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Senate Bill 119
Clean Water Commerce Act 2021
Date: January 26, 2020
Position: Support

Resource Environmental Solutions (RES) recommends a favorable report from the Senate Education, Health and Environmental Affairs (EHEA) Committee on Senate Bill 119 (Clean Water Commerce Act (CWCA)). The legislation, if enacted, would provide needed changes to facilitate more cost effective and performance-based ecological restoration projects.

RES

As the nation's leading provider of ecological restoration and water resources solutions, with dedicated operations in Maryland, we appreciate the opportunity to lend our voice in support of the programs and policies in discussion for inclusion in the CWCA. In reviewing the draft legislative text, we believe the Bill will make critical adjustments to the current program by: providing a dedicated and consistent source of long-term funding; advancing policies and programs that will create enabling conditions for delivering cost effective projects at scale for nutrient reductions; enhancing the participation of agricultural practices and projects in disadvantaged communities; promoting projects with secondary co-benefits; and providing flexible payment schedules tied to performance.

Critical Adjustments to Current Version of Law

The CWCA was originally enacted in 2017 with the intention of setting aside a portion of the Bay Restoration Fund to primarily fund non-point restoration actions to reduce nutrient loadings. The concept was to promote new innovative best management practices with secondary co-benefits. Agricultural practices were excluded from the original law. While the original law was well intended, the law was implemented in a narrow fashion with harsh payment schedules. The award recipients under the 2017 law were primarily wastewater treatment plants that had already been funded under BRF. Senate Bill 119 seeks to address some of the recognized flaws in the current version.

Dedicated \$20m Per Year until 2030

By providing a dedicated and consistent source of funding, the Bill allows project proponents the opportunity to pursue projects at scale and to rely on a consistent source of annual funding for nutrient reduction projects.

Creates Enabling Conditions for Scaling Outcome-Based Non-Point Source Solutions

The CWCA bolsters the current law by clarifying that it will fund innovative and cost-effective Environmental Outcomes. Outcome-based procurement will provide a high integrity and cost-effective mechanism for developing projects and practices that provide long-term benefits and that meet current standards under applicable Chesapeake Bay models. This also allows the State to partner with the private sector to implement projects and to make payments over time consistent with achieving performance standards. This will result in the added benefit of leveraging funds with private financing, while promoting greater efficiencies through a competitive solicitation process.

Increased Investment in Agricultural Practices and Disadvantaged Communities

Additionally, provisions related to CWCA will increase and require investment in agricultural practices and disadvantaged communities, among other areas. It is well recognized that the most need for improvement under the WIP III is in the agricultural sector. Also, the Bill seeks to address some equity issues through minimum investments in disadvantaged communities.



Provides Clarity on Co-Benefits

The Bill provides for an added bonus for projects and practices that achieve secondary co-benefits. It makes explicit that projects with secondary co-benefits, including enhanced resiliency, local water quality benefits and benefits to environmentally burdened communities, will receive a bonus during evaluation. By explicitly setting forth the bonus for co-benefits, it overcomes flaws in the original law that allowed the co-benefits to be ignored in practice.

More Flexible Payment Schedules Based on Performance

Contracts will be awarded to successful bidders based on “pay for performance” milestones to ensure achievement of the “environmental outcomes.” This eliminates the problems with the current law that requires pro rata payments on an annual basis without recognition that certain performance and project costs occur earlier in a project life span.

The passage of the CWCA legislation will provide a consistent and dedicated source of funding for cost-effective and innovative restoration projects in support of the state’s nutrient reduction goals. This also will promote new environmental enterprises and investments in the restoration sector. RES fully supports the CWCA and urges the Legislature to pass this bill. Thank you for your consideration of this critical legislation.

Sincerely,

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