

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 958 (Senator Edwards)  
Education, Health, and Environmental Affairs

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Natural Resources - Chesapeake and Atlantic Coastal Bays 2010 Trust Fund -  
Purpose and Authorized Use of Funds

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This bill renames the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund as the Chesapeake Bay and State Waters Trust Fund and makes related changes to the purpose and authorized uses of the fund.

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Fiscal Summary

**State Effect:** The bill does not directly affect State finances; however, the bill may result in increased State expenditures in future years to meet Chesapeake Bay Total Maximum Daily Load (TMDL) goals if the bill reduces the amount of fund expenditures allocated toward those goals.

**Local Effect:** While overall expenditures from the fund do not change, amounts individual local governments receive from the fund may increase or decrease. The bill may result in increased local government expenditures in future years to meet Chesapeake Bay TMDL goals if the bill reduces the amount of fund expenditures allocated toward those goals.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** The purpose of the (renamed) Chesapeake Bay and State Waters Trust Fund is broadened to include restoring and protecting the health of the waters of the State, in place of restoring specifically the health of the Atlantic Coastal Bays and their tributaries (in both cases through nonpoint source pollution control projects). The authorized uses of the fund are also broadened to include implementation of nonpoint source pollution control

projects to improve and protect the health of the waters of the State, in place of improving specifically the health of the Atlantic Coastal Bays and their tributaries. Existing language relating to restoring the Chesapeake Bay and its tributaries is unchanged by the bill.

**Current Law:** The purpose of the 2010 trust fund is to provide financial assistance necessary to advance Maryland’s progress in meeting the goals established in the 2014 Chesapeake Bay Watershed Agreement for the restoration of the Chesapeake Bay and its tributaries, including the Patuxent River, and to restore the health of the Atlantic Coastal Bays and their tributaries, by focusing limited financial resources on nonpoint source pollution control projects in all regions of the State. The fund may be used only for the implementation of nonpoint source pollution control projects to (1) support State and local watershed implementation plans by targeting limited financial resources on the most effective nonpoint source pollution control projects and (2) improve the health of the Atlantic Coastal Bays and their tributaries.

The definition of “waters of the State” under existing law that applies to the bill’s provisions includes (1) both surface and underground waters within the boundaries of the State subject to its jurisdiction; (2) that portion of the Atlantic Ocean within the boundaries of the State; (3) the Chesapeake Bay and its tributaries; (4) all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and (5) the floodplain of free-flowing waters determined by the Maryland Department of the Environment on the basis of the 100-year flood frequency.

**Background:**

*Chesapeake and Atlantic Coastal Bays 2010 Trust Fund*

The 2010 trust fund was established in 2008 and is funded with a portion of revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals (which, collectively, generated approximately \$50 million for the fund in fiscal 2017). General obligation bond capital funding was also allocated to the fund in fiscal 2013 through 2015. The trust fund is used for nonpoint source pollution control projects to help meet Chesapeake Bay restoration goals and to improve the health of the Atlantic Coastal Bays and their tributaries. Money in the trust fund is expended in accordance with work and expenditure plans developed each year and is required to be targeted, geographically and by practice, to proven, scientifically based projects that provide the most cost-effective and measurable water quality benefits to the Chesapeake and Atlantic Coastal Bays. Examples of nonpoint source projects that can be funded with the trust fund include cover crops, natural filters, and local watershed restoration projects, including stormwater management projects.

## *2014 Chesapeake Bay Watershed Agreement*

The 2014 Chesapeake Bay Watershed Agreement (referenced in the statement of the purposes of the 2010 Trust Fund) sets 10 overall goals relating to different aspects of restoration and protection of the bay. Some address clean water, while others address aspects such as climate resiliency, land conservation, and fish and wildlife habitats. The agreement's water quality goal is based on the Chesapeake Bay TMDL established by the U.S. Environmental Protection Agency. The TMDL sets the maximum amount of nutrient and sediment pollution the bay can receive and still attain water quality standards. It also identifies specific pollution reduction requirements; all reduction measures must be in place by 2025, with at least 60% of the actions completed by 2017. The State must establish pollution control measures by 2025 that, based on 2010 levels, will reduce nitrogen loads to the bay by 22.0%, phosphorus loads by 14.9%, and sediment loads by 1.9%. Watershed implementation plans developed by the bay jurisdictions detail the strategies and specific actions that are being implemented to reduce pollution.

**State Fiscal Effect:** To the extent the bill's change to the purpose and authorized uses of the fund reduces the amount of fund expenditures allocated to projects that help meet Chesapeake Bay TMDL goals, State expenditures may need to increase in future years to offset that reduction, to ensure that the TMDL goals are met.

**Local Fiscal Effect:** Just over half of the approximately \$50 million of annual expenditures supported by the fund are allocated toward competitive grants for projects implementing local watershed implementation plans. While the bill does not change the amount of overall expenditures supported by the fund, the change in the fund's purpose and authorized uses likely affects, to at least some extent, the distribution of funds received by local governments through grants, causing the amounts some local governments receive to increase and others to decrease.

To the extent the bill's change to the purpose and authorized uses of the fund reduces the amount of fund expenditures allocated to projects that help meet Chesapeake Bay TMDL goals, local government expenditures may need to increase in future years to offset that reduction, to ensure that the TMDL goals are met.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 947 (Delegate Beitzel) - Environment and Transportation.

**Information Source(s):** Department of Natural Resources; Maryland Department of the Environment; Maryland Department of Agriculture; Comptroller's Office; Department of Legislative Services

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