

# SENATE BILL 240

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By: **Senator Astle**

Introduced and read first time: January 23, 2009

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Expanded Use of Waterway Improvement Fund**

3 FOR the purpose of authorizing grants from the Waterway Improvement Fund to be  
4 used for the purchase and installation of best management practices for  
5 implementation at public or private marine facilities for the designation or  
6 renewal of a marina as a Maryland Clean Marina or Clean Marina partner;  
7 prohibiting the amount of grants for the purchase and installation of best  
8 management practices from exceeding a certain percentage of the purchase and  
9 installation cost; restricting certain grants to facilities actively engaged in the  
10 process of a certain certification or recertification; requiring the Secretary of  
11 Natural Resources to determine the eligibility of a proposed best management  
12 practice for grant funding; establishing that the ownership, operation, and  
13 maintenance of any equipment acquired with certain grant funds shall be the  
14 sole responsibility of the marine facility; requiring projects for the purchase and  
15 installation of Maryland Clean Marina best management practices to be  
16 financed solely by the Waterway Improvement Fund; prohibiting certain grants  
17 to certain marine facilities from the Waterway Improvement Fund from  
18 exceeding certain amounts; providing for the disbursement of certain grant  
19 awards from the Waterway Improvement Fund; requiring reimbursement of  
20 certain grant awards from the Waterway Improvement Fund on the occurrence  
21 of certain conditions; increasing the amount of funds the Department of Natural  
22 Resources may spend from the Waterway Improvement Fund in a fiscal year;  
23 limiting the amount of funds from the Waterway Improvement Fund that may  
24 be used for certain projects; making stylistic changes; and generally relating to  
25 uses of the Waterway Improvement Fund.

26 BY repealing and reenacting, with amendments,  
27 Article – Natural Resources  
28 Section 8–707, 8–708, and 8–709  
29 Annotated Code of Maryland  
30 (2007 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Natural Resources**

4 8–707.

5 (a) There is a Waterway Improvement Fund for the purposes specified in this  
6 subtitle. Except as provided in § 8–709 of this subtitle, any money received into the  
7 Waterway Improvement Fund shall be used solely for the following projects:

8 (1) Marking channels and harbors and establishing aids to navigation  
9 in cooperation with and as an extension of operations of the United States Coast  
10 Guard;

11 (2) Clearing debris, aquatic vegetation, and obstruction from waters of  
12 the State;

13 (3) Dredging channels and harbors and construction of jetties and  
14 breakwaters in cooperation with and as an extension of operations of the United  
15 States Army Corps of Engineers;

16 (4) Constructing and maintaining marine facilities beneficial to the  
17 boating public, including constructing pump-out stations for use by the general  
18 boating public at public and private marinas. The Secretary may use the funds to  
19 install pump-out stations for use by the general boating public and to supplement  
20 maintenance costs at the discretion of the Secretary. Before approving the  
21 construction of any pump-out station at a public or private marina, the Secretary  
22 shall consult with the Department of the Environment to assure that the wastewater  
23 collection and treatment system of the marina is adequate to handle any increased  
24 flow. The Department may adopt regulations to govern the use and operation of  
25 pump-out stations for use by the general boating public constructed or supported by  
26 State funds under this section;

27 (5) Improvement, reconstruction, or removal of bridges, drawbridges,  
28 or similar structures over or across waters, if those structures delay, impede, or  
29 obstruct the boating public. With the approval of the Board of Public Works, funds  
30 from another public or any private source may be received and used to supplement  
31 and increase the funds in the Waterway Improvement Fund for the purpose of this  
32 subsection. Also, the Board of Public Works may enter into an agreement with a  
33 private company or person which owns such a structure, for the improvement,  
34 reconstruction, or removal of the structure, in order to provide a sharing of the cost of  
35 the improvement, reconstruction, or removal;

36 (6) Evaluation of water-oriented recreation needs and recreational  
37 capacities of Maryland waterways and development of comprehensive plans for  
38 waterway improvements;

1           (7) To provide matching grants to local governments for the  
2 construction of marine facilities for marine firefighting, marine police, or medical  
3 services and for the acquisition of vessels and equipment for vessels for marine  
4 firefighting, police, medical, and communication equipment for promoting safety of life  
5 and property and general service to the boating public utilizing the waters of the  
6 State. The ownership, operation, and maintenance of any equipment acquired under  
7 this subtitle shall be the responsibility of the local governing body;

8           (8) Structural and nonstructural shore erosion control under  
9 subsection (b) of this section;

10           (9) Acquisition of equipment and State vessels for firefighting,  
11 policing, first aid and medical assistance, and communications, in order to promote  
12 safety of life and property and general service to the boating public utilizing waters of  
13 the State;

14           (10) Boating information and education; [and]

15           (11) To provide interest-free loans to a governing body for the benefit of  
16 a residential property owner, or group of residential property owners, with land  
17 abutting a channel adjacent to a federal, State, county, or municipal main channel or  
18 harbor for dredging the adjacent channel; **AND**

19           **(12) TO PROVIDE GRANTS IN ACCORDANCE WITH § 8-708(B-1) OF**  
20 **THIS SUBTITLE FOR THE PURCHASE AND INSTALLATION OF BEST MANAGEMENT**  
21 **PRACTICES RECOMMENDED BY THE DEPARTMENT FOR IMPLEMENTATION AT**  
22 **PUBLIC OR PRIVATE MARINE FACILITIES FOR THE DESIGNATION OR RENEWAL**  
23 **OF A MARINA AS A MARYLAND CLEAN MARINA OR CLEAN MARINA PARTNER.**

24           (b) Moneys from the Waterway Improvement Fund may be appropriated for  
25 structural and nonstructural shore erosion control projects under Subtitle 10 of this  
26 title, provided that the funds appropriated:

27           (1) In any fiscal year do not exceed 15% of the total excise tax  
28 revenues, exclusive of loan repayments, attained by the Waterway Improvement Fund  
29 in the preceding fiscal year; and

30           (2) May only be expended for projects that address shoreline areas  
31 where:

32           (i) Significant erosion is being caused by a combination of boat  
33 traffic and other factors, including:

34                           1. An exposed point of land or shore in a narrow creek or  
35 cove;

- 1 2. Shore composition of easily erodible soils;
- 2 3. A steep, seaward, near-shore slope; or
- 3 4. A high rate of boating traffic passing close to the
- 4 shore;

5 (ii) The shoreline has the following characteristics:

- 6 1. Evidence of erosion is clearly visible; and
- 7 2. Proximity to navigable waters where dredging
- 8 responsibility is not clearly accepted by the federal government; or

9 (iii) Erosion has been significantly increased due to the

10 construction or replacement of public waterway improvement structures.

11 (c) (1) Funds specified under subsection (b) of this section may be

12 appropriated in a lump sum for the general purpose of shore erosion control, without

13 specifying individual projects pursuant to § 8-709(a) of this subtitle.

14 (2) By January 1 of each year, the Department shall issue a written

15 report to the Senate Budget and Taxation Committee and the House Appropriations

16 Committee that shall contain for each grant or loan made under subsection (b) of this

17 section:

18 (i) The amount of each grant or loan;

19 (ii) The name and address of each recipient;

20 (iii) The location of the property for which the grant or loan was

21 made; and

22 (iv) If the recipient is a corporation, the name of each officer of

23 the corporation.

24 (d) The Governor shall include in the budget bill for each fiscal year a

25 General Fund appropriation to the Waterway Improvement Fund of not less than

26 \$1,794,000.

27 8-708.

28 (a) (1) Except as provided in § 8-708.1 of this subtitle, **THE FOLLOWING**

29 **PROJECTS SHALL BE FINANCED SOLELY BY THE WATERWAY IMPROVEMENT**

30 **FUND:**

1 (I) [projects for dredging] **DREDGING** and marking channels  
2 and harbors[.];

3 (II) [construction] **CONSTRUCTION** of jetties and breakwaters[,  
4 and];

5 (III) [clearing] **CLEARING** debris, aquatic vegetation, and  
6 obstructions in navigable waters[, as well as];

7 (IV) [construction] **CONSTRUCTION** of marine facilities located  
8 within lands owned by the Department [and];

9 (V) [construction] **CONSTRUCTION** of pump-out stations for  
10 use by the general boating public at public and private marinas[, shall be financed  
11 solely by the Waterway Improvement Fund]; **AND**

12 (VI) **PURCHASE AND INSTALLATION OF MARYLAND CLEAN**  
13 **MARINA BEST MANAGEMENT PRACTICES.**

14 (2) Any funds available from the federal government, any governing  
15 body, or any gift also may be used for [these purposes] **PROJECTS LISTED IN**  
16 **PARAGRAPH (1) OF THIS SUBSECTION.**

17 (b) Except for the construction of pump-out stations for use by the general  
18 boating public at public and private marinas, the governing body and the Waterway  
19 Improvement Fund jointly shall finance projects to construct marine facilities  
20 beneficial to the boating public. The contribution of the Waterway Improvement Fund  
21 shall be limited to not more than 50% of the cost of each project. However, the  
22 Waterway Improvement Fund may finance completely any construction project  
23 beneficial to the boating public which costs less than \$100,000 regardless of its  
24 location.

25 (B-1) **GRANTS MADE FROM THE WATERWAY IMPROVEMENT FUND IN**  
26 **ACCORDANCE WITH § 8-707(A)(12) OF THIS SUBTITLE SHALL BE SUBJECT TO**  
27 **THE FOLLOWING REQUIREMENTS:**

28 (1) **EXCEPT FOR BEST MANAGEMENT PRACTICES IMPLEMENTED**  
29 **ON LAND OWNED BY THE DEPARTMENT, GRANTS MADE TO PRIVATE AND PUBLIC**  
30 **MARINAS PARTICIPATING IN THE MARYLAND CLEAN MARINA INITIATIVE**  
31 **SHALL BE LIMITED TO NOT MORE THAN 50% OF THE COST OF PURCHASING AND**  
32 **INSTALLING EACH BEST MANAGEMENT PRACTICE;**

33 (2) **AN INDIVIDUAL PRIVATE MARINE FACILITY SHALL BE**  
34 **LIMITED TO \$35,000 IN GRANTS FROM THE WATERWAY IMPROVEMENT FUND**  
35 **PER CERTIFICATION OR RECERTIFICATION AS A MARYLAND CLEAN MARINA;**

1           **(3) A FACILITY MAY NOT RECEIVE A GRANT UNLESS IT IS**  
2 **ACTIVELY ENGAGED IN THE PROCESS OF CERTIFICATION OR RECERTIFICATION**  
3 **BY THE DEPARTMENT AS A MARYLAND CLEAN MARINA OR CLEAN MARINA**  
4 **PARTNER;**

5           **(4) ELIGIBLE BEST MANAGEMENT PRACTICES ARE LIMITED TO**  
6 **ITEMS THAT THE MARINE FACILITY MAY NEED TO QUALIFY AS A MARYLAND**  
7 **CLEAN MARINA;**

8           **(5) THE SECRETARY SHALL DETERMINE THE ELIGIBILITY OF A**  
9 **PROPOSED BEST MANAGEMENT PRACTICE FOR GRANT FUNDING;**

10           **(6) GRANT AWARDS SHALL BE DISTRIBUTED AFTER:**

11                   **(I) VERIFICATION OF PROJECT INSTALLATION;**

12                   **(II) CERTIFICATION OR RECERTIFICATION AS A MARYLAND**  
13 **CLEAN MARINA BY THE DEPARTMENT; AND**

14                   **(III) SUBMISSION TO THE DEPARTMENT OF PROOF OF**  
15 **PAYMENT FOR THE PROJECT INSTALLATION;**

16           **(7) GRANT RECIPIENTS THAT DO NOT MAINTAIN CERTIFICATION**  
17 **AS A MARYLAND CLEAN MARINA FOR A PERIOD OF 3 YEARS AFTER PROJECT**  
18 **COMPLETION SHALL REIMBURSE THE WATERWAY IMPROVEMENT FUND FOR**  
19 **ALL GRANT MONEYS RECEIVED; AND**

20           **(8) THE OWNERSHIP, OPERATION, AND MAINTENANCE OF ANY**  
21 **EQUIPMENT ACQUIRED WITH GRANT FUNDS SHALL BE THE SOLE**  
22 **RESPONSIBILITY OF THE MARINE FACILITY.**

23           (c) (1) The governing body shall pay its share of matching projects under  
24 subsection (b) of this section or shall repay the Waterway Improvement Fund for any  
25 loan authorized under subsection (d) of this section either by:

26                   (i) Means of appropriations from general funds; or

27                   (ii) Levying a special assessment or tax against each property  
28 owner whose property lies within the district.

29           (2) The governing body may accept and use any gift for the cost of any  
30 project as part of the governing body's share of any matching fund project.

1 (d) In addition to the methods of financing provided in subsections (a) and (b)  
2 of this section, a governing body may borrow interest-free funds from the Waterway  
3 Improvement Fund for a waterway improvement project within a waterway  
4 improvement district. However, the amount borrowed from the Waterway  
5 Improvement Fund for these districts may not exceed 21% of the total attained  
6 revenue of the Waterway Improvement Fund from the previous fiscal year. A single  
7 project may not exceed 7% of the total attainment. The governing body shall repay the  
8 funds at a uniform rate over a period not to exceed 25 years as provided by agreement  
9 between the State and the governing body.

10 (e) The contribution of the Waterway Improvement Fund shall be limited to  
11 not more than 50% of the cost of each acquisition, and the total amount of funds  
12 expended in any fiscal year for acquisitions and projects specified in § 8-707(a)(7) and  
13 (9) of this subtitle may not exceed the amount of the motor fuel tax revenue paid to the  
14 Waterway Improvement Fund in the preceding fiscal year, as provided for in § 2-1104  
15 of the Tax – General Article.

16 (f) Notwithstanding any other provision of this subtitle, funds deposited in  
17 the Waterway Improvement Fund may be used for amortization and payment of  
18 interest on bonds issued for financing projects authorized under this subtitle.

19 8-709.

20 (a) The Department shall include in its annual budget request an itemized  
21 list of requests for the use of any available money from the Waterway Improvement  
22 Fund for the projects under § 8-707 of this subtitle. The Department's list shall  
23 include a brief description of each project, an estimate of its cost, and the benefits to be  
24 derived from it. The list shall designate which projects are financed solely by the  
25 Waterway Improvement Fund, which are matching fund projects, and which are  
26 interest-free loan projects.

27 (b) (1) Notwithstanding the provisions of subsection (a) of this section, in  
28 any fiscal year the Department may expend from the Waterway Improvement Fund  
29 without legislative approval a total sum of not more than [~~\$225,000~~] **\$475,000**.

30 (2) **IN ANY FISCAL YEAR:**

31 (I) [Of this amount, a] **A** sum of not more than \$125,000 may  
32 be expended for small projects under § 8-707(a)(3) and (4) of this subtitle, subject to  
33 the limitation that a single project of this kind may not exceed \$5,000 in cost to the  
34 Waterway Improvement Fund[, and];

35 (II) [a] **A** sum of not more than \$100,000 may be expended for  
36 boating safety and education; **AND**

37 (III) **A SUM OF NOT MORE THAN \$250,000 MAY BE EXPENDED**  
38 **FOR GRANTS MADE UNDER § 8-707(A)(12) OF THIS SUBTITLE.**

1 (c) Notwithstanding the provisions of subsection (a) of this section, the  
2 Department may propose an appropriation from the Waterway Improvement Fund to  
3 support marine operations of the Natural Resources Police not exceeding:

4 (1) \$1,700,000 in the Department's fiscal year 2006 budget; and

5 (2) \$2,000,000 in the Department's fiscal year 2007 budget, and every  
6 year thereafter.

7 (d) Notwithstanding the provisions of subsection (a) of this section:

8 (1) For each of fiscal years 2003 through 2005, as provided in the State  
9 budget, the Department may use the moneys in the Waterway Improvement Fund for  
10 administrative expenses directly relating to implementing the purposes of the  
11 Waterway Improvement Fund;

12 (2) For fiscal year 2006 through fiscal year 2009, as provided in the  
13 State budget, the Department may use up to the following percentage of the moneys in  
14 the Waterway Improvement Fund for administrative expenses directly relating to  
15 implementing the purposes of the Waterway Improvement Fund:

16 (i) In fiscal year 2006, 8%;

17 (ii) In fiscal year 2007, 6%;

18 (iii) In fiscal year 2008, 4%; and

19 (iv) In fiscal year 2009, 2%; and

20 (3) For fiscal years after fiscal year 2009, the Department may not use  
21 the moneys in the Waterway Improvement Fund for administrative expenses.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2009.