

HOUSE BILL 428

M3, B1

9lr1406
CF SB 269

By: Delegates C. Watson, Atterbeary, Bagnall, Cain, Chang, Corderman, Ebersole, Feldmark, Fennell, Hill, Jackson, Kelly, Kittleman, Korman, Lafferty, R. Lewis, Miller, Patterson, Pendergrass, and Terrasa Terrasa, Acevero, Anderton, Boyce, Bridges, Gaines, Ghrist, Gilchrist, Harrison, Haynes, Healey, Hettleman, Holmes, Jones, Krimm, Lehman, Lierman, Love, Mangione, McKay, Proctor, Solomon, Stein, Valentino-Smith, Wells, and P. Young

Introduced and read first time: January 31, 2019

Assigned to: Environment and Transportation and Appropriations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 9, 2019

CHAPTER _____

AN ACT concerning

Comprehensive Flood Management Grant Program – Awards for Flood Damage and Mandatory Funding

FOR the purpose of altering the policy and purpose of provisions of law governing flood control and watershed management to include establishing a grant program to assist local jurisdictions with certain repairs and work associated with a flood event; clarifying the projects for which an application must be submitted to and reviewed by the State clearinghouse of the Department of Planning; authorizing the Department of the Environment to use the comprehensive flood management grant program to award grants to subdivisions that have incurred infrastructure damage of a certain monetary amount caused by a flood event that occurred on or after a certain date; specifying the amount and use of the grant; establishing a priority for awarding the grant; requiring the Governor to include a certain appropriation to the comprehensive flood management grant program in each annual budget submission; specifying that funds not awarded from the comprehensive flood management grant program by the end of a fiscal year remain in the program and are not subject to a certain provision of law; making stylistic and conforming changes; and generally relating to the comprehensive flood management grant program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, without amendments,
Article – Environment
Section 5–801(a), (e), and (i)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–802(b) and 5–803(h)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

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

Article – Environment

5–801.

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

(e) “Federal flood insurance program” means the program established by the National Flood Insurance Act of 1968, as amended.

(i) “Subdivision” means:

(1) Any county, including Baltimore City; and

(2) Any incorporated municipality which has the authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

5–802.

(b) The policy and purposes of this subtitle are:

(1) To assist in the guidance of development to minimize the impacts of flooding;

(2) To provide State guidelines and technical assistance to local governments in management of flood hazard areas;

(3) To provide for comprehensive watershed management;

(4) To facilitate implementation of projects for flood control;

(5) To encourage and provide for local governmental units to manage flood-prone lands in a comprehensive manner;

(6) To provide for the biological and environmental quality of the watersheds of the State; and

(7) To establish a grant program to assist local jurisdictions with [implementation]:

(I) IMPLEMENTATION of those capital projects included within the comprehensive flood management plans which are adopted and approved in accordance with this subtitle; **AND**

(II) INFRASTRUCTURE REPAIRS, ~~DEBRIS REMOVAL~~ WATERSHED RESTORATION, AND EMERGENCY PROTECTION WORK ASSOCIATED WITH A FLOOD EVENT.

5-803.

(h) (1) There is a comprehensive flood management grant program within the Department.

(2) **(I)** Subject to the approval of the Board of Public Works, the Department may use proceeds from the State debt created to fund the comprehensive flood management grant program to pay the entire cost of watershed studies pursuant to subsection (b) of this section.

(II) The Department may provide grants to subdivisions to pay the entire cost of watershed studies when the Department delegates that responsibility pursuant to subsection (b) of this section.

(3) **(I)** Subject to the approval of the Board of Public Works, the Department may provide grants to subdivisions for flood control and watershed management capital projects, and for the capital costs related to design, purchase, and installation of automated flood warning projects, provided that the projects are consistent with the plans and implementation prepared and adopted in accordance with this subtitle, and provided further that each project:

[(i)] 1. Is undertaken as part of a comprehensive flood management plan prepared and adopted by the subdivision; and

[(ii)] 2. Is not inconsistent with any State or interjurisdictional flood management plan.

[(4)] (II) Grants for automated flood warnings projects shall be conditioned to require all affected local governing bodies **TO**:

[(i)] 1. [To adopt] **ADOPT** a specific and compatible response plan which has been coordinated with local emergency management authorities and reviewed and approved by the Department and the Maryland Emergency Management Agency; and

[(ii)] 2. [To provide] **PROVIDE** for financial and other commitments to properly operate and maintain the project.

(III) 1. **THE AMOUNT OF ANY GRANT MADE BY THE DEPARTMENT FOR A FLOOD CONTROL AND WATERSHED MANAGEMENT CAPITAL PROJECT THAT INVOLVES ONLY NONFEDERAL FUNDS AND MEETS THE CRITERIA OF THIS SUBTITLE SHALL BE MATCHED BY A MINIMUM AMOUNT OF 25% OF PROJECT COSTS IN LOCAL GOVERNMENT OR PRIVATE FUNDS.**

2. FOR A FLOOD CONTROL AND WATERSHED MANAGEMENT CAPITAL PROJECT THAT INVOLVES FEDERAL FUNDING AND MEETS THE CRITERIA OF THIS SUBTITLE:

A. THE DEPARTMENT MAY PROVIDE UP TO 50% OF THE NONFEDERAL SHARE OF THE PROJECT FUNDING; AND

B. LOCAL GOVERNMENT OR PRIVATE FUNDS SHALL PROVIDE NOT LESS THAN 50% OF THE NONFEDERAL SHARE OF THE PROJECT FUNDING.

(IV) EACH PROJECT APPLICATION FOR A GRANT UNDER THIS PARAGRAPH SHALL BE SUBMITTED TO AND REVIEWED BY THE STATE CLEARINGHOUSE OF THE DEPARTMENT OF PLANNING IN ACCORDANCE WITH ESTABLISHED CLEARINGHOUSE PROCEDURES.

[(5)] (4) (i) Subject to the approval of the Board of Public Works, the Department may provide grants to subdivisions immediately after a flood for acquisition of any flood damaged owner-occupied dwelling.

(ii) Total expenditures for grants made under this paragraph may not exceed 50% of the total authorized budgeted funds in a fiscal year for grants under this subsection.

[(6)] (i) The amount of any grant made by the Department for a flood control and watershed management capital project which involves only nonfederal funds and meets the criteria of this subtitle shall be matched by a minimum amount of 25% of project costs in local government or private funds.

(ii) For a flood control and watershed management capital project which involves federal funding and meets the criteria of this subtitle:

1. The Department may provide up to 50% of the nonfederal share of the project funding; and
2. Local government or private funds shall provide not less than 50% of the nonfederal share of the project funding.]

(5) (I) THE DEPARTMENT MAY AWARD GRANTS TO SUBDIVISIONS THAT HAVE INCURRED AT LEAST \$1,000,000 IN INFRASTRUCTURE DAMAGE CAUSED BY A FLOOD EVENT THAT OCCURRED ON OR AFTER JANUARY 1, 2009.

(II) THE TOTAL AMOUNT OF GRANTS AWARDED BY THE DEPARTMENT TO SUBDIVISIONS UNDER THIS PARAGRAPH MAY:

1. FOR FISCAL YEARS 2020, 2021, AND 2022, EQUAL UP TO 100% OF THE TOTAL AMOUNT OF MONEY APPROPRIATED TO THE COMPREHENSIVE FLOOD MANAGEMENT PROGRAM; AND

2. FOR FISCAL YEAR 2023 AND EACH FISCAL YEAR THEREAFTER, EQUAL UP TO 50% OF THE TOTAL AMOUNT OF MONEY APPROPRIATED TO THE COMPREHENSIVE FLOOD MANAGEMENT PROGRAM.

~~(H)~~ (III) A GRANT AWARDED TO A SUBDIVISION UNDER THIS PARAGRAPH MAY BE:

1. FOR AN AMOUNT OF UP TO 50% OF THE COMBINED COST OF INFRASTRUCTURE REPAIRS, ~~DEBRIS REMOVAL~~ WATERSHED RESTORATION, AND EMERGENCY WORK ASSOCIATED WITH THE FLOOD EVENT;

2. USED FOR INFRASTRUCTURE REPAIRS, ~~DEBRIS REMOVAL~~ WATERSHED MANAGEMENT, OR EMERGENCY PROTECTION WORK ASSOCIATED WITH THE FLOOD EVENT; AND

3. USED FOR EXPENSES ASSOCIATED WITH ITEM 2 OF THIS ~~ITEM~~ SUBPARAGRAPH THAT THE SUBDIVISION HAS ALREADY INCURRED.

~~(H)~~ (IV) THE DEPARTMENT SHALL PRIORITIZE AWARDED GRANTS UNDER THIS PARAGRAPH TO SUBDIVISIONS IN WHICH:

1. INFRASTRUCTURE DAMAGE OCCURRED IN ~~A LOCALLY~~ AN AREA DESIGNATED BY THE MARYLAND HISTORICAL TRUST AS AN HISTORIC DISTRICT; OR

2. INFRASTRUCTURE DAMAGE CAUSED BY A FLOOD EVENT HAS OCCURRED MORE THAN ONCE WITHIN THE PREVIOUS 5 YEARS.

[(7)] (6) To receive a grant, the subdivision must participate in the national flood insurance program.

[(8)] (7) Before [making] AWARDING a grant UNDER PARAGRAPHS (2), (3), OR (4) OF THIS SUBSECTION, the Department, in cooperation with the Department of Planning, shall review the flood control and watershed management operations of the applicant subdivision to assure that the flood control and watershed management operations are in compliance with this subtitle.

[(9)] (8) (I) ~~FOR EACH FISCAL YEAR~~ FOR FISCAL YEAR 2021 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF AT LEAST \$5,000,000 FOR THE COMPREHENSIVE FLOOD MANAGEMENT GRANT PROGRAM.

(II) FUNDS NOT AWARDED FROM THE COMPREHENSIVE FLOOD MANAGEMENT GRANT PROGRAM BY THE END OF A FISCAL YEAR:

1. SHALL REMAIN IN THE PROGRAM; AND

2. ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(9) (I) The Department, in consultation with the Department of Planning, shall adopt regulations necessary for the administration of the grant program.

(II) These regulations may include:

[(i)] 1. A determination of statewide and interjurisdictional needs and priorities;

[(ii)] 2. Standards of eligibility for applicants and projects;

[(iii)] 3. Criteria for recognition of tidal and nontidal areas;

[(iv)] 4. Engineering and economic standards and alternatives;
and

[(v)] 5. Procedures for filing and processing contents of applications.

[(10)] Each project application shall be submitted to and reviewed by the State clearinghouse of the Department of Planning in accordance with established clearinghouse procedures.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.