

HOUSE BILL 1110

M1, M4

6lr3373
CF SB 645

By: **Delegates Frush, Afzali, Anderson, Aumann, Beidle, Bromwell, Cassilly, Folden, Fraser-Hidalgo, Ghrist, Gaines, Holmes, S. Howard, Jacobs, Lafferty, Mautz, McIntosh, McKay, O'Donnell, Otto, Parrott, Reilly, S. Robinson, and Wivell**

Introduced and read first time: February 11, 2016

Assigned to: Environment and Transportation and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund – Allocation of Funds**

3 FOR the purpose of repealing references to the “Chesapeake 2000 Agreement” in certain
4 provisions of law and substituting references to the “2014 Chesapeake Bay
5 Watershed Agreement”; repealing references to the term “tributary strategies” in
6 certain provisions of law and substituting references to the term “watershed
7 implementation plan”; requiring money in the Chesapeake and Atlantic Coastal
8 Bays 2010 Trust Fund, beginning in a certain fiscal year, to be allocated in
9 accordance with certain provisions of law; requiring a certain minimum amount of
10 money in the Trust Fund to be allocated to the Department of Agriculture annually
11 for certain purposes; requiring a certain percentage of money in the Trust Fund to
12 be allocated to the BayStat Subcabinet agencies annually for a certain purpose;
13 requiring a certain percentage of money in the Trust Fund to be allocated to the
14 Department of Agriculture annually for certain purposes; authorizing the BayStat
15 Subcabinet to determine the use of any remaining money in the Trust Fund under
16 certain circumstances; establishing the intent of the General Assembly that money
17 in the Trust Fund not be redirected or allocated to the General Fund or any other
18 special fund; making clarifying changes; defining a certain term; and generally
19 relating to the allocation of money in the Chesapeake and Atlantic Coastal Bays 2010
20 Trust Fund.

21 BY repealing and reenacting, with amendments,
22 Article – Natural Resources
23 Section 8–2A–01, 8–2A–02, and 8–2A–04
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2015 Supplement)

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 MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Natural Resources**

4 8–2A–01.

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

6 (b) “BayStat Program” means the program established under § 8–2A–03 of this
7 subtitle.

8 (c) (1) “Nonpoint source pollution control project” means a project to improve
9 water quality by a reduction of nitrogen, phosphorus, or sediment pollution.

10 (2) “Nonpoint source pollution control project” includes:

11 (i) An agricultural best management implementation practice,
12 including cover crops, riparian forested buffer, manure processing, grassed waterways,
13 animal waste storage structures, and livestock fencing;

14 (ii) An urban or suburban stormwater practice;

15 (iii) A sustainable forest management practice, including a forest
16 stewardship plan or a nonornamental urban and suburban tree planting project;

17 (iv) Stream and wetland restoration;

18 (v) Riparian buffer planting;

19 (vi) A project that demonstrates the effectiveness of an innovative
20 nonpoint source pollution reduction measure provided that the measure is capable of
21 integration into existing nonpoint source pollution programs;

22 (vii) Technical assistance necessary to implement a nonpoint source
23 pollution control project;

24 (viii) Improvement of a municipal park located on or adjacent to a
25 waterway, provided that the improvement is limited to state-of-the-art and sustainable
26 nonpoint source pollution control measures that demonstrably improve water quality by
27 reducing nitrogen, phosphorus, and sediment pollution; and

28 (ix) Strategic monitoring of water quality improvements from
29 nonpoint source pollution control projects that have been funded, in whole or in part, with
30 grants from the Trust Fund.

1 (d) [“Tributary strategies” means each of Maryland’s 10 watershed–specific plans
2 as amended from time to time to reduce the amount of nitrogen, phosphorus, and sediment
3 pollution that enters the Chesapeake and Atlantic Coastal Bays and their tributaries.

4 (e)] “Trust Fund” means the Chesapeake and Atlantic Coastal Bays 2010 Trust
5 Fund.

6 (E) **“WATERSHED IMPLEMENTATION PLAN” MEANS A PLAN TO ACHIEVE THE**
7 **NUTRIENT AND SEDIMENT LIMITS REQUIRED UNDER THE CHESAPEAKE BAY TOTAL**
8 **MAXIMUM DAILY LOAD.**

9 8–2A–02.

10 (a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

11 (b) The purpose of the Fund is to provide financial assistance necessary to
12 advance Maryland’s progress in meeting the goals established in the [Chesapeake 2000
13 Agreement] **2014 CHESAPEAKE BAY WATERSHED AGREEMENT** for the restoration of
14 the Chesapeake Bay and its tributaries, including the Patuxent River, and to restore the
15 health of the Atlantic Coastal Bays and their tributaries, by focusing limited financial
16 resources on nonpoint source pollution control projects in all regions of the State.

17 (c) The Secretary shall administer the Fund.

18 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
19 the State Finance and Procurement Article.

20 (2) The Treasurer shall hold the Fund separately, and the Comptroller
21 shall account for the Fund.

22 (e) The Fund consists of:

23 (1) Money appropriated in the State budget for the Fund;

24 (2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of the
25 Tax – General Article; and

26 (3) Any other money from any other source accepted for the benefit of the
27 Fund.

28 (f) (1) The Fund may be used only for the implementation of nonpoint source
29 pollution control projects to [achieve the State’s tributary strategy] **IMPLEMENT THE**
30 **STATE’S WATERSHED IMPLEMENTATION PLAN** developed in accordance with the
31 [Chesapeake 2000 Agreement] **2014 CHESAPEAKE BAY WATERSHED AGREEMENT** and
32 to improve the health of the Atlantic Coastal Bays and their tributaries.

1 (2) It is the intent of the General Assembly that, when possible, moneys in
2 the Fund shall be granted to local governments and other political subdivisions for
3 agricultural, forestry, stream and wetland restoration, and urban and suburban
4 stormwater nonpoint source pollution control projects, including up to 25% in matching
5 funds to local governments and other political subdivisions that have enacted a stormwater
6 remediation fee under § 4-202.1 of the Environment Article.

7 **(G) (1) BEGINNING IN FISCAL YEAR 2017, MONEY IN THE FUND SHALL BE**
8 **ALLOCATED IN ACCORDANCE WITH THIS SUBSECTION.**

9 **(2) (I) A MINIMUM OF \$5,000,000 SHALL BE ALLOCATED TO THE**
10 **DEPARTMENT OF AGRICULTURE ANNUALLY FOR DISTRIBUTION TO SOIL**
11 **CONSERVATION DISTRICTS TO ASSIST FARMERS AND COUNTIES WITH NONPOINT**
12 **SOURCE POLLUTION CONTROL PROJECTS.**

13 **(II) THE FUNDS UNDER SUBPARAGRAPH (I) OF THIS**
14 **PARAGRAPH:**

15 **1. SHALL BE DISTRIBUTED TO A SOIL CONSERVATION**
16 **DISTRICT BASED ON THE WORKLOAD OF THE DISTRICT, AS DETERMINED BY THE**
17 **DEPARTMENT OF AGRICULTURE;**

18 **2. MAY BE USED BY A SOIL CONSERVATION DISTRICT TO**
19 **PAY FOR TECHNICAL AND ADMINISTRATIVE STAFF, INCLUDING SOIL CONSERVATION**
20 **DISTRICT MANAGERS AND ADMINISTRATIVE POSITIONS FUNDED JOINTLY WITH A**
21 **LOCAL GOVERNMENT, WHO ARE REQUIRED TO SUPPORT THE IMPLEMENTATION OF**
22 **NONPOINT SOURCE BEST MANAGEMENT PRACTICES; AND**

23 **3. SHALL BE ADJUSTED ANNUALLY TO PROVIDE SALARY**
24 **ADJUSTMENTS COMMENSURATE WITH STATE EMPLOYEES.**

25 **(3) AFTER THE ALLOCATION REQUIRED UNDER PARAGRAPH (2) OF**
26 **THIS SUBSECTION IS MADE:**

27 **(I) A MINIMUM OF 45% OF THE MONEY IN THE FUND SHALL BE**
28 **ALLOCATED TO THE BAYSTAT SUBCABINET AGENCIES TO ADMINISTER A**
29 **COMPETITIVE GRANT PROGRAM TO PROVIDE FUNDING FOR URBAN, SUBURBAN, AND**
30 **AGRICULTURAL NONPOINT SOURCE POLLUTION CONTROL PROJECTS; AND**

31 **(II) A MINIMUM OF 40% OF THE MONEY IN THE FUND SHALL BE**
32 **ALLOCATED TO THE DEPARTMENT OF AGRICULTURE FOR AGRICULTURAL**
33 **NONPOINT SOURCE POLLUTION CONTROL PROJECTS, INCLUDING COVER CROPS,**
34 **MANURE STORAGE, OR OTHER BEST MANAGEMENT PRACTICES, INCLUDING**

1 INNOVATIVE BEST MANAGEMENT PRACTICES, TO MEET THE STATE'S
2 AGRICULTURAL WATERSHED IMPLEMENTATION GOALS.

3 (4) THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN
4 ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER
5 GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT
6 SUBCABINET AGENCIES.

7 (5) AFTER THE ALLOCATIONS IN PARAGRAPHS (2) AND (3) OF THIS
8 SUBSECTION HAVE BEEN MADE, THE BAYSTAT SUBCABINET SHALL DETERMINE THE
9 USE OF ANY REMAINING MONEY IN THE FUND.

10 [(g)] (H) (1) The Treasurer shall invest the money of the Fund in the same
11 manner as other State money may be invested.

12 (2) Any investment earnings of the Fund shall be retained to the credit of
13 the Fund.

14 [(h)] (I) (1) Money expended from the Fund for the restoration of the
15 Chesapeake and Atlantic Coastal Bays and their tributaries, including the Patuxent River,
16 is supplemental to and is not intended to take the place of funding that otherwise would be
17 appropriated for bay restoration.

18 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT MONEY IN
19 THE FUND NOT BE REDIRECTED OR ALLOCATED TO THE GENERAL FUND OR ANY
20 OTHER SPECIAL FUND.

21 8-2A-04.

22 (a) The BayStat Program shall direct the administration of the Trust Fund in
23 accordance with this section.

24 (b) (1) The BayStat Program shall implement nonpoint source pollution
25 reduction measures to [achieve the tributary strategies] IMPLEMENT THE STATE'S
26 WATERSHED IMPLEMENTATION PLAN by targeting funds, geographically and by
27 practice, to proven, scientifically based projects that provide the most cost-effective and
28 measurable water quality benefits to the Chesapeake and Atlantic Coastal Bays.

29 (2) To the maximum extent practicable, the BayStat Program shall
30 distribute the Trust Fund moneys on a competitive basis.

31 (c) (1) The BayStat Program shall distribute funds from the Trust Fund to the
32 BayStat Subcabinet agencies in accordance with the final work and expenditure plans.

1 (2) The BayStat Subcabinet agencies shall administer the funds **FOR THE**
2 **COMPETITIVE GRANT PROGRAM FOR URBAN AND SUBURBAN NONPOINT SOURCE**
3 **POLLUTION CONTROL PROJECTS** in accordance with the final work and expenditure
4 plans, including the distribution of funds:

5 (i) Through grants to:

6 1. Counties;

7 2. Bicounty agencies;

8 3. Municipalities;

9 4. Forest conservancy district boards;

10 5. Soil conservation districts;

11 6. Academic institutions; and

12 7. Nonprofit organizations having a demonstrated ability to
13 implement nonpoint source pollution control projects;

14 (ii) To the Chesapeake and Atlantic Coastal Bays Nonpoint Source
15 Fund established under § 9–1605.3 of the Environment Article;

16 (iii) To the Maryland Agricultural Cost–Share Program established
17 under Title 8, Subtitle 7 of the Agriculture Article for nonpoint source pollution control
18 projects; and

19 (iv) To the Mel Noland Woodland Incentives Fund established under
20 § 5–307 of this article.

21 (3) (i) The BayStat Program shall develop solicitations, guidelines, and
22 applications for Trust Fund grants that shall include consideration of the extent to which
23 a proposed project, both geographically and by practice, will deliver the greatest, most
24 cost–effective, and measurable nonpoint source pollution reduction per Trust Fund dollar.

25 (ii) The BayStat Program shall encourage and consider multi–year,
26 multi–partner proposals, local match or cost–share agreements, or similar actions proposed
27 by a grant applicant in evaluating a Trust Fund grant application.

28 (d) Any grant agreement regarding funds from the Trust Fund shall:

29 (1) Specify the use of the funds provided under the grant, accountability
30 measures, and performance requirements;

1 (2) Take into account the need for efficient, multi-year funding and
2 administration; and

3 (3) Include provisions for verification that practices are being
4 implemented.

5 (e) (1) A recipient of funds from the Trust Fund in any fiscal year shall submit
6 an annual report to the BayStat Program by November 1 of the next fiscal year.

7 (2) The report required under paragraph (1) of this subsection shall
8 include:

9 (i) For agencies receiving moneys from the Trust Fund:

10 1. A description of how the funds were allocated, including:

11 A. The number and amounts of grants awards; and

12 B. Direct expenditures by the agency;

13 2. How funding was leveraged; and

14 3. Estimated or calculated nutrient reductions associated
15 with Trust Fund expenditures.

16 (ii) For recipients of competitive grants from the Trust Fund, a
17 description of funded projects, including:

18 1. Project location;

19 2. Description of practices implemented;

20 3. Timeframes for project completion;

21 4. Estimated or calculated nutrient reductions; and

22 5. Provisions for long-term maintenance of practices.

23 (f) Funds from the Trust Fund may not be used to enable an individual cited for
24 noncompliance with a nonpoint source pollution control law or regulation to achieve
25 compliance.

26 (g) (1) There is a BayStat Program Scientific Advisory Panel.

27 (2) The Governor shall appoint the chair and members of the BayStat
28 Program Scientific Advisory Panel.

1 (3) The BayStat Program Scientific Advisory Panel shall include scientists
2 and other technical experts with demonstrated expertise in the disciplines related to
3 protection and restoration of the Chesapeake and Atlantic Coastal Bays.

4 (4) The BayStat Program Scientific Advisory Panel shall:

5 (i) On or before August 1, annually provide recommendations to the
6 BayStat Subcabinet on the use of funds of the Trust Fund for the following fiscal year;

7 (ii) Monitor the distribution of funds from the Trust Fund;

8 (iii) Review the categories of grants made in the previous year to
9 assess nutrient loading reduction estimates and cost efficiencies and the effectiveness of
10 any innovative nonpoint source pollution reduction measure;

11 (iv) Review the proposed annual work plan and advise the BayStat
12 Subcabinet of any recommended changes;

13 (v) On request by the BayStat Subcabinet, review individual grant
14 applications; and

15 (vi) Annually review any Trust Fund moneys that are not distributed
16 on a competitive basis to assess whether those moneys may be distributed on a competitive
17 basis.

18 [(h) The BayStat Subcabinet agencies may distribute to an administrative cost
19 account the amount that is necessary to administer grant programs, not to exceed 1.5% of
20 the allocations to the BayStat Subcabinet agencies.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2016.