

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 869

(Delegate Gilchrist, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

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Wetlands and Waterways Program Division - Permitting for Ecological  
Restoration Projects - Required Study

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This bill requires the Maryland Department of the Environment's (MDE) Wetlands and Waterways Program Division, in consultation and coordination with specified entities, including the Department of Natural Resources (DNR), to conduct a comprehensive study, analysis, and evaluation of various items related to the permitting and completion of ecological restoration projects. The Wetlands and Waterways Program Division must develop legislative and regulatory recommendations based on the results of the study, analysis, and evaluation. The recommendations must address several specified topics. By June 1, 2024, MDE must report the findings and recommendations to the Governor and the General Assembly.

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Fiscal Summary

**State Effect:** MDE's Wetlands and Waterways Program Division can conduct the required study, analysis, and evaluation, and report to the General Assembly and the Governor with existing budgeted resources. DNR can consult and coordinate with MDE with existing budgeted resources. State revenues are not affected.

**Local Effect:** Any counties that consult and coordinate with MDE to complete the study, analysis, and evaluation under the bill can likely do so with existing resources and staff. Local revenues are not affected.

**Small Business Effect:** Minimal or none.

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## Analysis

**Bill Summary:** MDE's Wetlands and Waterways Program Division must conduct a comprehensive study, analysis, and evaluation of:

- State statutes and regulations that affect the permitting or completion of ecological restoration projects that are permitted by the Wetlands and Waterways Program Division;
- the permit and permit review process for ecological restoration permits in the State;
- the opportunities for robust public comment and community review of ecological restoration projects in order to (1) determine if short- and long-term effects of a project will meet the aims of the community and (2) review the scientific basis of the purpose of a project and its connection to the watershed;
- the average time it takes between project submission and approval for an ecological restoration project in the State compared to other states; and
- the efficiency and effectiveness of the current joint application permit and permit review processes and current counterincentives to watershed-based stream restoration.

The study, analysis, and evaluation must be conducted in consultation and coordination with DNR, representatives of specified stakeholder groups (including community groups and county governments), and, if able to participate, representatives from scientific research centers and laboratories, as specified.

### **Current Law:**

#### *Approvals Generally Required for Projects in Wetlands*

Wetlands in the State are protected, and the Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Generally, a person must obtain a permit or license before working in wetlands in the State. Regulations define the criteria for evaluating tidal wetlands licenses and permits, as well as the property information that permit and license applicants must provide as part of the application process. The Board of Public Works (BPW) has the authority to determine whether to issue a license to dredge, fill, or alter State wetlands; MDE must assist BPW in making such a determination and, in some cases, BPW delegates the authority to issue such a license to MDE. Authorizations granted to work in privately owned wetlands are issued by MDE.

### *Wetlands and Waterways Program Fees*

Application fees for wetlands and waterways authorizations range from \$250 to \$7,500 (multiplied by the impact area in acres). However, there are several fee exemptions, including with respect to applications for (1) stream restoration, vegetative shoreline stabilization, wetland creation, or another project in which the primary effect is to enhance the State's wetland or water resources; (2) performance of agricultural best management practices contained in an approved soil conservation and water quality plan; and (3) performance of forestry best management practices contained in an approved erosion and sediment control plan, as specified. Application fees are paid into the Wetlands and Waterways Program Fund.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 945 (Senator Gallion) - Education, Health, and Environmental Affairs.

**Information Source(s):** Harford County; City of College Park; University System of Maryland; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

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