



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 969

Stream and Watershed Restoration – Stream Restoration Contractor Licensing
and Chesapeake and Atlantic Coastal Bays Restoration and Funding (Whole Watershed Act)

Date: March 26, 2024

To: Environment & Transportation Committee

Position: **Favorable**

From: Matt Stegman

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Chesapeake Bay Foundation (CBF) **SUPPORTS SB 969**. The bill will establish a Whole Watershed demonstration pilot program among five Maryland watersheds to achieve better environmental outcomes in a more cost-efficient way through coordinated funding, support, and guidance from a newly created State Management Team. Maryland's watershed restoration permitting and funding structure currently does not prioritize the coordination of multiple Best Management Practices (BMPs). As a result, effective, low-cost BMPs are often not pursued because of difficulties with permitting, coordination, and availability of funding.

The bill further establishes a Stream Restoration Contractors Licensing Board to ensure that the on-the-ground practitioners providing stream restoration services have the knowledge and expertise necessary to ensure project quality. Finally, the bill provides additional guardrails for all MDE-permitted in-stream restoration projects that will ensure opportunities for meaningful community notice and input, and ensure that there are clearer expectations for project designers to meet existing requirements, such as minimization of forest impacts. Taken together, these provisions go a long way towards addressing community concerns about a small subset of projects that are poorly designed or constructed and protect the significant investment of state and local dollars into restoration projects.

Piecemeal Approach Does Not Maximize Investment in Restoration:

Local governments and non-profit watershed groups, following sound scientific guidance, often evaluate stream system impairment and restoration opportunities across large watershed scales. These assessments, aided by state agency monitoring and data sharing programs, may include high resolution mapping of impervious surfaces, tree cover and local hydrology as well as monitoring of water quality, fish and benthic biological health. From these assessments, suites of restoration opportunities are developed conceptually with restoration practitioners and are included in comprehensive watershed restoration plans.

Unfortunately, due to the current incentive structure underlying many state and federal programs, funding for baseline and post-project monitoring, implementation of multiple projects sites and types, community outreach and adaptive management called for in those plans is not available. The result is a patchwork of uncoordinated projects on the landscape that are not capable of producing the cumulative benefits locally or for the bay watershed and may lack support of nearby residents who have felt excluded from the planning process.

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The Scientific and Technical Advisory Committee (STAC) of the Chesapeake Bay Program identified this issue in their groundbreaking report known as the Comprehensive Evaluation of System Response (CESR). CESR recommends a focus of state and federal investments on smaller watersheds more likely to be responsive to restoration efforts in a shorter amount of time as well as providing multiple ecosystem benefits beyond water quality that are supported by the communities in which the projects lie. Doing so will require a new approach and a reframing of existing funding sources to bring about this result.

Whole Watershed Act Coordinates Funding and Practices For Bigger Results:

SB 969 aligns existing funding sources to allow multiple projects sites and types of projects to be focused into Maryland Hydrologic Unit Code 8 (HUC8¹) watershed geographies. These projects could include removal of impervious surfaces, tree planting, wetlands creation and floodplain projects designed to address scouring flows and loss of important stream habitats and processes. Only together and at a significantly larger scale over a smaller geography can watershed plans be implemented as they were intended. The funding sources will also support crucial baseline and post-project monitoring to verify if the proposed project goals were achieved.

The bill directs coordinated funding and guidance into five selected watersheds that represent different geographies and land use types with a priority for Environmental Justice communities. The bill describes the type of watersheds that may be right for the program but does not mandate specific watersheds be chosen. Instead, selected watersheds will exemplify community involvement, innovative approaches, and the ability to demonstrate progress within the next 5 years. Further, the bill requires practices that provide multiple co-benefits to support the health of the whole watershed and community.

The projects planned as part of the Whole Watershed approach will be overseen by a newly established State Management Team. The State Management team consists of multiple state agencies, local experts, and others that will select projects, monitor and support progress, and coordinate permitting processes across relevant agencies.

Crucially, the bill recognizes that streams in urban areas do not respond as they do in suburban or rural settings based on the level of watershed imperviousness and encroachment into the stream valley by infrastructure. Also, community sensibilities vary based on levels of privilege, opportunity to participate in watershed planning or the green jobs that projects create, and the history of environmental harm experienced. SB 969 addresses this by requiring investment across these geographic and social segments.

Whole Watershed Act Creates a New Certification for Stream Restoration Practitioners:

SB 969 creates a new Stream Restoration Contractors Licensing Board, modelled on other successful professional licensing entities such as the Marine Contractors Licensing Board. While many firms have design/build capacity and are the logical choice for constructing restoration best management practices in the streams where they themselves have developed the conceptual project ideas, local procurement rules may require least cost bids. There is also a significant time delay between any public process that may have authorized the funding for the project and its construction. This situation has resulted in some projects cutting corners, impacting the environment in a way not intended by the project designers and alienating neighbors who should have been consulted on project siting, scope and design, especially if the project area

¹ Maryland has 138 HUC8 watersheds. The 8-digit scale is the most common management scale for watersheds across the state and therefore is the scale at which most of Maryland's local TMDLs are developed. A map of Maryland's HUC8 watersheds is available at <https://mde.maryland.gov/programs/water/tmdl/datacenter/pages/8digitwatershed.aspx>

contains mature trees, cherished recreational value or cultural artifacts. The contractor licensing provision allows the state to convey and enforce minimum standards for projects, including public involvement and adherence to project designs.

Sponsor Amendments Represent a Consensus Approach, Put Appropriate Guardrails on Restoration: Amendments adopted by the Senate make important clarifying changes to the bill. They also include a new section that will put appropriate guardrails on all MDE-permitted stream restoration projects. These guardrails provide for enhanced public notice of projects, meaningful opportunities for input from impacted communities, and clearer guidance on how project designers should meet existing requirements provided in MDE's stream restoration guidance documents, including how to demonstrate care has been taken to minimize forest impacts and other environmental concerns. The bill sponsors and Senate leaders have brought together a broad coalition of stakeholders, including scientists, environmental advocates, local governments, state agencies, and restoration practitioners themselves to develop these guardrails. These are common-sense additions to the restoration permitting process that will further ensure that projects are vetted and understood both by local communities and State permitting authorities.

CBF urges the Committee's FAVORABLE Report on SB 969.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.