

SB0969/123023/1

BY: Education, Energy, and the Environment Committee

AMENDMENTS TO SENATE BILL 969
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “**Licensing**” insert “**and Projects**”; in line 11, after “contractor;” insert “requiring a project applicant seeking authorization for a certain project to provide certain notice and hold certain public meetings except under certain circumstances; requiring a project applicant to submit certain documentation to the Department; authorizing the Department to authorize certain projects in accordance with certain requirements; requiring the Department to assess certain documentation and actions by a project applicant prior to authorizing certain projects; prohibiting the Department from reducing certain monitoring requirements for certain projects;”; and in line 21, after “material” insert “and for certain water quality monitoring”.

On page 2, in line 25, strike “18-501” and substitute “18-601”.

AMENDMENT NO. 2

On page 4, in line 15, after “thereafter” insert “, INCLUDING TARGETED ACQUISITIONS OF EASEMENTS OBTAINED IN CONJUNCTION WITH ACTIONS AND PROJECTS UNDER TITLE 8, SUBTITLE 2B OF THE NATURAL RESOURCES ARTICLE”; in line 22, strike “**TO**” and substitute “CONSISTENT WITH THE PURPOSES SPECIFIED IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH, TO”; and in line 23, after “**ARTICLE**” insert “, INCLUDING FOR PROJECTS THAT OCCUR ON LAND SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT”.

On page 5, in line 26, after “**(2)**” insert “CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION,”.

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On page 8, in line 25, strike “**TO**” and substitute “**AFTER FUNDING ANY ELIGIBLE COSTS IDENTIFIED UNDER ITEMS (IV)1 AND 2 OF THIS PARAGRAPH, TO**”.

On page 10, in lines 13 and 14, strike “**WITH ITS PRINCIPAL OFFICE IN THE STATE**”; in line 23, after “**ALTERATION,**” insert “**OR**”; in the same line, strike “**, OR SALVAGE**”; in line 24, strike “**, ON, OR UNDER STATE OR PRIVATE STREAMS OR**”; and in line 25, strike “**WETLANDS**” and substitute “**WATERWAYS, INCLUDING THE 100–YEAR FLOODPLAIN, WITH THE GOAL OF IMPROVING THE IN–STREAM STABILITY, HYDROLOGY, HYDRAULICS, MORPHOLOGY, SUBSTRATE WATER QUALITY, OR ECOSYSTEM FUNCTION**”.

On page 11, in line 2, strike “**HABITAT CREATION**” and substitute “**ECOLOGICAL RESTORATION, INCLUDING THE INSTALLATION OF STRUCTURES TO CREATE OR ENHANCE HABITAT**”; in line 3, strike “**FLOOR**” and substitute “**FLOOD**”; in lines 14 and 17, in each instance, strike “**SEVEN**” and substitute “**NINE**”; and in line 22, after “**CONTRACTORS**” insert “**, EACH REPRESENTING A DIFFERENT COUNTY IN THE STATE**”.

On pages 11 through 13, strike beginning with “**AS**” in line 22 on page 11 down through “**COUNTY**” in line 2 on page 13.

On page 13, in line 2, strike “**AND**”; and in line 4, after “**INTERESTS**” insert “**AND DIFFERENT COUNTIES IN THE STATE**”.

On pages 13 and 14, strike beginning with “**AS**” in line 4 on page 13 down through “**COUNTY**” in line 8 on page 14.

On page 14, in line 8, strike the second period and substitute “**; AND**”

(V) TWO SHALL REPRESENT LOCAL GOVERNMENT.

On page 17, in line 18, after “**RESOURCES,**” insert “**THE U.S. ARMY CORPS OF ENGINEERS,**”.

On page 18, in line 3, strike “**AN**” and substitute “**A REQUIRED**”; and in the same line, strike “**OF \$500**” and substitute “**IN AN AMOUNT SET BY THE BOARD**”.

On page 25, in line 1, after “**(1)**” insert “**(I)**”; in the same line, strike “**SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**” and substitute “**A**”; in line 3, after “**EXCEEDING**” insert “**\$10,000 FOR EACH VIOLATION.**”

(II) IN DETERMINING THE AMOUNT OF THE PENALTY UNDER THIS PARAGRAPH, THE BOARD SHALL CONSIDER:

- 1. THE SERIOUSNESS OF THE VIOLATION;**
- 2. THE HARM CAUSED BY THE VIOLATION;**
- 3. THE GOOD FAITH OF THE LICENSEE; AND**
- 4. WHETHER THE LICENSEE HAS A HISTORY OF PREVIOUS VIOLATIONS**”;

strike beginning with the second colon in line 3 down through “**\$25,000**” in line 8; in line 9, strike “**(3)**” and substitute “**(2)**”; after line 15, insert:

“SUBTITLE 5. STREAM AND FLOODPLAIN RESTORATION PROJECTS.

18-501.

(Over)

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LIMIT OF CLEARING" MEANS THE BOUNDARIES WITHIN WHICH PLANNED CUTTING, CLEARING, OR GRUBBING OF VEGETATION ASSOCIATED WITH STREAM RESTORATION CONTRACTOR SERVICES WILL OCCUR.

(3) "LIMIT OF DISTURBANCE" MEANS THE BOUNDARY WITHIN WHICH ADDITIONAL CONSTRUCTION, MATERIALS AND EQUIPMENT STORAGE, GRADING, LANDSCAPING, AND RELATED ACTIVITIES MAY OCCUR.

(4) "PROJECT APPLICANT" MEANS AN INDIVIDUAL OR ENTITY LICENSED UNDER SUBTITLE 3 OF THIS TITLE, OR AUTHORIZED TO PERFORM STREAM RESTORATION CONTRACTOR SERVICES UNDER § 18-301 OF THIS TITLE.

(5) "STREAM RESTORATION CONTRACTOR SERVICES" HAS THE MEANING STATED IN § 18-101 OF THIS TITLE.

(B) A PROJECT APPLICANT SEEKING AN AUTHORIZATION FOR A STREAM AND FLOODPLAIN RESTORATION PROJECT IN THE STATE SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(C) (1) A PROJECT APPLICANT SHALL PROVIDE PUBLIC NOTICE AT 30% DESIGN COMPLETION, INCLUDING:

(I) MAILING WRITTEN NOTICE TO ANY RESIDENCE OR BUSINESS WITHIN A RADIUS OF 200 FEET OF THE PROPOSED PROJECT AREA'S BOUNDARY; AND

(II) POSTING NOTICE AT POINTS OF PUBLIC ACCESS TO THE PROJECT.

(2) THE PUBLIC NOTICE REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) INFORMATION ON THE PROJECT APPLICANT APPLYING FOR PROJECT AUTHORIZATION, INCLUDING CONTACT INFORMATION FOR THE APPLICANT;

(II) THE PURPOSE OF THE PROJECT; AND

(III) IF APPLICABLE, INFORMATION ABOUT THE PUBLIC MEETING UNDER SUBSECTION (D) OF THIS SECTION.

(D) (1) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY IF:

(I) THE PROJECT APPLICANT IS AN INDIVIDUAL;

(II) THE PROPOSED PROJECT IS SITED ON THE INDIVIDUAL'S PROPERTY; AND

(III) NO RESIDENCE, OTHER THAN THE INDIVIDUAL'S RESIDENCE, OR BUSINESS IS LOCATED WITHIN A RADIUS OF 200 FEET FROM THE PROJECT BOUNDARY.

(2) A PROJECT APPLICANT SHALL:

(I) HOLD AN IN-PERSON PUBLIC MEETING THAT INCLUDES AN OPTION FOR VIRTUAL ATTENDANCE;

(II) TAKE MEETING MINUTES AND RECORD THE MEETING;

(III) PRESENT:

1. THE PROJECT DESIGN REPORT AND PLANS;

2. A FOREST STAND DELINEATION; AND

3. A SEPARATE SHEET WITH THE DESIGN DRAWINGS CLEARLY IDENTIFYING:

A. THE LIMIT OF CLEARING, IF ANY; AND

B. THE LIMIT OF DISTURBANCE; AND

(IV) POST THE DOCUMENTS AND MEETING MINUTES ON THE PROJECT APPLICANT'S WEBSITE.

(3) A PROJECT APPLICANT SHALL HOLD THE PUBLIC MEETING REQUIRED UNDER THIS SUBSECTION WHEN THE PROJECT DESIGN IS 60% COMPLETE.

(E) A PROJECT APPLICANT SHALL SUBMIT TO THE DEPARTMENT ALL RELEVANT DOCUMENTS AS PART OF THE APPLICATION AND REVIEW PROCESS, INCLUDING:

(1) THE PROJECT DESIGN REPORT AND DRAWINGS, INCLUDING A SHEET CLEARLY IDENTIFYING:

(i) THE LIMIT OF CLEARING, IF ANY; AND

(ii) THE LIMIT OF DISTURBANCE;

(2) THE FOREST STAND DELINEATION;

(3) RESPONSES TO THE DEPARTMENT'S STREAM RESTORATION CHECKLIST GUIDANCE DOCUMENT;

(4) THE MEETING MINUTES AND, IF FEASIBLE, THE RECORDING FROM THE PUBLIC MEETING CONDUCTED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

(5) ANY OTHER DOCUMENTS OR INFORMATION REQUESTED BY THE DEPARTMENT.

(F) WITHIN 24 HOURS AFTER SUBMITTING AN APPLICATION TO THE DEPARTMENT, A PROJECT APPLICANT SHALL POST ON ITS WEBSITE:

(1) NOTICE THAT IT HAS SUBMITTED AN APPLICATION; AND

(2) THE DATE OF SUBMISSION OF THE APPLICATION.

18-502.

(Over)

(A) THE DEPARTMENT MAY AUTHORIZE A STREAM AND FLOODPLAIN RESTORATION PROJECT IN ACCORDANCE WITH THIS SECTION.

(B) PRIOR TO THE AUTHORIZATION OF ANY STREAM AND FLOODPLAIN RESTORATION PROJECT IN THE STATE , THE DEPARTMENT SHALL:

(1) ASSESS DOCUMENTATION SUBMITTED BY THE PROJECT APPLICANT FOR DEGRADATION CRITERIA RELATED TO:

(I) AN EXISTING BIOLOGICAL FUNCTION-BASED PARAMETER; AND

(II) A PHYSICAL PARAMETER, INCLUDING AN EXISTING GEOMORPHOLOGIC OR HYDRAULIC FUNCTION-BASED PARAMETER;

(2) ASSESS WHETHER THE PROJECT APPLICANT INCORPORATED THE FOLLOWING COBENEFITS, AS APPROPRIATE, INTO THE APPLICATION:

(I) THE CREATION OR RESTORATION OF WILDLIFE HABITAT, RIPARIAN BUFFERS, AND WETLAND RESTORATION;

(II) THE RESTORATION OF AQUATIC RESOURCES, SUCH AS FRESHWATER MUSSELS, FISH PASSAGE, OR OYSTER REEFS;

(III) CARBON SEQUESTRATION;

(IV) CLIMATE CHANGE MITIGATION, ADAPTATION, OR RESILIENCE;

(V) IMPROVING AND PROTECTING PUBLIC HEALTH; AND

**(VI) RECREATIONAL OPPORTUNITIES AND PUBLIC ACCESS
TO WATERWAYS AND NATURAL HABITATS;**

**(3) ASSESS DOCUMENTATION OF COMMUNITY NOTIFICATIONS
CONDUCTED BY THE PROJECT APPLICANT PRIOR TO THE SUBMISSION OF THE
APPLICATION;**

**(4) ASSESS WHETHER THE PROJECT APPLICANT INCORPORATED,
TO THE EXTENT PRACTICABLE, RECOGNIZED BEST MANAGEMENT PRACTICES TO:**

(I) MAXIMIZE ECOLOGICAL UPLIFT;

(II) MINIMIZE:

1. IMPACTS TO WILDLIFE HABITATS;

2. TREE LOSS AND REMOVAL;

3. EARTH DISTURBANCE; AND

4. DISTURBANCE TO NATIVE VEGETATION;

(III) AVOID IMPACTS TO:

**1. LARGE NONINVASIVE NATIVE PLANT
COMMUNITIES; AND**

(Over)

2. SPECIMEN TREES;

(IV) USE EXISTING AREAS SUITABLE FOR MATERIAL STAGING AREAS TO AVOID FOREST REMOVAL;

(V) LIMIT CONSTRUCTION ACCESS ROAD WIDTHS;

(VI) LIMIT THE IMPACTS OF INGRESS AND EGRESS POINTS TO MINIMIZE FOREST IMPACTS; AND

(VII) WHERE APPROPRIATE, PRIORITIZE THE REMOVAL OF NONNATIVE AND INVASIVE:

1. TREES; AND

2. VEGETATION; AND

(5) ESTABLISH A PLAN TO PROVIDE FOR AT LEAST 5 YEARS OF MONITORING IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(C) THE DEPARTMENT'S ASSESSMENT REVIEW REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION SHALL INCLUDE:

(1) WHETHER THE PROJECT APPLICANT PROVIDED NOTICE AS REQUIRED IN § 18-501 OF THIS SUBTITLE;

(2) WHETHER THE PROJECT APPLICANT CONDUCTED COMMUNITY MEETINGS WITHIN THE COMMUNITY IMPACTED BY THE PROJECT;

(3) WHETHER THE PROJECT APPLICANT PLACED APPROPRIATE PROJECT SIGNAGE;

(4) WHETHER THE PROJECT APPLICANT CONSIDERED THE PROJECT'S COMPATIBILITY WITH LOCAL LAND USE, ESPECIALLY IN URBAN, SUBURBAN, AND OTHER HIGH-VISIBILITY AREAS;

(5) WHETHER AND HOW THE PROJECT APPLICANT CONSIDERED AND RESPONDED TO RELEVANT PUBLIC INPUT, INCLUDING ANY RESULTING MODIFICATIONS TO THE PROJECT; AND

(6) HOW THE PROJECT APPLICANT CONSIDERED PUBLIC INPUT IN THE FINAL APPLICATION DESIGN.

(D) (1) ON COMPLETION OF A STREAM AND FLOODPLAIN RESTORATION PROJECT, THE DEPARTMENT SHALL PROVIDE FOR AT LEAST 5 YEARS OF MONITORING PER THE DESIGN AND PERMIT ASSOCIATED WITH THE DESIGN FOR EACH AUTHORIZED PROJECT.

(2) THE MONITORING REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AN ASSESSMENT OF STREAM STABILITY, STREAM AND FLOODPLAIN FUNCTION, AND VEGETATION VIABILITY WITHIN THE AFFECTED PROJECT AREA.

18-503.

ON OR BEFORE DECEMBER 1, 2024, AND EACH DECEMBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE SENATE COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE

(Over)

GOVERNMENT ARTICLE, ON ANY CHANGES MADE TO THE STREAM RESTORATION AUTHORIZATION CHECKLIST SINCE DECEMBER 1, 2023.;

in line 16, strike “**5.**” and substitute “**6.**”; in the same line, strike “**TITLE**” and substitute “**SUBTITLES**”; in line 17, strike “**18-501.**” and substitute “**18-601.**”; in line 19, after “**ACT,**” insert “**THIS SUBTITLE AND SUBTITLES 1 THROUGH 4 OF**”; in line 20, after “**UNDER**” insert “**THIS SUBTITLE AND SUBTITLES 1 THROUGH 4 OF**”; and in lines 20 and 21, strike “**JULY 1, 2033**” and substitute “**JUNE 30, 2029**”.

On page 26, in lines 5 and 6, strike “**GRANT RECIPIENT**” and substitute “**PROJECT SPONSOR**”.

On page 27, in line 23, strike “**COMMUNITY**” and substitute “**GOVERNMENT**”.

On page 29, in line 25, after “**OF**” insert “**AFFECTED**”.

On page 32, in line 12, strike “**RESTORATION**” and substitute “**MAJOR OR LARGE-SCALE**”.

On page 34, in line 15, after “**SUBTITLE**” insert “**, INCLUDING:**

(I) TO SATISFY MATCH REQUIREMENTS OF ANY FEDERAL SOURCE; OR

(II) MATCHING WITH COUNTY, MUNICIPAL, OR PRIVATE FUNDS OR IN-KIND SUPPORT FOR A PROJECT”.

On page 37, in line 11, strike “**TO**” and substitute “**CONSISTENT WITH OTHER USES IN ITEMS (I) THROUGH (XII) OF THIS PARAGRAPH, TO**”; in line 23, strike “**AND**”; and in line 25, after “**MATERIAL**” insert “**; AND**

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**(III) ANY WATER QUALITY MONITORING BY THE
DEPARTMENT**".

On page 38, after line 7, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
read as follows:".

On page 39, in line 7, strike "2." and substitute "3."; in line 32, strike "3." and substitute "4."; and in line 33, after "2024." insert "Section 2 of this Act shall remain effective for a period of 5 years and, at the end of June 30, 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.".