M3 2lr1495

By: Delegates Mautz, Adams, Arentz, Buckel, Hornberger, Jacobs, Krebs, McComas, Morgan, Otto, Pippy, Reilly, and Shoemaker

Introduced and read first time: February 11, 2022

Assigned to: Appropriations and Environment and Transportation

A BILL ENTITLED

1	AN ACT	Concerning
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2	Chesapeake Bay Restoration Fund – Authorized Uses
3	(Chesapeake Bay Restoration Fund Lockbox Act of 2022)

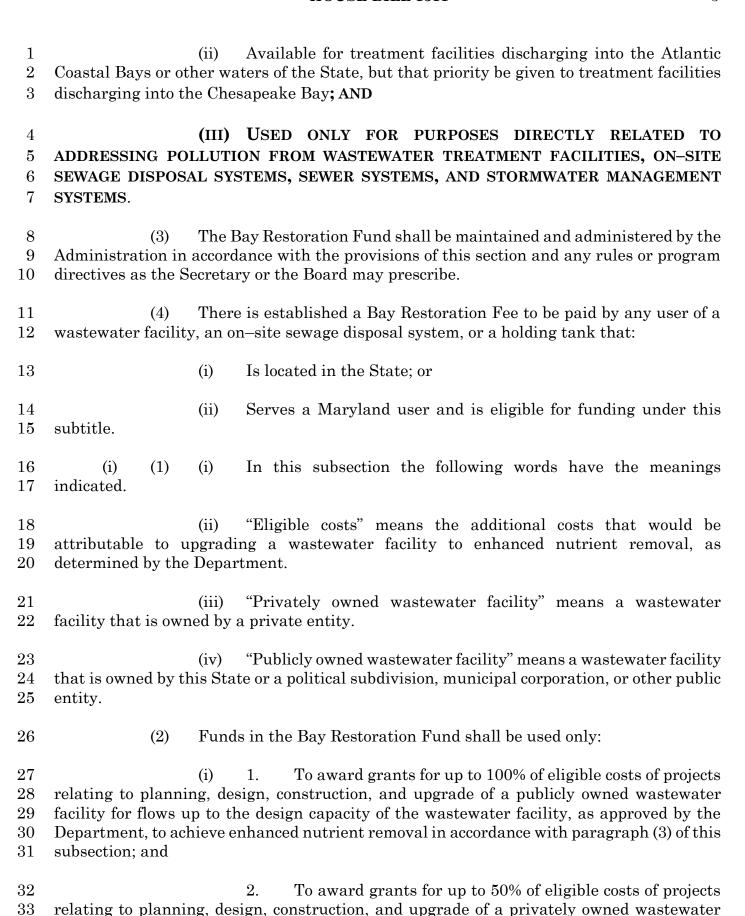
- 4 FOR the purpose of restricting the use of the Chesapeake Bay Restoration Fund to certain 5 purposes directly related to addressing pollution from wastewater treatment 6 facilities, on-site sewage disposal systems, sewer systems, and stormwater 7 management systems; repealing provisions of law requiring certain amounts to be 8 transferred from the Chesapeake Bay Restoration Fund to the Clean Water 9 Commerce Account, the Chesapeake Bay Trust, the Chesapeake and Atlantic 10 Coastal Bays 2010 Trust Fund, and the Department of Agriculture; redesignating 11 the Clean Water Commerce Account as a special, nonlapsing fund called the Clean 12 Water Commerce Fund; and generally relating to the Chesapeake Bay Restoration 13 Fund.
- 14 BY repealing and reenacting, with amendments,
- 15 Article Agriculture
- 16 Section 8–706
- 17 Annotated Code of Maryland
- 18 (2016 Replacement Volume and 2021 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Environment
- 21 Section 9–1605.2(a) and (i) and 9–1605.4(a) through (e), (f)(1), (g), (h), (q)(2), and (r)
- 22 Annotated Code of Maryland
- 23 (2014 Replacement Volume and 2021 Supplement)
- 24 BY repealing and reenacting, without amendments,
- 25 Article Natural Resources
- 26 Section 8–1911(b) and (h)
- 27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1	(2012 Replacement Volume and 2021 Supplement)						
2 3 4 5 6	BY repealing and reenacting, with amendments, Article – Natural Resources Section 8–1911(e) Annotated Code of Maryland (2012 Replacement Volume and 2021 Supplement)						
7 8	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:						
9	Article – Agriculture						
10	8–706.						
11 12 13 14	(a) To maximize participation in the Conservation Reserve Enhancement Program, in fiscal years 2023 through 2031, inclusive, a landowner who enrolls land planted with a forested streamside buffer shall receive a one—time signing bonus of up to \$1,000 per acre of land enrolled.						
15	(b) Signing bonuses provided under this section shall be funded with[:						
16	(1) Money] MONEY appropriated under subsection (c) of this section[; and						
17 18	(2) The amount specified in § 9–1605.2(i)(11)(i) of the Environment Article].						
19 20 21	(c) (1) For fiscal years 2024 through 2031, in each year the Governor shall appropriate \$2,500,000 in the annual State budget to fund tree planting under this section and other tree planting programs on agricultural land.						
22 23 24	(2) Money appropriated under this subsection is supplemental to and may not take the place of funding that would otherwise be appropriated for tree plantings under this section and other tree planting programs on agricultural land.						
25	Article – Environment						
26	9–1605.2.						
27	(a) (1) There is a Bay Restoration Fund.						
28 29	(2) It is the intent of the General Assembly that the Bay Restoration Fund be:						
30 31 32	(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost—effective to do so; [and]						



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- 1 facility for flows up to the design capacity of the wastewater facility, as approved by the 2 Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this 3 subsection: 4 (ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total cost of projects, as approved by the Department, relating to combined sewer overflows 5 6 abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including 7 pumping stations; 8 In fiscal years 2010 and thereafter, for a portion of the operation (iii) and maintenance costs related to the enhanced nutrient removal technology, which may 9 not exceed 10% of the total restoration fee collected from users of wastewater facilities 10 11 under this section by the Comptroller annually;
- 12 (iv) In fiscal years 2018 and thereafter, after payment of outstanding 13 bonds and the allocation of funds to other required uses of the Bay Restoration Fund for 14 funding in the following order of priority:
- 15 1. For funding the eligible costs to upgrade a wastewater facility to enhanced nutrient removal at wastewater facilities with a design capacity of 500,000 gallons or more per day;
- 18 2. For funding the eligible costs of the most cost–effective enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less than 500,000 gallons per day; and
- 3. As determined by the Department and based on water quality, climate resiliency, flood control, and public health benefits, for the following:
- A. For costs identified under item (ii) of this paragraph;
- B. For costs identified under subsection (h)(2)(i)1 of this section; and
- C. With respect to a local government that has enacted and implemented a system of charges to fully fund the implementation of a stormwater management program, for grants to the local government for a portion of the costs of the most cost–effective and efficient stormwater control measures, including stormwater measures relating to water quality, climate resiliency, or flood control, as determined and approved by the Department, from the restoration fees collected annually by the Comptroller from users of wastewater facilities under this section;
- 33 (v) 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 the bonds will be deposited in the Bay Restoration Fund;
 - (vi) To earn interest on Bay Restoration Fund accounts;

- 1 (vii) For the reasonable costs of administering the Bay Restoration 2 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of 3 wastewater facilities that are collected by the Comptroller annually;
 - (viii) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;
- 8 (ix) For future upgrades of wastewater facilities to achieve additional 9 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) 10 of this subsection;
- 11 (x) For costs associated with the issuance of bonds;

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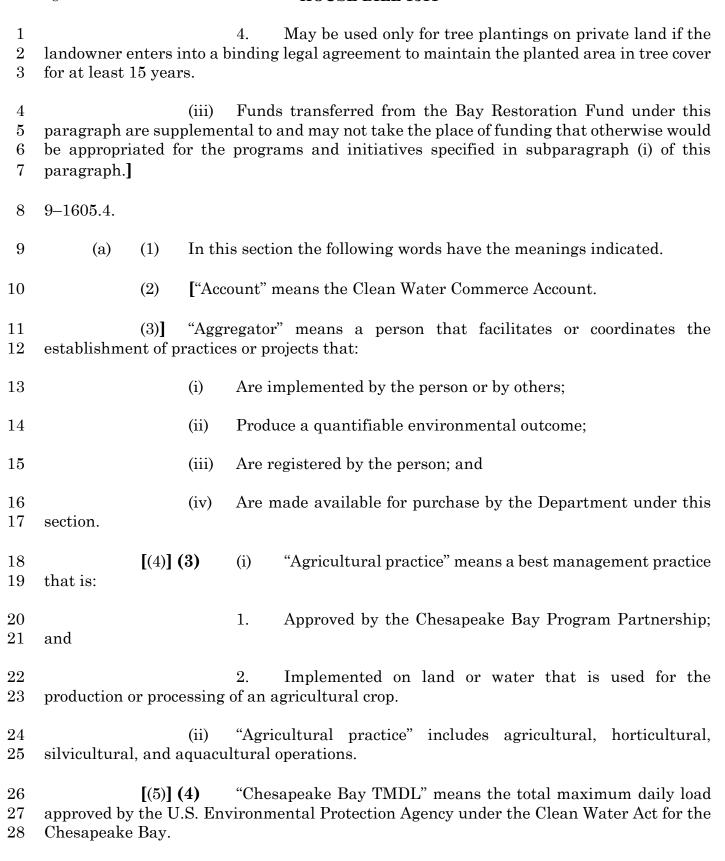
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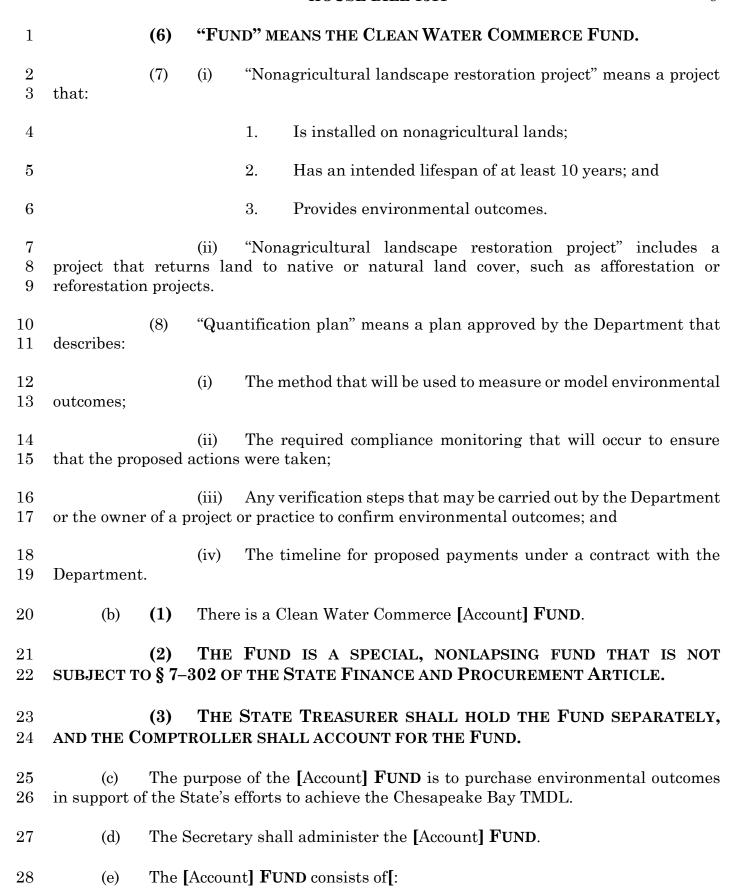
- 12 (xi) Subject to the allocation of funds and the conditions under 13 subsection (h) of this section, for projects related to the removal of nitrogen from on–site 14 sewage disposal systems and cover crop activities; AND
- 15 (xii) For costs associated with the implementation of alternate 16 compliance plans authorized in § 4–202.1(k)(3) of this article [;
- 17 (xiii) After funding any eligible costs identified under item (iv)1 and 2 18 of this paragraph, for transfers to the Clean Water Commerce Account in accordance with 19 paragraph (3) of this subsection; and
- 20 (xiv) After funding any eligible costs identified under item (iv)1 and 2 21 of this paragraph, for the transfers required under paragraph (11) of this subsection.
- [(3) In fiscal year 2022 and each fiscal year thereafter, the Department shall transfer \$20,000,000 from the Bay Restoration Fund to the Clean Water Commerce Account established under § 9–1605.4 of this subtitle, to be used for the purposes specified in § 9–1605.4 of this subtitle.]
- [(4)] (3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.
- [(5)] (4) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:
- 33 (i) Placing qualified small business enterprises, minority business 34 enterprises, and women's business enterprises on solicitation lists;

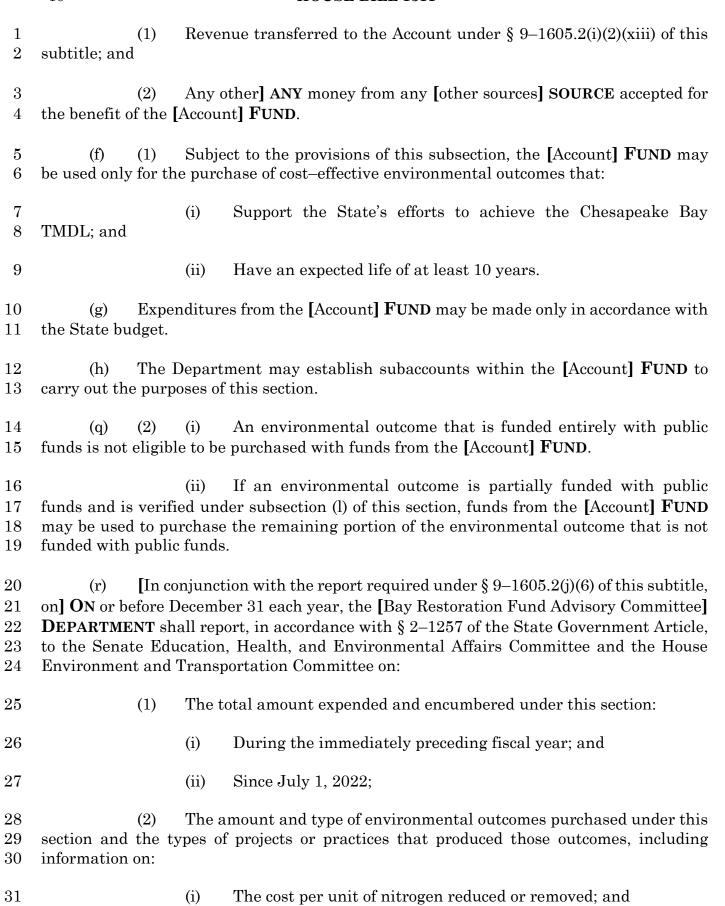
- 1 (ii) Assuring that small business enterprises, minority business 2 enterprises, and women's business enterprises are solicited whenever they are potential 3 sources;
- 4 (iii) Dividing total requirements, when economically feasible, into 5 small tasks or quantities to permit maximum participation of small business enterprises, 6 minority business enterprises, and women's business enterprises;
- 7 (iv) Establishing delivery schedules, where the requirement permits, 8 that encourage participation by small business enterprises, minority business enterprises, 9 and women's business enterprises; and
- 10 (v) Using the services and assistance of the Maryland Department 11 of Transportation and the Governor's Office of Small, Minority, and Women Business 12 Affairs in identifying and soliciting small business enterprises, minority business 13 enterprises, and women's business enterprises.
- [(6)] (5) If the steps required under paragraph [(5)] (4) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.
- [(7)] (6) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.
- (ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.
- [(8)] (7) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.
- [(9)] (8) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (l) of this section.
- 31 (ii) The criteria adopted by the Department shall include, as 32 appropriate, consideration of:
- 33 1. The cost–effectiveness in providing water quality benefit;
- The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

1 2	construction; and	3.	The readiness of a wastewater facility to proceed to	
3 4	wastewater facility.	4.	The nitrogen and phosphorus loads discharged by a	
5 6 7 8	[(10)] (9) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.			
9 10	[(11) (i) Restoration Fund:	In fis	cal year 2023 the Department shall transfer from the Bay	
11 12	Trees Program establishe	1. ed und	\$10,000,000 to the Chesapeake Bay Trust for the Urban er § 8–1911 of the Natural Resources Article;	
13 14 15 16		-	\$2,500,000 to the Chesapeake and Atlantic Coastal Bays rtment of Natural Resources, to be used, subject to the (ii) of this paragraph, for tree planting on public and private	
17 18 19 20	<u> </u>		\$2,500,000 to the Maryland Department of Agriculture to conservation Reserve Enhancement Program in accordance Article and other tree—planting programs on agricultural	
21 22	(ii) 2010 Trust Fund under s		s transferred to the Chesapeake and Atlantic Coastal Bays agraph (i)2 of this paragraph:	
23 24	the Natural Resources A	1. rticle;	May be distributed in accordance with \S 8–2A–04(c)(2) of	
25		2.	May be used to cover the costs of:	
26 27	projects;	A.	Site preparation, labor, and materials for tree-planting	
28		В.	Maintaining trees following a tree-planting project; and	
29 30	to \$1,000 per acre of tree	C. s plant	Landowner incentive payments or signing bonuses of up	
31 32	and	3.	May not be used to plant trees intended for timber harvest;	



[(6)] (5) "Environmental outcome" means nitrogen load reductions that can be directly measured or modeled using the Chesapeake Bay Program Models.





1 (ii) The relative contribution of each environmental outcome toward 2 closing any gaps in achieving the nutrient and sediment targets of the Chesapeake Bay 3 TMDL: The type and value of any co-benefits provided by projects or practices 4 (3)5 funded under this section: AND 6 (4) The cost-effectiveness of environmental outcomes purchased under this section as compared with other approaches to reducing nitrogen [: and 7 8 For fiscal year 2025 only, any amendments to this section necessary to (5)9 reflect historic and projected demand for funding from the Account and the Bay Restoration 10 Fund, including an assessment and recommendation on possible changes to the percentages specified under subsection (f) of this section. 11 12 **Article - Natural Resources** 8-1911. 13 There is an Urban Trees Program administered by the Trust. 14 (b) (e) (1) The Program shall be funded with: 15 16 (i) The amount specified in [§ 9–1605.2(i)(11)(i) of the Environment Article] SUBSECTION (H) OF THIS SECTION: and 17 18 Any additional funds that may be allocated by the Trust through (ii) 19 its annual budget process. 20 The Trust shall seek federal funds and grants and donations from 21private sources to be made to the Trust for the purpose of the Program. 22For fiscal years 2024 through 2031, in each year the Governor shall 23include in the annual State budget an appropriation of \$10,000,000 for the Program. 24Money appropriated under this subsection is supplemental to and may 25not take the place of funding that otherwise would be appropriated for the Program. 26SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July

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1, 2022.