

PositionStatement_Bill_177

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Position: FAV

STATE OF MARYLAND
MARYLAND DEPARTMENT OF THE ENVIRONMENT
Ben Grumbles, Secretary

BILL NO: House Bill 177

COMMITTEE: Environment and Transportation

POSITION: Support

TITLE: Environment – Water Infrastructure Assets – Authorization of Emergency Actions and Establishment of Emergency Reserve

BILL ANALYSIS: For the purpose of establishing a separate account in the Bay Restoration Fund designated as the Water Infrastructure Emergency Reserve; requiring the Comptroller to deposit a certain portion of Bay Restoration Fund revenues in the Water Infrastructure Emergency Reserve; authorizing the Department of the Environment to take emergency actions to protect life, property, or the environment against risks arising from dams, reservoirs, and similar waterway constructions that are in imminent danger of failure; and authorizing the Department of the Environment to use funds in the Water Infrastructure Emergency Reserve to pay the costs of taking such emergency actions.

POSITION AND RATIONALE:

In a changing climate with higher intensity and frequency of rain events, like those experienced by Ellicott City, dams pose a threat to downstream communities and infrastructure if they are not maintained properly or the structure deteriorates as a result of age and use. Maryland currently has over 600 active dams in the State. Of these, 92 are classified as high hazard and 148 are classified as significant hazard. Failure of a high hazard dam would likely result in loss of human life and extensive property damage to homes and infrastructure or cause flooding of major highways and State roads. Failure of a significant hazard dam could possibly result in loss of human life and cause significant flood risks to downstream buildings and roads.

The aging of Maryland’s dam infrastructure, especially with increasingly volatile weather, will likely result in more dams classified as “unsafe.” The majority of the dams in Maryland are over 50 years old, which is well beyond the useful life of their various components, such as spillway pipes, gates, and drains. In addition, uncontrolled development downstream and upstream of a dam can result in the dam classification changing to “unsafe” due to inadequate capacity. Ultimately, it is the dam owner's responsibility and obligation to act in a reasonable manner to inspect and maintain a dam and its appurtenances. Some dam owners, however, lack the financial resources to adequately maintain their dams or respond to dam-related emergencies. This is especially true in the case of dams owned by homeowners associations and condominium associations (there are currently 31 high- and significant-hazard dams in Maryland owned by these associations).

To prevent loss of human life, significant property damage, or serious environmental harm, it may be necessary for MDE to take emergency actions when a dam threatens to fail and the owner is unable or unwilling to respond to the crisis. Under current law, it is not clear that MDE has this authority. This bill would address this problem by clarifying MDE’s authority.

In addition, MDE does not have a source of funding to cover the cost of taking these emergency actions, which could be very expensive – possibly millions of dollars in the case of a large dam. This bill would address this problem by creating the WIER, a “rainy day” fund within the BRF, which could only be used for response costs related to dam emergencies.

E&T_HB177_NAIOP_FWA

Uploaded by: Ballentine, Tom

Position: FWA



February 18, 2020

The Honorable Kumar Barve, Chair
House Environment and Transportation Committee
Room 251 House Office Building
Annapolis, MD 21401

Support w/ Amendment: HB 177 - Environment Water Infrastructure Assets – Emergency Actions and Reserves

Dear, Chair Barve and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies who develop and own commercial, industrial and mixed-use real estate support House Bill 177 with amendment.

NAIOP is broadly supportive of the needs addressed by House Bill 177 as well as the requested authority and funding.

We have concerns, however, about the immunity provided to the State and the Department barring any action for the recovery of damages under a broad set of circumstances including the use of design and construction criteria prepared, approved or promulgated by the Department. (please see HB 177, page 5, line 32 through page 6, lines 14)

Section 12-204 of the State Government Article waives the immunity of the State and its units for tort claims subject to a liability limit of \$400,000 per occurrence and the exclusions included in Section 5-522 (a) of the Courts and Judicial Proceedings Article. Section 12-201 of the State Government Article bars the State and its units from raising the sovereign immunity defense in a contract action and provides immunity from liability described under Section 5-522 (d) of the Courts and Judicial Proceedings Article.

We believe the exiting, limited, state law waiver of immunity should apply to HB 177.

Sincerely,

A handwritten signature in blue ink that reads "T.M. Ballentine". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.

BaltimoreCounty_FWA_HB0177

Uploaded by: Byrne, Julia

Position: FWA



JOHN A. OLSZEWSKI, JR.
County Executive

CHARLES R. CONNER III, ESQ.
Chief Legislative Officer

KIMBERLY S. ROUTSON
Deputy Legislative Officer

JOEL N. BELLER
Assistant Legislative Officer

BILL NO.: **HB 177**

TITLE: Environment - Water Infrastructure Assets - Authorization of
Emergency Actions and Establishment of Emergency Reserve

SPONSOR: Chair, Environment and Transportation Committee

COMMITTEE: Environment and Transportation

POSITION: **SUPPORT WITH AMENDMENTS**

DATE: February 18, 2020

Baltimore County **SUPPORTS WITH AMENDMENTS** House Bill 177 – Environment - Water Infrastructure Assets - Authorization of Emergency Actions and Establishment of Emergency Reserve. This bill authorizes the Maryland Department of the Environment (MDE) to take emergency actions to protect life, property, or the environment against risk arising from water infrastructure assets, funded by a reserve account in the Bay Restoration Fund.

Dams, reservoirs, and stormwater pollution have the potential to severely impact the quality of life for Baltimore County’s residents. Baltimore County understands the benefits functioning water infrastructure assets provide when run properly, and the destruction they reap when in disrepair. This bill would further the County’s policy goals by providing crucial assistance from MDE if an asset is in need of emergency repair.

The County feels, however, that this bill could be strengthened with adjustments. The County benefits from competitive grants for sanitary sewer, septic system, and stormwater projects. We are concerned that the Water Infrastructure Emergency Reserve would reduce available funds by up to \$10 million per year that have been indispensable for improving and maintaining our public systems. Furthermore, certain procedures outlined in the bill are unclear. Specifically, the County would like the language to specify which repairs qualify for being referred to the MDE, what actions must be taken by the County prior to referral, and if any emergency actions will be delegated to the County.

Accordingly, Baltimore County requests a **FAVORABLE WITH AMENDMENTS** report on HB 177. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

Legislative Office | 86 State Circle | Annapolis, Maryland | Phone 410-887-0602 | Fax 410-269-5683
www.baltimorecountymd.gov

HB177_CBF_DOUGMYERS_Oppose

Uploaded by: Myers, Doug

Position: UNF



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

House Bill 177

Environment - Water Infrastructure Assets - Authorization of Emergency Actions and Establishment of Emergency Reserve

DATE: FEBRUARY 18, 2020

POSITION: OPPOSE

POSITION

Chesapeake Bay Foundation opposes HB 177 because of its use of the Bay Restoration Fund as a funding source for bonding the removal of priority dams deemed at imminent risk of collapse resulting in loss of life, property or damage to the environment.

COMMENTS

While the threat of collapse of certain dams creates both human health and environmental risks, the Bay Restoration Fund should not necessarily be the source of bonding authority to address this concern. The Chesapeake Bay Foundation recommends that the Bay Restoration Fund Advisory Committee and key legislators convene to discuss the objectives for Bay Restoration Funding following the completion of major wastewater treatment plant upgrades.

The Watershed Implementation Plan Phase III includes commitments to advise funding priorities. Broadening the scope of the Bay Restoration Fund without consideration of the Phase III goals creates concerning precedent. A process for consideration of this need that includes the Bay Restoration Fund Advisory Committee would provide reasonable assurance for continuing commitments already made through the Watershed Implementation Plans.

CONCLUSION

For these reasons, CBF urges an unfavorable report on HB 177. If you have any questions, feel free to contact Doug Myers, Maryland Senior Scientist at (443)-482-2168 or dmyers@cbf.org

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The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 107,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.