

# SENATE BILL 196

M4, M3

4lr1010

(PRE-FILED)

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By: **Senator Gallion**

Requested: October 18, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Soil Conservation Districts – Small Ponds – Plan Review Fees**

3 FOR the purpose of authorizing a soil conservation district to recommend a fee system to  
4 cover the cost of reviewing plans for certain small ponds; and generally relating to  
5 the authority of soil conservation districts and small pond plan review.

6 BY repealing and reenacting, with amendments,

7 Article – Agriculture

8 Section 8–101, 8–306, and 8–311

9 Annotated Code of Maryland

10 (2016 Replacement Volume and 2023 Supplement)

11 BY repealing and reenacting, without amendments,

12 Article – Environment

13 Section 5–503(a)

14 Annotated Code of Maryland

15 (2013 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Environment

18 Section 5–503(b)

19 Annotated Code of Maryland

20 (2013 Replacement Volume and 2023 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Agriculture**

24 8–101.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (b) “Committee” means the State Soil Conservation Committee.

3 (c) “Conservation” means the wise utilization of natural resources and includes  
4 any one or more of the following: [the]

5 (1) **THE** development, improvement, maintenance, protection or  
6 preservation of these resources; [the]

7 (2) **THE** control and prevention of flood water and sediment damage; and  
8 [the]

9 (3) **THE** controlled disposal of water.

10 (d) “County” means every county of the State, excluding Baltimore City unless  
11 expressly designated.

12 (e) “District” means a soil conservation district, a political subdivision of the State  
13 continued in accordance with the provisions of this subtitle.

14 (f) (1) “Due notice” means notice published at least twice, with an interval of  
15 at least seven days between the two publication dates, in a newspaper or other publication  
16 of general circulation within the appropriate area.

17 (2) If no publication of general circulation is available, the notice may be  
18 posted at a reasonable number of conspicuous places within the appropriate area, including  
19 if possible, public places where it is customary to post notices concerning county or  
20 municipal affairs generally.

21 (3) At any hearing held pursuant to the notice, at the time and place  
22 designated in the notice, adjournment may be made without renewing notice for the  
23 adjourned dates.

24 (g) “Land occupier” means any person holding title to or possessing any lands  
25 lying within a district, whether as owner, lessee, tenant, or otherwise.

26 (H) **“SMALL POND” MEANS AN ARTIFICIAL WATER IMPOUNDMENT THAT IS:**

27 (1) **MADE BY CONSTRUCTING A DAM OR AN EMBANKMENT OR BY**  
28 **EXCAVATING A PIT OR DUGOUT; AND**

29 (2) **EXEMPT FROM PERMIT REQUIREMENTS UNDER § 5-503(B) OF**  
30 **THE ENVIRONMENT ARTICLE.**

1           **[(h)] (I)**       “Supervisor” means a member of the governing body of a district.

2   8–306.

3           (a)     A soil conservation district constitutes a political subdivision of the State, and  
4 a public body corporate and politic, exercising public powers.

5           **(B)**     The supervisors may:

6                   (1)     Conduct surveys, investigations, and research relating to the character  
7 of soil erosion and the preventive and control measures needed and publish the results, if  
8 the research program is executed in cooperation with the State, the United States, or any  
9 of their agencies;

10                   (2)     Disseminate information concerning preventive and control measures;

11                   (3)     Conduct demonstration projects within the district on State owned or  
12 controlled land, with the cooperation of the agency administering and having jurisdiction  
13 of them, or on any land within the district upon obtaining the consent of the land occupier  
14 or the possessor of the necessary rights or interests in the land, in order to demonstrate by  
15 example the means, methods, and measures for conserving soil and soil resources, and  
16 preventing and controlling soil erosion in the form of soil blowing and washing;

17                   (4)     Carry out preventive and control measures within the district including  
18 engineering operations, cultivation methods, the growing of vegetation, changes in land  
19 use, and the measures listed in § 8–102(c) of this title, on State owned or controlled land,  
20 with the cooperation of the agency administering and having jurisdiction of them, or on any  
21 other land within the district upon obtaining the consent of the land occupier or the  
22 possessor of the necessary rights or interests in the land;

23                   (5)     Cooperate or enter into agreements with any person to furnish financial  
24 or other aid to any government or private agency or any land occupier within the district,  
25 in carrying on erosion control and prevention operations within the district, subject to  
26 conditions the supervisors deem necessary to advance the purposes of this subtitle;

27                   (6)     Obtain options upon and to acquire, by purchase, exchange, lease, gift,  
28 grant, or otherwise, any real or personal property or rights or interests in it, which shall be  
29 exempt from State, county, or municipal taxation;

30                   (7)     Maintain, administer, and improve any acquired properties, receive  
31 income from the properties and expend the income to carry out the purposes and provisions  
32 of this subtitle;

33                   (8)     Sell, lease, or otherwise dispose of its property or interests in it to  
34 further the purposes and the provisions of this subtitle;

1 (9) Make available to land occupiers within the district, on terms the  
2 supervisors prescribe, agricultural and engineering machinery and equipment, fertilizer,  
3 seeds, seedlings, and other material or equipment, to assist land occupiers in conserving  
4 soil resources and preventing and controlling soil erosion;

5 (10) Construct, improve, and maintain structures necessary or convenient  
6 for the performance of any of the operations authorized in this title;

7 (11) Develop comprehensive plans for conserving soil resources and  
8 controlling and preventing soil erosion within the district, if the plans specify in reasonable  
9 detail, the acts, procedures, performances, and avoidances which are necessary or desirable  
10 for the effectuation of the plans, including the specification of engineering operations,  
11 cultivation methods, the growing of vegetation, cropping programs, tillage practices, and  
12 changes in land use;

13 (12) Publish the plans and information and bring them to the attention of  
14 land occupiers within the district;

15 (13) Take over, by purchase, lease, or otherwise, and administer any soil  
16 conservation, erosion control, or erosion prevention project located within the district  
17 undertaken by the United States, the State, or any of their agencies;

18 (14) Act as agent for the United States, the State, or any of their agencies,  
19 in connection with the acquisition, construction, operation, or administration of any soil  
20 conservation, erosion control, or erosion prevention project within its boundaries;

21 (15) Accept gifts in money, services, materials, or otherwise from the United  
22 States, the State, or any of their agencies and to use or expend them to carry out the  
23 operations of the districts;

24 (16) Borrow money on its negotiable paper to carry out its powers and  
25 duties;

26 (17) Approve or disapprove plans for clearing, grading, transporting, or  
27 otherwise distributing soil [pursuant to] **IN ACCORDANCE WITH** § 4–105(a) of the  
28 Environment Article and [to] adopt general criteria and specific written recommendations  
29 concerning the control of erosion and siltation of pollution associated with these activities;

30 (18) **IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:**

31 (I) Recommend a fee system to cover the cost of reviewing [the]  
32 grading and sediment control plans[. Subject to § 8–311 of this subtitle, any recommended  
33 fee shall take effect upon enactment by the local governing body. Any fees collected  
34 pursuant to this fee system shall be supplementary to county and State funds and may not  
35 (i) be used to reduce county or State funds, and (ii) exceed the cost of reviewing the plans];

36 **AND**

1                   **(II) RECOMMEND A FEE SYSTEM TO COVER THE COST OF**  
2 **REVIEWING SMALL POND PLANS;**

3                   (19) Establish and implement a fee system to cover the cost of inspecting  
4 sites with approved sediment control plans pursuant to a contractual agreement with the  
5 Department of the Environment under § 4–103(f) of the Environment Article;

6                   (20) **(I)** Sue and be sued in the name of the district; [have]

7                   **(II)** **HAVE** a seal which shall be judicially noticed; [have]

8                   **(III)** **HAVE** perpetual succession unless terminated; [make]

9                   **(IV)** **MAKE** and execute contracts and other instruments necessary or  
10 convenient to the exercise of its powers; and [adopt]

11                   **(V)** **ADOPT**, amend, and repeal, rules and regulations not  
12 inconsistent with this title, to effectuate its purposes and powers;

13                   (21) **(I)** Provide contracting services, equipment, and supplies to  
14 landowners; [establish]

15                   **(II)** **ESTABLISH** prices for the sale of [these items] **THE**  
16 **CONTRACTING SERVICES, EQUIPMENT, AND SUPPLIES;** and [promulgate]

17                   **(III)** **PROMULGATE** any rule or regulation necessary to implement  
18 [these powers] **THIS PARAGRAPH;** and

19                   (22) In addition to the powers enumerated in this title, displace or limit  
20 economic competition in the exercise of any power specified in this title; provided that the  
21 powers granted to a district pursuant to this paragraph shall not be construed:

22                   (i) To grant to the district powers in any substantive area not  
23 otherwise granted to the district by other public general or public local law;

24                   (ii) To restrict the district from exercising any power granted to the  
25 district by other public general or public local law or otherwise;

26                   (iii) To authorize the district or its officers to engage in any activity  
27 which is beyond their power under other public general law, public local law, or otherwise;  
28 or

29                   (iv) To preempt or supersede the regulatory authority of any State  
30 department or agency under any public general law.

1           **(C) (1) SUBJECT TO § 8–311 OF THIS SUBTITLE, A FEE SYSTEM**  
 2 **RECOMMENDED UNDER SUBSECTION (B)(18) OF THIS SECTION SHALL TAKE EFFECT**  
 3 **ON ENACTMENT BY THE LOCAL GOVERNING BODY.**

4           **(2) ANY FEES COLLECTED UNDER A FEE SYSTEM ESTABLISHED IN**  
 5 **ACCORDANCE WITH THIS SUBSECTION SHALL BE SUPPLEMENTAL TO COUNTY AND**  
 6 **STATE FUNDS AND MAY NOT:**

7                   **(I) BE USED TO REDUCE COUNTY OR STATE FUNDS; OR**

8                   **(II) AS APPLICABLE, EXCEED THE COST OF REVIEWING:**

9                           **1. GRADING AND SEDIMENT CONTROL PLANS; OR**

10                           **2. SMALL POND PLANS.**

11           **[(b)] (D) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**  
 12 **THE** supervisor shall maintain information from a soil conservation and water quality plan  
 13 in a manner that protects the identity of the person for whom the plan is prepared.  
 14 **[However, the]**

15                   **(2) THE** supervisors shall make a soil conservation and water quality plan  
 16 available to **[the]:**

17                   **(I) THE** Department of the Environment for enforcement action  
 18 under § 4–413 of the Environment Article **[and the Maryland Department of Agriculture];**  
 19 **AND**

20                   **(II) THE DEPARTMENT,** which may use the information for  
 21 statistical purposes.

22                   (2) The Department shall:

23                           (i) Maintain the information in the manner that protects the  
 24 identity of the person for whom the plan is prepared; and

25                           (ii) Make any information from a plan available to the **[Maryland]**  
 26 Department of the Environment to support the development of a compliance or enforcement  
 27 case for purposes of addressing an existing water quality problem in accordance with  
 28 procedures established between the departments and the State Soil Conservation  
 29 Committee.

30           **[(c)] (E)** As a condition to extending any benefit of this title to any land not  
 31 owned or controlled by the State or any of its agencies, or to performing work on them, the

1 supervisors may require contributions in money, services, materials, or otherwise to any  
2 operations conferring benefits, and may require the land occupier to enter into and perform  
3 agreements or covenants concerning the permanent use of the land as tends to prevent or  
4 control erosion.

5 [(d)] (F) The supervisors of two or more districts may cooperate with one another  
6 in the exercise of any powers conferred by this title.

7 [(e)] (G) No provision relating to acquisition, operation, or disposition of  
8 property by other public bodies is applicable to a district, unless the provision specifically  
9 so states.

10 8-311.

11 (a) In order to develop a fee system to be implemented under [§ 8-306(a)(18)] §  
12 **8-306(B)(18)** of this subtitle and [§ 4-103(c)] §§ **4-103(C) AND 5-503(B)** of the  
13 Environment Article, **EACH YEAR** a soil conservation district shall [each year] determine,  
14 **FOR THE SUCCEEDING YEAR**, the reasonable costs of [review of grading] **REVIEWING**:

15 (1) **GRADING** and sediment control plans [for the succeeding year]; **AND**

16 (2) **SMALL POND PLANS**.

17 (b) The soil conservation district shall develop the fee system based on the costs  
18 determined under subsection (a) of this section, and shall submit the fee system to the local  
19 governing body.

20 (c) Within 90 days after the soil conservation district submits the final fee system,  
21 the local governing body may:

22 (1) Enact the fee system of the soil conservation district, to take effect  
23 within 90 days after the soil conservation district submits the final fee system to the local  
24 governing body; or

25 (2) Enact a different fee system or otherwise provide funding.

26 (d) If the local governing body fails to accept or modify the fee system submitted  
27 by the soil conservation district, the final fee system submitted by the soil conservation  
28 district shall take effect on the 91st day after the district submits the fee system to the local  
29 governing body, without requiring enactment by the local governing body.

30 **Article – Environment**

31 5-503.

1 (a) (1) A person shall obtain, on written application to the Department, a  
2 permit from the Department to:

3 (i) Construct, reconstruct, or repair any reservoir, dam, or  
4 waterway obstruction;

5 (ii) Make, construct, or permit to be made or constructed any change  
6 or addition to any reservoir, dam, or waterway obstruction;

7 (iii) Make or permit to be made any change in, addition to, or repair  
8 of any existing waterway obstruction; or

9 (iv) Change, in any manner, in whole or part the course, current, or  
10 cross section of any stream or body of water within the State, except tidal waters.

11 (2) (i) If by March 1, 1982 a flood management plan for Jones Falls is  
12 not prepared and approved and implementation begun under § 5–803 of this title, the  
13 Department shall adopt regulations limiting construction, reconstruction, or changes in the  
14 course, current, or cross section of the channel and floodplain of the Jones Falls in the  
15 Patapsco River watershed until such time as a flood management plan for Jones Falls is  
16 prepared, approved, and implemented under Subtitle 8 of this title.

17 (ii) Regulations adopted pursuant to this paragraph may not apply:

18 1. To floodproofing of any existing structure; or

19 2. If use of the Pennington Avenue sanitary landfill site in  
20 Baltimore City as a sanitary landfill is terminated by the end of May 1, 1981, to any  
21 construction, reconstruction, development, or use of those properties in Baltimore City  
22 comprising and known as the Woodberry Quarry sanitary landfill site.

23 (3) Due to variances in floodplain measurements, a new residential permit  
24 for construction in the Jones Falls floodplain within 25 feet adjacent to the floodplain may  
25 not be approved or issued until the flood management plan for the Jones Falls is prepared,  
26 approved, and implemented under Subtitle 8 of this title.

27 (4) Regulations adopted by the Department as required under paragraph  
28 (2) of this subsection shall be null and void if the Department determines that a flood  
29 management plan for the Jones Falls in the Patapsco River has been adopted and  
30 implemented.

31 (b) (1) A person is exempt from the requirement of obtaining a permit from the  
32 Department if:

33 (i) The plans and specifications are approved by the appropriate soil  
34 conservation district or the Department's designee;



1 (ii) The pond is not located within drainage of the Gwynns Falls,  
2 Jones Falls, or Herring Run streams situated in or adjacent to Baltimore City;

3 (iii) The pond meets minimum standards for safety set forth in  
4 Department rules and regulations;

5 (iv) The contributory drainage area is less than 1 square mile (640  
6 acres);

7 (v) The dam is not greater than 20 feet in height measured vertically  
8 from the lowest point on the top of the dam to the lowest point on the upstream toe of the  
9 dam;

10 (vi) The pond is a low hazard structure the failure of which is  
11 unlikely to cause loss of life or property damage; and

12 (vii) The pond is not a wastewater stabilization pond.

13 (2) The soil conservation district or the Department's designee shall notify  
14 the Department of any pond approved under this subsection.

15 (3) Nothing in this subsection is a limitation on the Department's authority  
16 under this subtitle.

17 **(4) (I) EACH SOIL CONSERVATION DISTRICT MAY RECOMMEND A**  
18 **FEE SYSTEM TO COVER THE COST OF REVIEWING PLANS FOR PONDS THAT ARE**  
19 **EXEMPT FROM PERMIT REQUIREMENTS UNDER THIS SUBSECTION.**

20 **(II) SUBJECT TO § 8-311 OF THE AGRICULTURE ARTICLE, ANY**  
21 **RECOMMENDED FEE SYSTEM SHALL TAKE EFFECT UPON ENACTMENT BY THE LOCAL**  
22 **GOVERNING BODY.**

23 **(III) ANY FEES COLLECTED UNDER A FEE SYSTEM ESTABLISHED**  
24 **IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE SUPPLEMENTAL TO COUNTY AND**  
25 **STATE FUNDS AND MAY NOT:**

26 **1. BE USED TO REDUCE COUNTY OR STATE FUNDS; OR**

27 **2. EXCEED THE COST OF REVIEWING THE PLANS.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2024.