

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 898 (Senator Love)
 Education, Energy, and the Environment

Nutrient Management – Tidal Buffer – Vegetative Buffers and Restriction on Fertilizer Application

This bill expands and/or establishes State incentives for participation in the Conservation Reserve Enhancement Program (CREP) and for installation of fixed natural buffers within the 100-foot tidal buffer. The bill also establishes that a nutrient management plan renewed on or after July 1, 2025, may not allow application of fertilizer within 100 feet of tidal waters/wetlands. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No effect is assumed in FY 2025. General fund expenditures increase, beginning in FY 2026, by a minimum of the amounts shown in the table below and shown and discussed in more detail in the Analysis section. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,066,400	1,133,100	1,199,700	200,000	200,000
Net Effect	(\$1,066,400)	(\$1,133,100)	(\$1,199,700)	(\$200,000)	(\$200,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Any additional work for soil conservation districts resulting from projects funded by the bill’s incentives is expected to be handled with existing resources.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Expanded Incentives for Participation in the Conservation Reserve Enhancement Program

The bill increases an existing State incentive intended to maximize participation in [CREP](#) (a federal program administered by the U.S. Department of Agriculture's Farm Service Agency (FSA) in partnership with states and others), and establishes additional incentives:

- **Forested streamside buffer (signing bonus per acre)** – The bill increases an existing one-time signing bonus, of up to \$1,000 per acre, available to a landowner who enrolls land planted with a forested streamside buffer, so that it is instead a one-time signing bonus of up to \$1,250 per acre.
- **Fixed natural buffer (cost-share funding for installation)** – The bill allows for State cost-share funding to be made available to a person for installing a fixed natural buffer (defined below) within the 100-foot tidal buffer (defined below) on an agricultural operation if the person enters into a cost-share agreement in accordance with statute governing the Maryland Agricultural Water Quality Cost-Share (MACS) Program. An agricultural operator is eligible for reimbursement of up to 150% of eligible costs toward installation of the fixed natural buffer. The Maryland Department of Agriculture (MDA) must adopt technical specifications for a fixed natural buffer practice to be eligible for cost-share funding, including that the fixed natural buffer fills the entire width of the 100-foot tidal buffer.
- **Fixed natural buffer (one-time signing and/or up-front bonus per acre)** – For a fixed natural buffer installed within the 100-foot tidal buffer, the bill establishes a one-time signing bonus of up to \$1,500 per acre available to a landowner as well as an up-front bonus payment of between \$1,000 per acre and \$4,000 per acre available to an agricultural operator, depending on the type of fixed natural buffer installed and characteristics of the land. (The Department of Legislative Services (DLS) notes it is unclear whether only one, or both, of the one-time signing bonus and up-front bonus payment apply to a given fixed natural buffer.)
- **Fixed natural buffer (annual payment per acre)** – For a fixed natural buffer installed within the 100-foot tidal buffer, the bill establishes an annual payment of at least \$150 per acre available to an agricultural operation, including leased land operators, with land that is located in the Critical Area and enrolled in a fixed natural buffer program under the bill's fixed natural buffer provisions.

With the exception of the cost-share funding and up-front bonus payments, the incentives are limited to fiscal 2026 through 2031 (the cost-share funding and up-front bonus payments are not explicitly limited to those fiscal years). The incentives are funded by an existing annual mandated \$2.5 million appropriation that continues through fiscal 2031 (though DLS notes the bill also seems to indicate that funding for the MACS Program, discussed below, may partially cover the bill's cost-share incentive). The mandated appropriation is amended to establish that it can be used to fund fixed natural buffers under the bill's fixed natural buffer provisions.

“Fixed natural buffer” means a strip of maintained, native vegetation alongside a body of water and includes (1) planting of riparian forest buffers; (2) planting of riparian herbaceous cover; (3) tree plantings on agricultural land; and (4) wetland restoration. It does not include pasture management.

“100-foot tidal buffer” means any land within 100 feet of (1) the mean high water line of tidal waters; (2) the edge of each bank of a tributary tidal stream; or (3) the landward boundary of a tidal wetland.

Prohibition on Fertilizer Application Within 100 Feet of Tidal Waters/Wetlands

A nutrient management plan renewed on or after July 1, 2025, may not allow a person on an agricultural operation to apply fertilizer to any land within 100 feet of (1) the mean high water line of tidal waters; (2) the edge of each bank of a tributary tidal stream; or (3) the landward boundary of a tidal wetland.

Current Law:

Incentive for Participation in the Conservation Reserve Enhancement Program

Chapter 645 of 2021 (Tree Solutions Now Act of 2021), in order to maximize participation in CREP, established a one-time signing bonus of up to \$1,000 per acre for a landowner who enrolls land planted with a forested streamside buffer. The signing bonus is funded with an annual mandated appropriation of \$2.5 million, that continues through fiscal 2031, for tree planting under the CREP signing bonus incentive and other tree planting programs on agricultural land.

Conservation Reserve Enhancement Program

Under CREP, the U.S. Secretary of Agriculture is authorized to enter into an agreement with an eligible partner (a state, political subdivision of a state, an Indian tribe, or a nongovernmental organization) to carry out a conservation reserve enhancement program. An agreement must describe:

- one or more specific state or nationally significant conservation concerns to be addressed by the agreement;
- quantifiable environmental goals for addressing the concerns;
- a suitable acreage goal for enrollment of eligible land under the agreement, as determined by the Secretary;
- the location of eligible land to be enrolled in the project area identified under the agreement;
- the payments to be offered by the Secretary and eligible partner to an owner or operator; and
- an appropriate list of conservation reserve program conservation practices to meet the concerns.

Maryland Agricultural Water Quality Cost-Share Program

The MACS Program was established in 1982 to provide financial assistance to farmers for the installation of best management practices (BMP) that control and reduce pollution caused by agricultural activities. Under this voluntary program, the State provides grants to farmers to cover up to 100% (through fiscal 2026, after which the percentage limit is 87.5%) of the cost of installing BMPs on their farms to prevent soil erosion, manage nutrients, and safeguard water quality in streams, rivers, and the Chesapeake Bay.

Fertilizer Application Near Tidal Waters/Wetlands

Pursuant to the Water Quality Improvement Act of 1998, agricultural operations with \$2,500 or more in gross annual income and livestock operations with 8,000 pounds or more of live animal weight must have and comply with a nutrient management plan for nitrogen and phosphorus. A nutrient management plan is prepared to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution by transport of bioavailable nutrients and to maintain productivity. A person who manages or owns an agricultural operation must revise and update the operation's nutrient management plan once every three years. MDA's [Maryland Nutrient Management Manual](#), which is incorporated by reference in MDA regulations as the performance and technical standards for nutrient management plans, establishes nutrient application setback requirements, including requirements that:

- an application of crop nutrients using a broadcast method (*e.g.*, spinners, splashers) either with or without incorporation requires a 35-foot setback; and
- a directed spray application or the injection of crop nutrients requires a 10-foot setback.

“Nutrient application setback” means a vegetated area of a prescribed width where nutrient-containing material may not be applied, as measured from the edge of surface water, including perennial and intermittent streams.

State Fiscal Effect: General fund expenditures increase, beginning in fiscal 2026, by a minimum of the amounts shown in **Exhibit 1**.

Despite there being an existing mandated appropriation of \$2.5 million in statute that funds the existing one-time signing bonus (and which the bill amends so that it also funds the added incentives under the bill), only a portion of that funding is expected to be spent on the existing signing bonus or other tree planting programs on agricultural land, in the absence of the bill. MDA indicates that there is not enough demand for tree planting under the existing CREP signing bonus incentive, or for other tree planting programs on agricultural land, to spend the full mandated appropriation. In fiscal 2024, \$2.2 million of the \$2.5 million mandated appropriation went unspent and the Budget Reconciliation and Financing Act of 2025 (House Bill 352 and Senate Bill 321) as introduced, and the fiscal 2026 budget as introduced, propose to allocate only \$500,000 in fiscal 2026 and future years for tree planting programs on agricultural land (through a reduction in the mandated appropriation in statute and through the level of the funding allocated in the fiscal 2026 budget as introduced). This bill, therefore, is assumed to result in an increase in general fund spending to fund the increased incentives under the bill (beyond the \$500,000 expected to be spent on tree planting programs on agricultural land in the absence of the bill), rather than a reallocation of existing spending.

DLS notes that while minimum general fund expenditures are assumed for this estimate, general fund expenditures could be notably higher (even as much as \$2.0 million or more) in a given fiscal year or years if different assumptions (than those described further below) are used regarding (1) the number of acres on which fixed natural buffers are installed; (2) the timing of installation of those fixed natural buffers; (3) the per-acre amounts of one-time signing bonuses and/or up-front bonus payments; and (4) the per-acre amounts of annual payments.

Exhibit 1
Minimum General Fund Expenditures under the Bill

<u>Incentive</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
Cost-share (fixed natural buffer)	\$555,417	\$555,417	\$555,417	\$0	\$0
Per acre signing bonus and/or up-front bonus payment (fixed natural buffer)	444,333	444,333	444,333	0	0
Per acre annual payment (fixed natural buffer)	66,650	133,300	199,950	199,950	199,950
Total	\$1,066,400	\$1,133,050	\$1,199,700	\$199,950	\$199,950

Source: Department of Legislative Services

The minimum estimate in Exhibit 1 is based on the following assumptions:

- **Acres on which fixed natural buffers are installed** – Fixed natural buffers are installed on at least 50% of 2,665 acres of crop and pasture land – 1,333 acres – that are within 100 feet of tidal water (the 2,665-acre figure is based on information provided by MDA, citing a Chesapeake Bay Foundation analysis).
- **Timing of installation of fixed natural buffers** – One-third of the 1,333 acres are installed in each of fiscal 2026, 2027, and 2028.
- **Fixed natural buffer cost-share funding** – For each installed acre, an agricultural operator receives the full 150% cost-share funding incentive and at least the last 50% of the 150% is funded by general funds since that portion of the incentive does not represent actual reimbursement of capital costs and, as a result, presumably is not be able to be supported by the MACS Program’s general obligation bond funding (which may only be used for capital improvements). Installation costs are assumed to be, on average, \$2,500 per acre (based on information provided by MDA).
- **Fixed natural buffer signing bonus/up-front bonus payment** – For each installed acre, landowners and/or operators receive a minimum of \$1,000 per acre in the form of a one-time signing bonus or up-front bonus payment.

- **Fixed natural buffer annual payment** – For each installed acre, operators receive a minimum annual payment of \$150 per acre.
- **Bonus and annual payment incentives under the bill are in addition to federal CREP incentives** – The signing bonus, up-front payment, and annual payment incentives are independent of any incentives provided by FSA under CREP and not the aggregate of federal and State incentives.

The estimate does not account for an increase in spending due to the bill's increase in the per acre one-time signing bonus for land planted with a forested streamside buffer since MDA indicates there has been limited use of the incentive to date and it is unclear how much the increase in the incentive from \$1,000 to \$1,250 increases that use. In addition, any increase in general fund spending due to the increased incentive is expected to be minimal in comparison to spending associated with the remaining incentives.

This analysis assumes MDA can handle administration of the expanded incentives with existing resources.

Small Business Effect: Small business agricultural operators/landowners are expected to be meaningfully affected by the bill. Whether that effect is positive or negative appears to partly depend on the level of the incentives provided under the bill. By increasing the area near tidal waters/wetlands within which fertilizer may not be applied, the bill may reduce land area from which agricultural operators can generate profit. Presumably, if sufficient funding is appropriated for the incentives for fixed natural buffers under the bill, MDA sets those incentives at a level intended to at least offset operators' loss in profits, if not increase the operators' overall revenue generated from that land. Some of the incentives, however, are temporary (including the annual payment incentive), while the bill's prohibition on application of fertilizer within the 100-foot tidal buffer is permanent.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1175 (Delegate Stein) - Environment and Transportation.

Information Source(s): Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the Environment; Department of Natural Resources; Chesapeake Bay Foundation; U.S. Department of Agriculture; Department of Legislative Services

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