

Chapter 653

(House Bill 68)

AN ACT concerning

Department of the Environment – Grants – Small Businesses and Certified Minority Business Enterprises

FOR the purpose of requiring applicants for certain financial assistance from the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund to demonstrate that certain steps were taken to include certain small businesses and certain certified minority business enterprises; authorizing the Department of the Environment to withhold certain financial assistance under certain circumstances; requiring the Department to consider the availability to grantees of certain small businesses and certain certified minority business enterprises when making a certain determination; establishing a threshold to require grantees that receive grants that exceed a certain amount from a certain fund to take steps to include certain small businesses and certain certified minority business enterprises; and generally relating to small businesses and certified minority business enterprise participation and the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1605.3

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

9–1605.3.

(a) (1) There is a Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(2) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be maintained and administered by the Administration in accordance with the provisions of this subtitle and such rules or Program directives as the Secretary or the Board may from time to time prescribe.

(b) The purpose of the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund is to provide financial assistance for the implementation of urban and suburban stormwater management practices, and stream and wetland restoration.

(c) There shall be deposited in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund:

(1) Money distributed to the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund under § 8–2A–04 of the Natural Resources Article and appropriated in the State budget for the Fund;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of moneys in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund; and

(4) Any other moneys from any other source accepted for the benefit of the Fund.

(d) (1) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) Money in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund may not revert or be transferred to the General Fund of the State.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(4) Subject to the provision of any applicable bond resolution governing the investment of amounts in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(6) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2–1220 of the State Government Article.

(7) The Administration may from time to time establish accounts and subaccounts within the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund

as may be deemed desirable to effectuate the purposes of this subtitle, to comply with the provisions of any bond resolution, or to meet any requirement or rules or program directives established by the Secretary or the Board.

(8) The Administration shall operate the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund in accordance with §§ 9–1607 through 9–1622 of this subtitle.

(e) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be used:

(1) To award grants for up to 100 percent of project costs relating to planning, design, and construction of urban and suburban stormwater management practices, and stream and wetland restoration;

(2) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of such bonds will be deposited in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund;

(3) For costs associated with the issuance of bonds;

(4) To earn interest on the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund accounts; and

(5) For the reasonable costs of administering the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “CERTIFIED MINORITY BUSINESS ENTERPRISE” HAS THE MEANING STATED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) “SMALL BUSINESS” HAS THE MEANING STATED IN § 14–501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) FOR FINANCIAL ASSISTANCE OVER \$500,000 AWARDED UNDER THE FUND, THE GRANTEE SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES BY:

(I) PLACING SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN-OWNED BUSINESSES ON SOLICITATION LISTS;

(II) ASSURING THAT SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN-OWNED BUSINESSES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

(III) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM PARTICIPATION OF SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN-OWNED BUSINESSES;

(IV) ESTABLISHING DELIVERY SCHEDULES, WHERE THE REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, CLASSIFIED AS WOMEN-OWNED BUSINESSES; AND

(V) USING THE SERVICES AND ASSISTANCE OF THE DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN-OWNED BUSINESSES.

(3) IN DETERMINING WHETHER THE GRANTEE TOOK THE STEPS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER THE AVAILABILITY TO THE GRANTEE OF SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN-OWNED BUSINESSES THAT ARE CAPABLE OF COMPLETING ALL OR PART OF THE PROJECT.

(G) IF THE STEPS REQUIRED UNDER SUBSECTION (F) OF THIS SECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.