



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

January 29, 2020

The Honorable Senator Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 172 – Bay Restoration Fund – Authorized Uses

Dear Chairman Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed Senate Bill 172, entitled *Bay Restoration Fund – Authorized Uses*. We support efforts to further consider climate resiliency and flood control when prioritizing projects that are eligible to receive Bay Restoration Funds (BRF), and would like to provide additional information regarding this bill.

The bill would repeal and reenact with amendments Environment Article §9–1605.2(i)(2) to add climate resiliency and flood control as considerations for awarding BRF grants. If this legislation passes, there will be no fiscal impact on MDE; however, MDE will have to revise the BRF regulations and alter the priority ranking system that is used to evaluate applications for state and federal grant and loan funding to give more weight to climate resiliency, as well as include considerations and for projects that improve flood control.

As noted in Adaptation and Resiliency Working Group discussions within the Maryland Commission on Climate Change, the climate is already changing and Maryland is already seeing an increase in extreme weather events, presenting new adaptation challenges in both the coastal and non-coastal zones, including ensuring that the state's water infrastructure is adequately designed to account for these changes. This is also something the Chesapeake Bay states are working on as part of the Chesapeake Bay Total Maximum Daily Load (TMDL).

Nutrient reductions are necessary to improve water quality and meet the state's obligations under the Bay TMDL. The State of Maryland uses a variety of best management practices within Maryland's Watershed Implementation Plan (WIP) in order to meet TMDL nutrient reductions that are consistent with Clean Water Act requirements, including regulatory and financing tools. The BRF is one of the primary financing tools used by the State of Maryland to meet its environmental responsibilities. The BRF has been the funding source to upgrade the state's 67 largest wastewater treatment plants (WWTP). As the state has finished these upgrades, the BRF can now be used for other purposes, including minor WWTP upgrades, sewer overflow improvements, connecting failing septic systems to public sewer, and stormwater best management practices.

When determining financial assistance and preparing a project priority list to rank individual projects that apply for state and federal funding, including BRF funding, MDE considers the following

factors, as specified in regulation: (1) nutrient loads currently discharged and the projected nutrient load reduction; (2) cost-effectiveness in providing water quality or public health benefits; (3) relative effectiveness of water quality benefit to the Chesapeake Bay or other impaired body of water; (4) the existence of an administrative or civil compliance order or of a compliance schedule in a discharge permit; (5) sustainability benefits such as water reuse, asset management, full cost pricing, energy conservation, and smart growth; and (6) readiness to proceed to construction. Additionally, in the fall of 2019 MDE updated the scoring system used to evaluate project applications to include additional points for projects that incorporate climate resiliency.

This legislation is consistent with other State laws (e.g., Coast Smart) that seek to reduce flood and climate-related impacts for State-funded projects. MDE concurs that the proposed changes included in this legislation will better protect state and local infrastructure investments, as well as public health and safety.

Thank you for your consideration. We will continue to monitor Senate Bill 172 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by email at tyler.abbott@maryland.gov.

Sincerely,



Tyler Abbott

cc: The Honorable Katie Fry Hester
Mr. Lee Currey, Director, Water and Science Administration