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(PRE-FILED)

CF 6lr0889

By: Delegates Weir and D. Hughes

Requested: October 27, 1995

Introduced and read first time: January 10, 1996

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: February 15, 1996

CHAPTER ____

1 AN ACT concerning

2 **Natural Resources - Phragmites - Cost Sharing Program**

3 FOR the purpose of requiring the Department of Natural Resources to pay certain
4 landowners a certain percentage of the costs associated with the management and
5 control of the spread of phragmites on the landowner's property under a cost
6 sharing program under certain circumstances; authorizing the expenditure of funds
7 from the Wildlife Management and Protection Fund, the Wetlands Compensation
8 Fund, and the Nontidal Wetlands Compensation Fund for certain purposes and in
9 coordination with the Department of the Environment; authorizing the Secretary of
10 Natural Resources to take certain actions necessary for managing and controlling
11 the spread of phragmites; altering a certain reporting requirement; and generally
12 relating to the management and control of the spread of phragmites.

13 BY repealing and reenacting, with amendments,
14 Article - Environment
15 Section 5-909(c)(3) and 16-205(d) and (e)
16 Annotated Code of Maryland
17 (1993 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Natural Resources
20 Section ~~8-2102~~ 8-2102, 8-2103 and 8-2107, 8-2107, and 10-308.1(f)(1)
21 Annotated Code of Maryland
22 (1990 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, without amendments,

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1 Article - Natural Resources
2 Section 8-2101 ~~and 8-2103~~
3 Annotated Code of Maryland
4 (1990 Replacement Volume and 1995 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Natural Resources
7 Section 10-308.1(f)(1)
8 Annotated Code of Maryland
9 (1990 Replacement Volume and 1995 Supplement)
10 (As enacted by Chapter 460 of the Acts of the General Assembly of 1994)

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

13 **Article - Environment**

14 5-909.

15 (c) (3) Funds in the Nontidal Wetland Compensation Fund may be used only
16 for the creation, restoration, or enhancement of nontidal wetlands, including:

- 17 (i) Acquisition of land;
- 18 (ii) Acquisition of easements;
- 19 (iii) Maintenance of mitigation sites;
- 20 (iv) Purchase of credits in mitigation banks; [and]
- 21 (v) IN COORDINATION WITH THE DEPARTMENT OF NATURAL
22 RESOURCES, COST SHARING ASSISTANCE TO LANDOWNERS IN THE MANAGEMENT
23 AND CONTROL OF PHRAGMITES UNDER TITLE 8, SUBTITLE 21 OF THE NATURAL
24 RESOURCES ARTICLE; AND

25 (VI) Contractual services necessary to accomplish the intent of this
26 paragraph.

27 16-205.

28 (d) Funds in the Wetlands Compensation Fund may be appropriated only for
29 acquisition AND CONSERVATION of wetland areas by the State, INCLUDING COST
30 SHARING ASSISTANCE TO LANDOWNERS IN THE MANAGEMENT AND CONTROL OF
31 PHRAGMITES UNDER TITLE 8, SUBTITLE 21 OF THE NATURAL RESOURCES ARTICLE.

32 (e) Funds appropriated in the budget for wetlands acquisition AND
33 CONSERVATION under this section:

- 34 (1) Shall remain available until expended; and
- 35 (2) May not be reverted under any other provision of law.

3

1 **Article - Natural Resources**

2 8-2101.

3 The General Assembly finds that the growth of the tall, reed-like grass Phragmites
4 communis, commonly known as phragmites, may be a public and common nuisance on
5 land and wetlands used for wildlife habitat areas.

6 8-2102.

7 (a) A person who owns real property on which phragmites grows may apply to the
8 Secretary for COST SHARING assistance in the management and control of the spread of
9 phragmites.

10 (b) THE SECRETARY SHALL ESTABLISH A COST SHARING PROGRAM TO
11 ASSIST LANDOWNERS, ON WHOSE PROPERTY PHRAGMITES GROWS, IN THE
12 MANAGEMENT AND CONTROL OF THE SPREAD OF PHRAGMITES.

13 (C) The Secretary may determine whether the Department should assist a
14 landowner in the management and control of the spread of phragmites based on:

15 (1) The magnitude of the area [of current growth for phragmites] TO BE
16 MANAGED AND CONTROLLED; and

17 (2) The possibility of the spread of phragmites into adjoining land and
18 wetland areas.

19 (D) (1) (I) SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION, THE
20 DEPARTMENT SHALL PAY A LANDOWNER 50% OF THE COSTS ASSOCIATED WITH THE
21 ERADICATION AND CONTROL OF THE SPREAD OF PHRAGMITES.

22 (II) THE LANDOWNER SHALL BE RESPONSIBLE FOR ANY
23 REMAINING COSTS.

24 (III) MONEYS PAID TO A LANDOWNER UNDER THIS SECTION MAY
25 BE PAID FROM THE NONTIDAL WETLAND COMPENSATION FUND, THE WETLANDS
26 COMPENSATION FUND, THE WILDLIFE MANAGEMENT AND PROTECTION FUND, OR
27 FEDERAL FUNDS. THE DEPARTMENT SHALL COORDINATE COST SHARING
28 ASSISTANCE PAID FROM THE ~~FUND~~ FUNDS UNDER THIS SECTION WITH THE
29 DEPARTMENT OF THE ENVIRONMENT.

30 (IV) THE DEPARTMENT SHALL REQUIRE VERIFICATION OF A
31 LANDOWNER'S EXPENSES BEFORE THE LANDOWNER MAY RECEIVE MONEY FROM
32 THE COST SHARING PROGRAM.

33 (2) THE DEPARTMENT MAY NOT EXPEND MORE THAN \$100,000 EACH
34 YEAR FROM THE NONTIDAL WETLAND COMPENSATION FUND FOR THE COST
35 SHARING PROGRAM ESTABLISHED IN THIS SECTION.

36 (3) THE DEPARTMENT MAY NOT PAY MORE THAN \$12,000 EACH YEAR
37 TO A SINGLE LANDOWNER, OR TO A PERSON IN THE IMMEDIATE FAMILY OF THE
38 LANDOWNER, OR TO AN ENTITY IN WHICH THE LANDOWNER HAS A SUBSTANTIAL
39 OWNERSHIP INTEREST, UNDER THE COST SHARING PROGRAM ESTABLISHED IN THIS
40 SECTION.

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1 (4) THE DEPARTMENT MAY NOT EXPEND MORE THAN \$60 PER ACRE
2 PER YEAR FOR ANY COST SHARING PROJECT UNDER THIS SECTION.

3 (5) IN LIEU OF CASH PAYMENTS TO LANDOWNERS, THE DEPARTMENT
4 MAY SUBSTITUTE IN-KIND SERVICES OF EQUAL VALUE.

5 ~~(5)~~ (6) THE DEPARTMENT SHALL ESTABLISH PRIORITIES TO TARGET
6 COST SHARING ASSISTANCE TO WETLANDS RESTORATION AND ENHANCEMENT
7 PROJECTS WITH THE GREATEST POTENTIAL FOR IMPROVING WILDLIFE HABITAT
8 AND WETLANDS FUNCTIONS.

9 8-2103.

10 (a) The Department shall study ~~the feasibility of establishing a~~ AND ANALYZE
11 THE cost sharing program in the Department ~~to assist~~ THAT ASSISTS landowners in
12 paying for the cost of the management and control of the spread of phragmites.

13 (b) The Department of Natural Resources shall study and analyze the progress
14 made in the management and control of the spread of phragmites on:

- 15 (1) Lands that the Department of Natural Resources owns or controls; and
16 (2) Any real property on which the Department of Natural Resources assists
17 landowners with the control of phragmites.

18 ~~(c) No later than December 1, 1994, the Department of Natural Resources, in~~
19 ~~conjunction with the Department of Transportation and soil conservation districts, shall~~
20 ~~prepare an inventory of phragmites in the State.~~

21 ~~(d) By December 1, 1994, and on ON~~ request of the committees thereafter, the
22 Department shall submit a report under subsections (a) and (b) of this section to:

- 23 (1) The Environmental Matters Committee of the House of Delegates of
24 Maryland; and
25 (2) The Economic and Environmental Affairs Committee of the Senate of
26 Maryland.

27 8-2107.

28 The Secretary shall adopt regulations to carry out the provisions of this subtitle,
29 INCLUDING ELIGIBILITY CRITERIA FOR LANDOWNERS TO OBTAIN COST SHARING
30 ASSISTANCE AND PROCEDURES FOR THE IMPLEMENTATION OF THE COST SHARING
31 PROGRAM UNDER THIS SUBTITLE.

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

34 Article - Natural Resources

35 10-308.1.

36 (f) (1) All revenues accruing to the Wildlife Management and Protection Fund
37 from sales of the migratory wild waterfowl stamps shall be expended solely for the
38 following purposes:

1 (i) Waterfowl projects included in an approved State program to
2 create, develop, enhance, maintain, and manage nesting cover, winter foods, and other
3 habitat components on public lands to satisfy the habitat requirements of a broad range
4 of wintering waterfowl and native waterfowl species; and

5 (ii) Not more than 30% to adopt and implement a program to
6 eradicate the species Myocastor coypu (nutria) and to control the species Phragmites
7 communis (phragmites) [consistent with subparagraph (i) of this paragraph] ON
8 PRIVATE LANDS.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article - Natural Resources**

12 10-308.1.

13 (f) (1) All revenues accruing to the Wildlife Management and Protection Fund
14 from sales of the migratory wild waterfowl stamps shall be expended solely for
15 [waterfowl] THE FOLLOWING PURPOSES:

16 (I) WATERFOWL projects included in an approved State program to
17 create, develop, enhance, maintain, and manage nesting cover, winter foods, and other
18 habitat components on public lands to satisfy the habitat requirements of a broad range
19 of wintering waterfowl and native waterfowl species; AND

20 (II) NOT MORE THAN 30% TO ADOPT AND IMPLEMENT A PROGRAM
21 TO CONTROL THE SPECIES PHRAGMITES COMMUNIS (PHRAGMITES) ON PRIVATE
22 LANDS.

23 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act is
24 contingent on the taking effect of the termination provision specified in Section 5 of
25 Chapter 460 of the Acts of the General Assembly of 1994. If that termination provision
26 takes effect, Section 2 of this Act shall be void. This Act may not be interpreted to have
27 any effect on that termination provision.

28 SECTION 2- 5. AND BE IT FURTHER ENACTED, That, subject to the
29 provisions of Section 4 of this Act, this Act shall take effect October 1, 1996.