Removal (ENR) level of treatment. Current law requires MDE to pay for **100%** of the eligible costs of these WWTP ENR upgrades. Eligible costs are those costs related to upgrading the WWTP to ENR. This is consistent with the original intent of the BRF, which exists to reduce nutrients to the Chesapeake Bay and its tributaries, in order to help the State meet its Chesapeake Bay TMDL requirements.

The BRF has been used to successfully upgrade 77 WWTP to ENR statewide. Currently, it is being utilized to fund an additional 25 WWTPs, including seven that are under construction, seven that are in design, and 11 that are in planning. All of these upgrades have followed the existing statutory requirements for allocation of BRF grant funds as part of the upgrades. MDE does not fund these upgrades at 100% - only 100% of the ENR eligible costs is covered.

Increasing the eligible BRF grant funding for the projects listed in the bill would not be consistent with the intent of the BRF, which is to help the State meet the Chesapeake Bay TMDL pollution reduction requirements. These funds have been used successfully for over 20 years to upgrade WWTPs. Maryland is a national leader in this effort.

Also, any additional BRF grants provided for WWTP upgrades beyond the current eligibility would decrease the funding available to local governments for other eligible uses of BRF funding, including the stormwater management practices, sewer overflow abatement, septic connections to public sewer, and the Clean Water Commerce Program.

For the reasons detailed above, MDE urges an **UNFAVORABLE** report for SB 726.