

SENATE BILL 1144

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4lr3477
CF HB 1266

By: **Senators Guzzone and Elfreth**

Introduced and read first time: February 10, 2024

Assigned to: Rules

Re-referred to: Education, Energy, and the Environment and Budget and Taxation, March 9, 2024

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2024

CHAPTER _____

1 AN ACT concerning

2 **Clean Water Commerce Account – Contracts for the Purchase of Environmental**
3 **Outcomes**

4 FOR the purpose of requiring, in entering into a certain contract under the Clean Water
5 Commerce Account for the purchase of a certain environmental outcome, the
6 Department of the Environment to allow certain nonuniform payment schedules ~~and~~
7 ~~include certain financial incentives~~ for certain purposes; authorizing the Department
8 to require a certain payment or certain financial protections for contracts of a certain
9 size to ensure certain outcomes; and generally relating to the Clean Water Commerce
10 Account.

11 BY repealing and reenacting, without amendments,
12 Article – Environment
13 Section 9–1605.4(a)(1), (2), and (6), (b), (c), (f)(1), (m), and (n)
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 9–1605.4(o)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2023 Supplement)

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

3 **Article – Environment**

4 9–1605.4.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) “Account” means the Clean Water Commerce Account.

7 (6) “Environmental outcome” means nitrogen load reductions that can be
8 directly measured or modeled using the Chesapeake Bay Program Models.

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

10 (c) The purpose of the Account is to purchase environmental outcomes in support
11 of the State’s efforts to achieve the Chesapeake Bay TMDL.

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

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

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

17 (m) An environmental outcome purchased under this section shall:

18 (1) Result from a new project or practice designed and established
19 following the selection of a proposal and the execution of a contract in accordance with this
20 section;

21 (2) Be in addition to any load reduction required by any federal, State, or
22 local law, regulation, policy, or permit, including any applicable total maximum daily load;
23 and

24 (3) Be consistent with the Chesapeake Bay Program Models so as to ensure
25 the load reductions will count toward the achievement of the Chesapeake Bay TMDL.

26 (n) A contract entered into by the Department under this section may be funded
27 for the expected life of the project or practice yielding the environmental outcome, not to
28 exceed 20 years.

29 (o) **(1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,** A contract
30 entered into by the Department under this section shall:

1 [(1)] (I) Require the owner of the project or practice to periodically submit
2 status updates in accordance with the quantification plan for the environmental outcomes
3 of the project or practice;

4 [(2)] (II) Require that payment for environmental outcomes be
5 conditioned on the achievement and verification of the environmental outcomes in
6 accordance with the quantification plan;

7 [(3)] (III) Include a schedule of payments that will be made as
8 environmental outcomes are achieved and verified; and

9 [(4)] (IV) Require reporting on the amount of nitrogen and, to the extent
10 that it can be feasibly determined without significant expense, phosphorus and sediment
11 that are removed annually by the project or practice.

12 (2) (I) IN ENTERING INTO A CONTRACT FOR A PROJECT THAT
13 INCLUDES CONSTRUCTION, RECONSTRUCTION, OR REHABILITATION, ON REQUEST,
14 UNDER THIS SECTION, THE DEPARTMENT SHALL:

15 ~~(I) FOR THE PURPOSE OF REDUCING FINANCING COSTS FOR~~
16 ~~THE OWNER OF A PROJECT OR PRACTICE AND THE STATE, ALLOW NONUNIFORM~~
17 ~~PAYMENT SCHEDULES THAT TAKE INTO ACCOUNT THE UPFRONT CAPITAL~~
18 ~~INVESTMENT NEEDED IN ORDER TO GENERATE THE INITIAL ENVIRONMENTAL~~
19 ~~OUTCOMES OF A PROJECT OR PRACTICE; AND THAT ALLOW FOR A COST-PER-POUND~~
20 ~~OF NITROGEN REDUCED THAT VARIES WITH THE ACHIEVEMENT OF PERFORMANCE~~
21 ~~MILESTONES, AS AGREED UPON BY BOTH PARTIES TO THE CONTRACT.~~

22 (II) THE FIRST PERFORMANCE MILESTONE MAY NOT OCCUR
23 EARLIER THAN THE TIME THAT THE CONSTRUCTION, RECONSTRUCTION, OR
24 REHABILITATION IS COMPLETE.

25 ~~(II) INCLUDE FINANCIAL INCENTIVES TO ENSURE THE OWNER'S~~
26 ~~COMMITMENT TO THE OPERATION AND MAINTENANCE OF THE PROJECT OR~~
27 ~~PRACTICE FOR ITS PROPOSED EXPECTED LIFE.~~

28 (3) IN ORDER TO ENSURE THE ACHIEVEMENT OF ENVIRONMENTAL
29 OUTCOMES AGREED TO IN A CONTRACT, THE DEPARTMENT MAY REQUIRE:

30 (I) A MINIMUM FINAL PAYMENT; AND

31 (II) FOR A CONTRACT AWARD GREATER THAN \$500,000,
32 ADDITIONAL FINANCIAL PROTECTIONS, INCLUDING A LETTER OF CREDIT,
33 INSURANCE INSTRUMENT, OR PERFORMANCE BOND.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.