

HB 653-FAV_MML.pdf

Uploaded by: Angelica Bailey

Position: FAV



Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

March 29, 2022

Committee: Senate Budget & Taxation

Bill: HB 653 – Conservation Finance Act

Position: Support

Reason for Position:

The Maryland Municipal League supports House Bill 653, which makes changes to a broad variety of existing programs related to environmental conservation and natural resources management and expands opportunities for agencies to obtain private investment and financing for State environmental projects, including conservation efforts, restoration projects, and the installation and repair of green and blue infrastructure.

Local governments could benefit from the expansion of funding opportunities for local projects afforded in this legislation. Climate change is a very real threat and MML supports mitigating its negative impacts on residents' lives, as well as municipal budgets.

For these reasons, the Maryland Municipal League supports HB 653 and respectfully requests a favorable committee report.

FOR MORE INFORMATION CONTACT:

Scott A. Hancock
Angelica Bailey
Bill Jorch
Justin Fiore

Executive Director
Director, Government Relations
Director, Research & Policy Analysis
Manager, Government Relations

1212 West Street, Annapolis, Maryland 21401

410-268-5514 | 800-492-7121 | FAX: 410-268-7004 | www.mdmunicipal.org

HB 653 Senate Support.pdf

Uploaded by: Byron Tosi III

Position: FAV



Larry Hogan GOVERNOR

Boyd K. Rutherford LT. GOVERNOR

Charles Glass, Ph.D., P.E. EXECUTIVE DIRECTOR

March 29, 2022

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West
10 Bladen St., Annapolis, Maryland 21401

The Honorable Paul G. Pinski
Chairman, Senate Education, Health and Environmental Affairs Committee
Miller Senate Office Building, 2 West
10 Bladen St., Annapolis, Maryland 21401

Chairs Guzzone and Pinski:

The Maryland Environmental Service (MES) supports House Bill 653, as amended in the House. MES supports the bill as a whole, but we would like to focus on two provisions of importance to MES.

First, it contains language identical to the Senate that corrects a technical error with the bill. The authority granted to MES to participate in pay-for-success contracting is placed in an area of law from which MES is exempt. The addition of the language on page 24 (line 11) down through page 25 (line 14) fixes what would be an inconsistency in state law. MES thanks the Committees in both the House and Senate for including this language.

Second, House Bill 653 also included language on page 44 (lines 1-8) that would require MES to review and evaluate the results of all pay-for-success contracts. MES worked closely on this language with the bill sponsors in both Chambers, as well as advocates, and we enthusiastically accept this challenge. MES has significant experience evaluating environmental outcomes of a broad spectrum of environmental projects.

The Maryland Environmental Service was established by the General Assembly in 1970 as an instrumentality of the State to assist with the preservation, improvement, and management of the quality of air, land, water, and natural resources, and to promote the health and welfare of the citizens of our great State. Today, with over 800 employees, MES operates more than 1,000 environmental projects across Maryland and the Mid-Atlantic region. MES provides multi-disciplinary environmental compliance services to enhance and protect the environment through innovative solutions to the region's most complex environmental challenges.

MES urges a favorable report on House Bill 653 as it was amended in the House.

Should you have any questions, please do not hesitate to reach out.

Jeff Tosi
Director of Government Affairs
Maryland Environmental Service
jtosi@menv.com
O: 410-729-8504

Support of HB 653 - Conservation Finance Act (Sena

Uploaded by: Colby Ferguson

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

March 29, 2022

To: Senate Budget & Taxation Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of HB 653 - Conservation Finance Act**

On behalf of our member families, I submit this written testimony in support of HB 653. The focus of the bill is on actions that improve water quality, but the changes will also advance environmental justice and public health, expand initiatives around forest and agricultural soil carbon sequestration, and reward projects that deliver co-benefits like local jobs, flood risk reduction, or climate resilience. Many of the changes are designed to make it easier for private funding and financing to play a role in helping Maryland achieve these outcomes.

Improving the process to incorporate more climate and water quality Best Management Practices on the farming landscape is not only good for the environment, but also good for the farmer. Allowing for fair compensation for installing these practices, makes it more viable for a working family farm.

Maryland Farm Bureau Policy:

- We support voluntary mechanisms for nutrient and carbon reduction on both farms and forests that allow farmers and/or landowners to receive fair compensation for nutrient removal and/or carbon reductions.

MARYLAND FARM BUREAU SUPPORTS HB 653 AND REQUEST A FAVORABLE REPORT

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

HB 653_CBF SUPPORT_B&T.pdf

Uploaded by: Doug Myers

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

House Bill 653

Conservation Finance Act

Date: March 29, 2022

To: Budget and Taxation and Education, Health, and
Environmental Affairs

Position: **Support**

From: Doug Myers, Maryland Senior Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** HB 653. This bill considers changes and updates to various elements of the State's environmental laws and financing and envisions new avenues for private investment of environmental policy and programs in Maryland. Leveraging private investment may speed environmental outcomes that help restore the Chesapeake Bay.

Pay-for-performance has a potential meaningful, positive role in restoration. This bill takes initial steps to set up a system for the State and local governments in Maryland to purchase environmental outcomes from the private sector.

This legislation draws several subject matters to the foreground that are worthy of consideration and update. For example, the creation of a Maryland-based carbon market could support environmental work in key areas – including providing ongoing financial resources for conservation practices in agriculture, and stormwater management practices, such as tree plantings in developed areas.

The development of an interstate trading program between Pennsylvania and Maryland in the Susquehanna Basin, envisioned in this legislation could help Bay's recovery efforts. The legislation expands uses for the Drinking Water Revolving fund to allow the fund to support nonpoint source pollution reduction, forest and wetland protection and restoration so long as they can be tied to drinking water quality. Precedent for this extension may be found in New York's acquisition of the Catskills and Adirondack parks to protect drinking water quality for New York City.

Environmental outcomes must be measurable to secure progress on climate, equity and water quality.

While the bill attempts to clarify the types of projects that may be sold in a pay for performance market, the definitions are too broad to guarantee certain outcomes. The examples provided for green and blue infrastructure projects are perhaps the strongest guidance, but even in this case, there are shortcomings. For example, stream restoration projects are an example of green infrastructure in the legislation. These projects are not currently required to meet pollution reduction measures in many cases, rather they are pursued with an undefined aim of achieving “ecological uplift.”

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403
Phone (410) 268-8816 • Fax (410) 280-3513

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 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

Any practice that a state or local government purchase from the private sector in a pay for performance model needs to perform. Where performance assurances are lacking, CBF recommends the State and local governments consult the Chesapeake Bay Program crediting schemes and guidance, such as the [Unified Guide for Crediting Stream and Floodplain Restoration Projects in the Chesapeake Bay Watershed](#), and Maryland's regulations and best practices and guidance to provide guardrails for project selection, maintenance and monitoring.

CBF urges the Committee's FAVORABLE report on HB 653. For more information, please contact Robin Clark, Maryland Staff Attorney at rclark@cbf.org and 443.995.8753.

HB 653_CWRP_Favorable.pdf

Uploaded by: Isaac Meyer

Position: FAV

Chesapeake Watershed Restoration Professionals

**House Bill 653
Conservation Finance Act**

Position: FAVORABLE WITH AMENDMENTS

March 29, 2022

Honorable Guy Guzzone
Chair, Budget and Taxation
3 West
Miller Senate Office Building
Annapolis, MD 21401

Chairman Guzzone, Vice-Chair Rosapepe, and Committee Members,

On behalf of the Chesapeake Watershed Restoration Professionals (CWRP), we strongly support HB 653 – Conservation Finance Act. CWRP was founded in November of 2020 and represents Maryland professionals whose daily work improves the health of Maryland’s waters and our prized Chesapeake Bay. We thank Senator Elfreth for leading the charge on this important issue and the Senate’s tremendous support of advancing policy that protects the Chesapeake Bay.

This bill creates frameworks across several agencies and funds that will allow greater partnership between government and private industry that will collectively have a direct impact on Maryland making measurable growth in protecting our environment and our waters. Additionally, we support the addition of language in House Bill 653 requiring assessment and reporting on the effectiveness of pay-for-success contracts. The House Bill assigns the responsibility to the Maryland Environmental Service (MES). We do want to raise awareness of potential conflicts that could arise as MES is also a unit that can enter a pay-for-success contract meaning they would be validating the effectiveness of their own contracts. This may lead to conflicts of interest which the Legislature may want to address.

We thank the committee for their consideration of this important legislation and the issues we have raised. We look forward to working with you in the coming years to strengthen Maryland’s environmental laws.

Sincerely,

Liam O’Meara
President
Chesapeake Watershed Restoration Professionals

HB 653 Conservation Finance Act (Favorable - The N

Uploaded by: Michelle Dietz

Position: FAV

Tuesday, March 29, 2022

TO: Guy Guzzone, Chair of Senate Budget and Taxation Committee; and Paul Pinsky, Chair of Senate Education, Health and Environmental Affairs Committee, and Committee Members

FROM: Michelle Dietz, The Nature Conservancy, Director of Government Relations; and Mark Bryer, The Nature Conservancy, Chesapeake Bay Program Director

POSITION: Support HB 653 - Conservation Finance Act

The Nature Conservancy (TNC) supports HB 653 offered by Delegates Love, Boyce, Barve, Lehman and Stein. HB 653 is a sweeping piece of legislation that holds the potential to transform how Maryland finances environmental restoration and protection. This bill includes critically important provisions such as expanding investment in nature-based solutions to clean our waters, sequester carbon and mitigate climate change, procuring environmental outcomes using pay-for-success contracting, and building more equity into that State's environmental investments.

Maryland has demonstrated national leadership investing in clean water and climate change solutions, including promoting environmental markets. We must now take the next step to scale our solutions for greater impact, so that these investments may continue to pay dividends for years to come. HB 653 can provide a blueprint for Maryland, and the nation, to realize the potential for markets to finance more environmental improvements at lower costs. The bill also seeks to increase access to financing through the State's revolving loan fund for communities that are the most impacted by climate and environmental health risks.

TNC is dedicated to investing in nature-based solutions, both in Maryland and across the globe. These solutions provide long-term carbon storage and nutrient runoff reductions, as well as protect biodiversity, restore watersheds, and improve human health. TNC developed foundational science on these solutions, and we know that intense collaboration between communities, governments, large and small non-governmental organizations, and private financing is essential to achieve the transformational change that is necessary to combat climate change and improve environmental health. Our experience has shown that these solutions also provide critical, economical co-benefits to communities, such as flood risk reduction, enhanced climate resilience, and job creation. We note and appreciate that this bill expands the opportunity to finance these solutions and deliver benefits to Maryland's citizens and its ecosystems for many years to come. In particular, TNC is glad to see language included in this bill to study carbon storage projects in marine or estuarine habitats, which provides an opportunity to learn about establishing and verifying carbon credits in these systems.

The Conservation Finance Act creates a unique opportunity to engage with and enhance private investors' participation in helping our State to meet our ambitious clean water and climate goals. In particular, the pay-for-success contracting laid out in this legislation is designed to create a culture of entrepreneurship to deliver environmental outcomes and incentivize new private sector investors to engage in environmental restoration and protection. The legislation would also establish guardrails that encourage innovation in project delivery, technology, and financing while transferring risk from the State to the private sector. As a result, this bill has the potential to attract attention and funding from federal agencies looking to test similar innovations.

TNC commends Delegates Love, Boyce, Barve, Lehman and Stein and all of the members of the interim working group for advancing legislation aimed at incentivizing innovative, cost-effective, equitable projects that can help progress Maryland's clean water and climate mitigation goals, while reducing costs.

Therefore, we urge a favorable report on HB 653.

MD Catholic Conference_FAV_HB0653.pdf

Uploaded by: MJ Kraska

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 29th, 2022

**HB 653
Conservation Finance Act**

House Senate Budget & Taxation Committee

Position: Support

The Maryland Catholic Conference (“Conference”) represents the public policy interests of the three Roman Catholic (arch) dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

House Bill 653 makes changes to a broad variety of existing programs related to environmental conservation and natural resources management and expands opportunities for agencies to obtain private investment and financing for State environmental projects, including conservation efforts, restoration projects, and the installation and repair of green and blue infrastructure. The bill also alters existing and establishes new state policies for several related programs and establishes a new task force.

In his encyclical, *On Care for Our Common Home (Laudato Si')*, Pope Francis tells us, “Whenever these questions are raised, some react by accusing others of irrationally attempting to stand in the way of progress and human development. But we need to grow in the conviction that a decrease in the pace of production and consumption can at times give rise to another form of progress and development. Efforts to promote a sustainable use of natural resources are not a waste of money, but rather an investment capable of providing other economic benefits in the medium term... We know how unsustainable is the behavior of those who constantly consume and destroy, while others are not yet able to live in a way worthy of their human dignity”.

House Bill 653 aims to address the much needed investment in conservation policies and projects to be set to sustain and achieve a healthy global ecosystem. We encourage discussion around the components and goals outlined in this legislation and hope they are a catalyst for positive ecological outcomes.

The Conference appreciates your consideration and, for these reasons, respectfully requests a favorable report on House Bill 653.

HB0653 LOS B&T .docx.pdf

Uploaded by: Tyler Abbott

Position: FAV



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

March 29, 2022

The Honorable Guy Guzzone, Chair
Budget & Taxation Committee
Miller Senate Office Building, 3W
Annapolis, Maryland 21401

Re: House Bill 653 – Conservation Finance Act

Dear Chair Guzzone and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 653, entitled *Conservation Finance Act* and would like to offer our support for this bill.

The Department believes this legislation is the first conservation finance act of its kind nationally and sets the stage for Maryland to be even more of a national climate and environmental leader on issues such as the restoration of the Chesapeake Bay and mitigating and adapting to the effects of climate change. The bill contains multiple provisions that promote financial investment in environmental projects and markets, while also meeting other important goals like environmental justice. While the Department already makes these provisions a priority, this bill will allow MDE to further strengthen our programs. The bill also promotes pay-for-success procurement for conservation and environmental projects.

The key features of this legislation are:

- Greater flexibility and more opportunities to use the Clean Water and Drinking Water State Revolving Funds to match recent changes in federal law;
- Pay-for-success procurement that allows state agencies to buy environmental outcomes, which will bring down costs for environmental restoration and compliance while increasing investment in environmental projects;
- Removing barriers to and encouraging participation in carbon markets;
- Promoting investment in environmental justice and disadvantaged communities and establishing a human right to safe, clean, affordable and accessible water; and
- Encouraging the use of state funding to purchase environmental outcomes from long-term or permanent projects located in the portion of the Susquehanna River Basin outside of Maryland if Maryland receives credit for those outcomes.

Engaging the conservation finance sector makes sense at this time of increased fiscal stewardship. There is growing interest and demand for sustainable and green investment, which can generate a financial return as well as measurable environmental results. By improving Maryland's conservation finance laws, policy, and markets, we will be able to attract more private capital and investment in Maryland's environment and natural resources. This is essential for the state to meet and maintain our clean water and clean air goals.

Page 2

The necessary changes in HB 653 will drive greater efficiencies, bring down overall costs, and accelerate the delivery of environmental restoration projects.

Thank you for your consideration. We will continue to support HB 653 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 tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a long horizontal line extending to the left.

Tyler Abbott

cc: The Honorable Sara Love

HB0653_DNR_SWA_B&T_3-29-22.pdf

Uploaded by: Bunky Luffman

Position: FWA



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Allan Fisher, Deputy Secretary

Bill Number: HB 653

Short Title: Conservation Finance Act

Department's Position: Support with Amendments

Explanation of Department's Position

The Maryland Department of Natural Resources supports HB 653 with amendments.

In 2009, Maryland's General Assembly passed creation of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund (Trust Fund) within the Department of Natural Resources (DNR) to fund non-point source Chesapeake Bay restoration projects. In 2010, the U.S. Environmental Protection Agency (EPA) established the Total Maximum Daily Loads (TMDL or "pollution diet"), which Maryland and the other Chesapeake Bay watershed jurisdictions must meet by 2025. In the years since those two events, our scientific understanding of the bay has evolved, the number and types of Best Management Practices (BMPs) approved by EPA to meet our TMDL have increased greatly, and we have learned many lessons on how to best work with local governments, non-government agencies, and private partners in our collective efforts to restore the Chesapeake and Coastal bays.

The Conservation Finance Act (CFA) moves Maryland forward in realizing our bay restoration goals by applying many of those scientific developments, new tools, and lessons learned to our programs, and policies.

There are several statutory changes in the CFA that would benefit our department:

1. **Pay-for-success contracting:** Changes to the Procurement and Natural Resources articles permit the state to enter into contracts for environmental restoration in which the state pays the contractor only after the project has been certified to achieve the desired environmental outcomes. This is important in environmental restoration as projects may not always perform as anticipated, allows the contractor greater flexibility to adapt a project to address unexpected conditions, and better ensures that state funds are used to realize the desired result.
2. **Consideration of environmental and social co-benefits in awarding of grants:** While nutrient and sediment reductions remain the primary considerations in awarding of Trust Fund grants, the CFA identifies other "ecosystem services" (ex. oyster reefs, climate resilience, wildlife habitat), which DNR may also take into consideration when awarding

grants. Also identified for consideration are social benefits such as local employment and environmental justice.

3. **Encouragement of aggregated, landscape-level projects:** As we make progress in our bay restoration efforts, there are fewer opportunities to fund large, single practice projects. Smaller and more diverse projects are generally less cost effective for the state to administer. The CFA defines, recognizes, and permits the state to contract with private companies that bundle numerous smaller projects (aggregators) and others that certify the environmental benefits of those projects (evaluators). Working with these private companies is not only more efficient for the state, but also promotes growth of these small businesses.
4. **Authority to fund projects across state lines:** Scientific models recognize that the effectiveness with which a particular BMP improves bay water quality may vary significantly depending on its location in the watershed. Some of the most efficient locations and greatest opportunities for implementing BMPs to reduce pollution are in other jurisdictions. HB 653 recognizes that by authorizing DNR to invest in projects that represent the most cost effective ways to meet Maryland's TMDL.
5. **Independent retrospective review and lessons learned:** The CFA calls for the independent BayStat Scientific Advisory Panel to conduct a review of the effectiveness of the past 13 years of Trust Fund implementation, and make recommendations for the future based on lessons learned.

Furthermore, there are two provisions in the bill intended to incentivize private participation in carbon and other environmental markets. DNR supports these provisions as currently drafted in the bill, and notes that they will require monitoring to ensure they are implemented as intended.

- **Use of state lands to support private forest carbon credit transactions:** Language on page 25, lines 2-8 aids the development of private carbon markets by authorizing use of new state land plantings required by the Forest Conservation Act to provide additional carbon credits to buffer against risk of project failure. Existing DNR regulatory authority can be used to define conditions to make the tracking and reporting feasible for state agencies and avoid other conflicts with state participation in carbon markets.
- **Grantee authority to receive compensation from alternative environmental markets:** Language on page 27, lines 1-8 prohibits DNR from restricting grant recipients from participating in markets and programs that provide compensation to the grant recipient for environmental outcomes in addition to those funded through the DNR program. DNR does not currently prohibit this type of participation. To the contrary, it is the Department's hope that applicants will design projects that may take advantage of these markets in order to realize greater co-benefits to Maryland's environment and to reduce costs requested of the Department. However, DNR also needs to be careful that grantees do not take undue advantage of these opportunities by requesting and receiving state funding to fully implement projects from which they later expect to receive financial benefit. It is the Department's hope that grantees will apply a reasonable amount of the expected compensation to reduce the costs that they are requesting from the state. This is not a problem to date, but DNR will monitor the situation and work with the General Assembly as appropriate in the future if that becomes the case.

The Department respectfully submits the following three amendments for the committee's consideration:

Amendment #1: Timing for use of Trust Fund to procure environmental outcomes.

As currently written, the CFA allows the Trust Fund to procure an expanded list of outcomes beyond only nutrient and sediment reductions for projects achieved "before January 1, 2021," which would be retroactive to the date that the bill takes effect. DNR recommends amending the implementation date as follows to be consistent with the implementation date of the bill and to be consistent with the cycle for grant awards which aligns with the fiscal year.

Page 33, Line 12

FUNDS FROM THE TRUST FUND MAY NOT BE USED TO PROCURE ENVIRONMENTAL OUTCOMES ACHIEVED BEFORE ~~JANUARY 1, 2021~~ JULY 1, 2022.

Amendment #2: Due date of Scientific Advisory Panel's retrospective analysis.

As currently written, the CFA calls for the BayStat Program's Scientific Advisory Panel to conduct a retrospective analysis of the cost effectiveness of FY12 – FY23 fund distributions from the Trust Fund and submit a report by January 31, 2023. DNR supports the analysis, but believes that the due date is aspirational and might not be achievable given the time allotted.

DNR recommends amending the date to January 31, 2024.

Page 35, Line 20

ON OR BEFORE JANUARY 31, 2023~~4~~:

Amendment #3: Cost and timing of digital tool study.

Uncodified language at the end of the CFA (Page 47, Line 26 – Page 48, Line 17) calls for DNR, in consultation with the BayStat Subcabinet, to conduct a study of digital tools and platforms for Chesapeake Bay restoration and climate solutions, and submit it by December 1, 2023. The required study references and is modeled after the federal "Digital Climate Solutions Report" required by the Infrastructure Investment and Jobs Act.

The BayStat Subcabinet agencies do not have the expertise to conduct this study and, therefore, would need to hire a consultant or a contractor. DNR also conferred with the Maryland Department of Information Technology, who similarly replied that they do not have the in-house expertise to conduct the study. The bill calls for DNR to fund the study through "funding received through State or federal grant programs." No such grant funding is currently available. DNR has reached out to the University of Maryland

(UMD) for a cost estimate to carry out the study. **UMD's initial estimate is \$1 million, which DNR has submitted as part of the fiscal note.**

In order to reduce the fiscal impact on state resources, DNR recommends:

1. Amend the current report due date to provide an additional year (from December 1, 2023 to December 1, 2024) to give the agencies sufficient time after the federal study is submitted (due Nov. 15, 2022) to identify funding sources, apply for that funding if it exists, and conduct the Maryland study as appropriate subject to appropriation or receipt of grant funding , and

Page 48, Line 15.

On or before December 1, 202~~3~~4

2. Amend the current language to clarify that the study should be conducted only with whatever external funding is realized. The extent of the study will be reflective of the degree of external funding realized.

Page 47, Line 28

experts and ~~using funding received~~ subject to receipt of sufficient funding through State and federal grant programs, the

For these reasons, the Maryland Department of Natural Resources respectfully requests the committee to grant HB 653 a favorable report with amendments.