

SB 348_FAV_MML.pdf

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Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

February 9, 2022

Committee: Senate Budget & Taxation

Bill: _____ SB 348 – Conservation Finance Act

Position: Support

Reason for Position:

The Maryland Municipal League supports Senate Bill 348, which creates several new funding sources for municipal governments to help us prepare our constituents, especially those in historically disadvantaged communities, prepare for climate change.

“Pay for success” contracts, the subaccount within the Water Quality Fund, and the Drinking Loan Fund are all helpful to municipalities, but the Green and Blue Infrastructure Policy Advisory Commission (GBIPAC) is the most impactful. This Commission will help us facilitate and accelerate the implementation of green and blue infrastructure projects throughout the State in areas where municipalities sometimes struggle due to lack of resources: carbon sequestration, stream and wetland restoration, forest restoration, and nutrient and sediment load reduction, for example. The inclusion of local government representatives on the GBIPAC is further evidence of a balanced and pragmatic approach.

For these reasons, the League respectfully requests that this committee provide SB 348 with a favorable report.

FOR MORE INFORMATION CONTACT:

Scott A. Hancock	Executive Director
Angelica Bailey	Director, Government Relations
Bill Jorch	Director, Research and Policy Analysis
Justin Fiore	Manager, Government Relations

1212 West Street, Annapolis, Maryland 21401

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

SB 348 Conservation Finance Act (Favorable - The N

Uploaded by: Cait Kerr

Position: FAV



Protecting nature. Preserving life.

The Nature Conservancy
Maryland/DC Chapter
425 Barlow Pl., Ste 100
Bethesda, MD 20814

tel (301) 897-8570
fax (301) 897-0858
nature.org

Wednesday, February 9, 2022

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

FROM: Mark Bryer, The Nature Conservancy, Chesapeake Bay Program Director

POSITION: Support SB 348 - Conservation Finance Act

The Nature Conservancy (TNC) supports SB 348 offered by Senator Elfreth. SB 348 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. SB 348 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 frontline 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 frontline 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 Senator Elfreth for advancing legislation aimed at incentivizing innovative, cost-effective, equitable projects that can help accelerate progress toward Maryland's clean water and climate mitigation goals, while reducing costs.

Therefore, we urge a favorable report on SB 348.

Chesapeake Conservancy Conservation Finance Act Le

Uploaded by: Harry Huntley

Position: FAV

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February 7, 2022

The Honorable Guy Guzzone, Chair
Budget and Taxation Committee
Maryland Senate
Miller Senate Office Building 3 West Wing
11 Bladen Street
Annapolis, MD 21401

The Honorable Jim Rosapepe, Vice Chair
Budget and Taxation Committee
Maryland Senate
Miller Senate Office Building 3 West Wing
11 Bladen Street
Annapolis, MD 21401

Dear Chair Guzzone and Vice Chair Rosapepe,

On behalf of Chesapeake Conservancy, I would like to express our support for SB 348, the Conservation Finance Act of 2022.

As Maryland, our nation, and our global community face twin environmental crises – global climate change and the projected extinction of 1/8th of the world's species by 2100 – we must amplify and accelerate our conservation efforts to protect nature and to protect humanity. To respond to these global challenges, and also to address important local and statewide environmental challenges like restoring the Chesapeake Bay, Maryland must deploy all available resources and explore innovative policy measures to increase incentives for conservation.

Through several changes to state code, SB 348 would allow Maryland to attract greater investment in conservation and environmental outcomes from private capital, including from philanthropic foundations, profit-seeking investors, and from national and multinational corporations acting voluntarily to improve their green footprint.

SB 348 includes a number of innovative policy measures that would put Maryland at the forefront of the effort to further incentivize private capital investments in environmental outcomes. The bill would authorize pay-for-success contracting in Maryland's procurement code and would define environmental outcomes for procurement. As a result, Maryland agencies could purchase environmental outcomes such as 'pounds of nutrient pollution reduced', using pay for success contracts which incentivize performance and shift project risk to investors.

The bill would also expand uses of Maryland's Clean Water and Drinking Water state revolving funds (SRFs) to incentivize green infrastructure and conservation projects as a means to protect source water. SRFs enable a competitive borrowing rate for communities and investors, thereby reducing risk. Changes to state code for Maryland's SRFs would also address environmental justice by prioritizing projects to replace toxic lead pipes, by consolidating small private and failing utilities, and by supporting green infrastructure projects that would benefit disadvantaged communities.

SB 348 would also enable Maryland landowners to take advantage of voluntary carbon markets, including to preserve agricultural lands and deploy conservation practices for soil health. The bill would create a clear authorization for Maryland to purchase soil and forest carbon outcomes, it would authorize the state to partner with expert organizations to support credit aggregation, and it would direct Maryland to implement one forest carbon offset project on state land by 2024.

Collectively, these and other innovative policy provisions would drive greater investment from private capital sources in order to achieve conservation and environmental outcomes in Maryland. My belief is that it would provide an estimated additional \$100 million per year for conservation within five years after the bill is implemented.

SB 348 represents the first comprehensive conservation finance legislation in all the states, and would enable Maryland to amplify and accelerate its conservation and environmental restoration efforts.

Thank you for considering this important legislation, and I urge you to support SB 348.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joel Dunn', with a large, stylized initial 'J'.

Joel Dunn
President and CEO
Chesapeake Conservancy

Conservation Fund Conservation Finance Act letter.

Uploaded by: Harry Huntley

Position: FAV

THE CONSERVATION FUND

410 Severn Avenue, Suite 204
Annapolis, MD 21403
(443) 482-2826 Fax: (443) 482-2806
www.conservationfund.org

February 7, 2022

Senator Guy Guzzone
Chair, Senate Budget and Taxation Committee
Senator Paul Pinsky
Chair, Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB0348 Conservation Finance Committee

Dear Senator Guzzone and Senator Pinsky,

The Conservation Fund believes that protecting valuable, conservable land is essential to America's environmental health and economic vitality. As a national 501 c(3) non-profit organization, our land conservation efforts make it possible for conservationists, community leaders, land trusts and government to swiftly and efficiently safeguard these properties for wildlife, recreation, historic significance or to help balance our built environment. The Conservation Fund has protected over 8 million acres nationwide. In TCF's Maryland Office, The Conservation Fund has protected close to 150,000. We typically focus on the largest and most complex projects. Our *Parks with Purpose* program focuses on some of our most vulnerable urban communities. Through equitable park development projects and a community-centered approach, we work with residents to transform and restore blighted, inner-city properties into vibrant new parks. On Maryland's eastern shore, with our sponsorship of the Harriet Tubman Rural Legacy Area, we also work to protect 28,300 acres that served as the setting for Harriet Tubman's struggles and heroism.

For our country, the Chesapeake Bay region, and Maryland to meet essential goals to protect thirty percent of our lands by 2030, to store large amounts of greenhouse gases in protected and restored forests, and to build climate resilience for our communities, we need more policy tools that will help us achieve those goals more rapidly and at greater scale. Current sources of funding will not be sufficient to meet and maintain these and related goals such as the Chesapeake Bay restoration. We need to additional sources of financing including those provided by the rapidly expanding private capital and ecosystem investment markets. This proposal if enacted, will make Maryland more attractive to these sources of financing.

SB0348, the Conservation Finance Act, is exactly the kind of policy proposal that will give us those tools. The Fund strongly supports passage of this legislation in part because it focuses on green and blue infrastructure and other nature-based policies.

While being budget neutral, the legislation creates new ways for Maryland to protect and restore carbon-storing and water-purifying forests.

For example, other states including Pennsylvania, Virginia, and California have already been using state revolving loan funds to protect forests in the headwaters of essential drinking water supplies. This legislation would give Maryland that same flexibility. Revolving loan funds can also be used for loan guarantees. Essentially a loan guarantee allows a project to get a less expensive loan from lenders; however, Maryland has almost never used its existing guarantee program. This legislation would expand the guarantee so it can be used to backstop forest

protection loans and so that nonprofits and other organizations are eligible for those loan guarantees for environmental impact bonds or green bonds. The Conservation Fund is the largest nonprofit holder of a green revolving loan fund for forest protection. There is much greater demand for our fund than we can ever meet and we know that if Maryland's program is expanded in this way, it will help partners finance more forest protection throughout the state.

The Conservation Finance Act also expands ways the state can attract voluntary carbon finance projects to Maryland. As compared to other states like PA and VA, MD has no viable or growing voluntary carbon offset markets. The legislation encourages DNR to create a working group on forest carbon that will help private landowners aggregate carbon credits across multiple properties to be able to sell those credits to voluntary buyers and takes a similar step for the MDA. The bill also allows reforestation of Maryland state forests to be used to meet the insurance or buffering requirements of voluntary carbon protocols, which will provide a small amount of private funding for forest restoration on public lands and help private landowners enhance forest protection through carbon projects.

As one of the nation's largest conservation nonprofits, we hope your committee and the General Assembly will enact SB 0348 and in so doing, establish greater priority for nature-based solutions and allow our great state to capture its fair share of growing private capital investment markets.

Sincerely,

Bill Crouch
Maryland State Director
The Conservation Fund

CCS:
Senator Jim Rosapepe
Senator Sarah Elfreth
Senator Ron Young
Senator Will Smith
Senator Mary Washington
John Griffin

Corvias Conservation Finance Act letter Elfreth.pd

Uploaded by: Harry Huntley

Position: FAV

January 13, 2022

Senator Sarah Elfreth
103 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Proposed Changes to the Comprehensive Conservation Finance Act

Dear Senator Elfreth:

Corvias has become aware of proposed changes to state policy that could stimulate more investments in and partnerships for clean water in Maryland through a comprehensive conservation finance proposal, and we support those changes. Great strides forward have been made, specifically in Prince George's County with the Clean Water Partnership Community-Based P3, bringing local jobs and economic stimulus to County residents via local clean water infrastructure improvements and reducing the impact on Chesapeake Bay. Over the last 20 years, Corvias has formed 32 partnerships with the Department of Defense, colleges and universities, and municipalities to solve their infrastructure and facilities challenges. Our partnerships are projected to generate over 10 billion in savings and returns to our public partners.

The proposed financial changes, specifically Pay for Success contracts for drinking water and clean water infrastructure, provide clear paths to flexible ways of funding the future of the programs, which bring environmental justice and social equity to the residents of Maryland. Allowing the Department of Natural Resources to use Pay for Success contracts with non-profit or for-profit organizations to achieve the goals of the Chesapeake and Coastal Bays 2010 Trust Fund will cement Maryland's place as a conservation leader. We commend the legislature for providing DNR, DOT and other state agencies authorization to use these contracts, as well as for local government to take advantage of them through intergovernmental cooperative purchasing agreements.

Corvias is extremely proud to have been a part of the Maryland success story through our Clean Water Partnership with Prince George's County. Today, that investment exceeds \$300M in water infrastructure improvements while generating over \$655M in documented economic impact. Our initial \$100M large scale pilot project has led to significant cost savings and local contractor growth through a focus on mentorship and efficiencies of scale. The proposed legislative changes would expand the State of Maryland's ability to apply what has worked, improve the procurement process by bringing the State's purchasing power to local cities or counties, and encourage additional private financing or public-private financing partnerships. Conservation investing continues to grow, and public policy through the refinement of CCFA is an important step to continued clean water benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Kerachsky".

Shawn Kerachsky
Corvias Infrastructure Solutions (CIS)
Managing Director
www.thecleanwaterpartnership.com

GreenVest Conservation Finance Act letter.pdf

Uploaded by: Harry Huntley

Position: FAV



January 26, 2022

The Honorable Sarah Elfreth
James Senate Office Building
11 Bladen St., Annapolis, MD 21401

Re: Comprehensive Conservation Finance Act – SB 0348

Dear Senator Elfreth,

GreenVest is a 25-year-old company engaged in the restoration of environmentally sensitive land throughout the eastern part of the United States. Our company has completed or in the process of carrying out almost \$162 million in restoration work in our Bay region and throughout the Atlantic Seaboard. I know you are aware of our work throughout the Chesapeake Bay Program (CBP) area and our involvement in helping advance innovative strategies to enhance the efficiency of advancing restoration work. You also are aware of the significant costs faced by all responsible parties in Maryland who are trying to comply with CBP mandates and related timelines.

With this communication I am writing to thank you and cosponsors for introducing the Comprehensive Conservation Finance Act. It makes very good sense, particularly at this time when all State and County budgets are strained by reduced revenues and increased spending to protect the health of Maryland citizens.

The Act recognizes the significant growth in private investment of companies like GreenVest, with the goal of generating both a financial return and a measurable environmental result. It is not a lack of initiative by companies like GreenVest or access to capital holding back conservation investing, its policy. The lack of guidance, and better yet, rules have a critical role to play in unlocking the potential for conservation investing. The policies and rules do not exist at the level we need them. If put in place, changes like the ones in this proposal will signal market stability, bolstering demand, improving transaction efficiencies, and reducing risk. The net result will be more low-cost funds to get restoration projects in the ground faster.

Our analysis of the Comprehensive Conservation Finance Act (CCFA) suggests that the proposed legislation strengthens enabling conditions and would significantly attract private investment capital for conservation in Maryland. We think the most important ways this Act will trigger more investment in the CBP are as follows:

Signaling Market Stability

The CCFA helps expand investment by allowing the Bay Trust fund to pay for water quality outcomes through Pay for Success contracts and to prioritize and price other co-benefits. The legislation also expressly encourages and supports larger scale, multi-year, nonpoint source water quality and co-

benefit initiatives through the Chesapeake Trust Fund. These changes and the backing by state contracts help signal market stability, effectively reducing risk for private investors.

Bolster Demand

Government policy can encourage private investment by signaling consistent and dependable demand for conservation outcomes. By authorizing Pay-for-Success more broadly for DOT and four other agencies as a competitive procurement practice, the CCFA creates the opportunity for the state to buy completed environmental outcomes, for example to meet stormwater permit requirements for road projects. If private investors perceive the state as a predictable buyer of environmental commodities, they will start investing in the delivery of water quality and similar outcomes in advance of the state's need. The proposed policy changes make it more likely that investors, banks, and other capital sources will want to provide us with even higher levels of support which in turn allow us to carry out more restoration projects, support more local jobs, and advance more of the state's goals. In addition, by setting a preference for third-party forest banks, the CCFA also decreases the level of risk in market-based investments and establishes a secure and stable footing for these investments to occur.

Improving Transaction Efficiency

The CCFA seeks to improve transaction efficiency in several ways. By defining "environmental outcome" as a commodity, it creates a way for agencies to use commodity or supply contracting authorities, which should dramatically simplify the paperwork needed for them. The legislation encourages the formation of public/private partnerships to aggregate projects for carbon market offset sales. Given the importance of scale for successful carbon development projects, aggregation is critical to reducing transaction costs. The Green and Blue Infrastructure Policy Advisory Commission created by the CCFA is, among other things, tasked with identifying overlapping areas of state and local procedures that could be simplified to make restoration easier. Similarly, the working group on carbon offset sales is charged with reducing barriers for Maryland landowners to participate in growing carbon markets.

Reducing Risk

Publicly funded mechanisms that reduce risk have the potential to leverage significant private capital. The CCFA proposes changes to the state revolving funds for drinking water and clean water to clarify all the ways these funds can be used for source water protection. These federally backed programs provide very low interest rate financing (typically less than 2% and as low as 0% for certain projects) that has largely been used for traditional water infrastructure. Out of the \$2.5 billion provided over the last 20 years in Maryland, only \$130 million has gone toward green infrastructure. State revolving funds have been critical to large conservation efforts in other states because they reduce risk to private partners by offering them access to concessionary rate financing.

Private Investment in Maryland

Maryland has committed significant public financial resources toward safeguarding the Chesapeake Bay. However, public funding is limited and will be stretched even further to keep up with the growing need in the current economic environment. Markets that encourage

conservation and support ecosystem functions on private lands are critical to protecting the Bay and safeguarding natural resources and community health throughout Maryland.

Billions of dollars are now flowing into sustainable and green investment initiatives and that flow has not stopped during this pandemic. The CCFA will help Maryland become a leader in the region—and perhaps the country—in attracting private conservation dollars. Maryland would be the first state in the country to introduce comprehensive legislation like this and we hope others will follow its lead.

Enhanced Access to Federal Dollars

There is a strong connection between the pronounced agendas of some of the new Biden Administration appointments at FEMA, EPA and OMB and what would be accomplished with this bill. If passed, many provisions track very closely to these new agency agendas and therefore the State can become an enabler of some of the Executive Orders and policies being advocated at the Federal level.

Here is the rationale. COVID 19, the economy, racial inequality and climate change are among the highest priorities of the Biden Administration. COVID work is a function of resecuring a healthy standard of living and maintaining it. Water quality, enhanced air quality and the environmental restoration work we seek to do is important to this goal. We are also seeking more and more opportunities to do work in or near more burdened communities so site selection for our stream restoration projects is better targeted to creating community co-benefits and environmental justice ones too. Getting jobs permitted and funded in a timely manner puts more people back to work. And last but not least, all of the work we do helps negate an accelerated level of climate change.

If we secure passage of this legislation our industry will aggressively seek to implement the benefits being espoused. Maryland can become a national thought leader and advocate nationally for this type of creative work and thus the environment as a whole can be positively impacted. However, Maryland's passage of this legislation may also make it far easier for the state to compete for new federal funds or initiatives that are aligned with the same priorities covered by this legislation and that would already be built-in to state law in advance.

Tech innovations have transformed our lives in unimaginable ways, and it has happened fast. Why do we embrace and accept that pace of change but accept so little innovation in government policies and rules that hinder our ability to have clean water, clean our streams, rivers, and bays? This legislation helps address a significant barrier to efficiency and sends an important message at a critical time.

I have attached two exhibits that might be helpful to advance your support and that of others. First is a two-page summary of the legislation and second some key statements of support from many stakeholders.

We thank you for your support and also appreciate the support of the Departments of Environment, Natural Resources, and Transportation. We encourage other members of the Senate and House to support this bill and pass it this session.

Thank you for your consideration. Please feel free to call me at 301-529-1592 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Lashley", with a long horizontal flourish extending to the right.

Doug Lashley

Managing Member
GreenVest, LLC

Cc: Governor's Council on The Chesapeake Bay
lee.currey@maryland.gov

Delegate Sara Love
210 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Regina Boyce
316 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Comprehensive Conservation Finance Act Support

Senator Sarah Elfreth and co-sponsors will introduce legislation this session to make amendments to state policies that will not increase the state budget but will allow Maryland to attract more private investment to achieve our Bay and climate goals, as well as environmental justice goals.

The following are some of the statements of support received so far for this legislation.

“No U.S. state legislative body or governor has ever proposed or passed any legislation that could be reasonably called a comprehensive conservation finance act. ...this gives Maryland a chance to stand out.” *Nicholas Dilks, Managing Partner, EIP. Ecosystem Investment Partners, Baltimore City.*

“Our members are increasingly seeking out large scale restoration projects and initiatives because of the scale of investment from pension funds and other investors ... There are multiple changes in the CCFA that would make much larger scale investment possible and likely.” *Sara Johnson, Executive Director, ERBA. The Ecological Restoration Business Association represents ecological restoration firms across the U.S.*

“If put in place, changes like the ones in this proposal will signal market stability, bolstering demand, improving transaction efficiencies, and reducing risk. The net result will be more low-cost funds to get restoration projects in the ground faster.”

— *Doug Lashley, Managing Member, GreenVest LLC, Bowie Maryland.*

“The policy changes and initiatives contained within it will make it easier for Maryland to attract private funding and finance of conservation, and for innovative efforts like the Revolving Water Fund to provide turnkey compliance options for permit holders.”

— *Ashley Allen Jones, CEO, i2 Capital, Washington, DC.*

“If a state like Maryland gets policies like these right, it will lead to more jobs and investment in the state at a critical time for the Bay and the economy.” *Michael Hare, Director of Government Relations, RES, Glen Burnie, Maryland.*

“The proposed CCFA legislation will serve to 1) bolster ecological restoration demand; 2) improve transaction efficiencies; 3) increase investment in ecological restoration and; 4) reduce the cost of financing these critical infrastructure improvements.”

— *Jeffrey Eckel, Chairman and CEO, Hannon Armstrong (NYSE: HASI). Annapolis, Maryland.*

“By authorizing Pay-for-Success as a competitive procurement practice, the CCFA creates the opportunity for the state to buy completed environmental outcomes.” *Peter Stein, Managing Director, Lyme Timber. Lyme Timber Company LP*

“Encouraging and incentivizing programs that address environmental justice and equity is a welcome feature of this Act and will focus development on projects that address water quality and quantity challenges in disadvantaged communities.” *Eric Letsinger, CEO, Quantified Ventures. Quantified Ventures, an outcomes-based capital firm based in Chevy Chase, Maryland*

“Corvias has been a part of the Maryland success story through our Clean Water Partnership with Prince George’s County. The proposed changes expand the State’s ability to apply what has worked, improve the procurement process by bringing purchasing power to local cities or counties, and encourage additional private financing or public-private financing partnerships.” *Sean Agid, Partnership Development, Corvias, Co.*

“The enabling conditions created by the CCFA will increase private investment in projects that will deliver ecosystem services to Marylanders.” *David Tepper, CEO, The Earth Partners. Bethesda, Maryland.*

“Combined, these and other changes represent a powerful approach to stretch public dollars and increase the viability of cross-sector investments that support healthy forests.” *Blake Stansell, CEO, Forestlands Group, Maryland’s largest private landowner*

“This comprehensive measure would advance conservation, environmental justice, and water quality efforts throughout the State, unlocking both private capital and federal funding. Maryland has the chance to be a national leader by passing this Act.” *April Mendez, CEO, Greenprint Partners, a certified B Corporation*

Maryland's Comprehensive Conservation Finance Act

Global, profit-seeking investment in environmental conservation is expected to grow to more than \$200 billion per year in the coming years. This investment is already making a difference in Maryland. For example, Prince George's County's innovative \$250 million Clean Water Partnership is funded by private capital until projects are successful and paid back with public funds. Maryland could attract more investment to achieve our Bay and environmental outcomes with adjustments to policies that make our state programs work better.

Senator Sarah Elfreth and co-sponsors have introduced legislation this session to make no-cost amendments to state policies that will allow Maryland to attract more investment to achieve our Bay and climate goals, as well as environmental justice goals.

Highlights:

- Makes Maryland the first state to define 'blue infrastructure' and puts both blue and green infrastructure on equal footing for state financing to gray infrastructure projects.
- Conservation easements on forests, tree planting, and other green infrastructure projects would be more eligible for MDE state revolving fund loans, grants, and loan guarantees.
- Expands eligibility of non-profits or for profits to receive loan guarantees that can help secure low-cost financing for green bonds and environmental impact bonds, like Baltimore's environmental impact bond.
- Strengthens direction for MDE to use loans and similar financing to support toxic lead pipe removal.
- Creates a green infrastructure and restoration commission to make recommendations on how the state can make permitting and installation of projects easier and faster to achieve.
- Asks the state's Environmental Justice Commission to recommends actions needed to create a human right to affordable, clean water, as California has done.
- Expands DNR Chesapeake and Coastal Bays Trust Fund contracting to allow them to use Pay for Success contracts that buy environmental outcomes like reduced nitrogen pollution after projects succeed and allows the agency to prioritize and pay for environmental justice and local job co-benefits.
- Strengthens incentives for the establishment and use of forest banks that protect and restore forests and offset forest losses from development.
- Authorizes both DNR and Department of Agriculture to create working groups or hire carbon market experts to help develop programs and standards that make it easier for Maryland landowners to find voluntary carbon market buyers for carbon stored in soils and forests.
- Adopts language in three areas of state law to make sure that contracts and easements don't prevent Maryland landowners from being able to participate in voluntary carbon markets.

- Expands opportunities for private finance to support removal of hazardous dams to restore fish populations or retrofit of old dams for hydropower.
- Allows MDE to make loans to watershed and conservation projects in the Pennsylvania portion of the Susquehanna watershed to accelerate water pollution improvements there, to be paid back by Pennsylvania.
- Allows DOT to use public-private partnerships to install and maintain green and blue infrastructure.
- Creates a Natural Capital Task Force, co-chaired by UMD, to recommend best practices for local and state government to account for natural assets like flood protection and forest carbon on government balance sheets.
- Makes Maryland the second state to create a new form of contracting in state procurement law called “Pay for Success” that makes it easier for DOA, MDE, DNR, DOT, and MET to pay for projects after they deliver results as opposed to before.
- Makes Maryland the first state to define ‘environmental outcomes’ like carbon sequestration and nutrient pollution runoff as a commodity that can be more easily requisitioned and purchased by the state to meet conservation and climate goals.

i2 Conservation Finance Act letter.pdf

Uploaded by: Harry Huntley

Position: FAV



February 2, 2022

Senator Sarah Elfreth
103 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Page | 1

Delegate Sara Love
210 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Regina Boyce
316 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

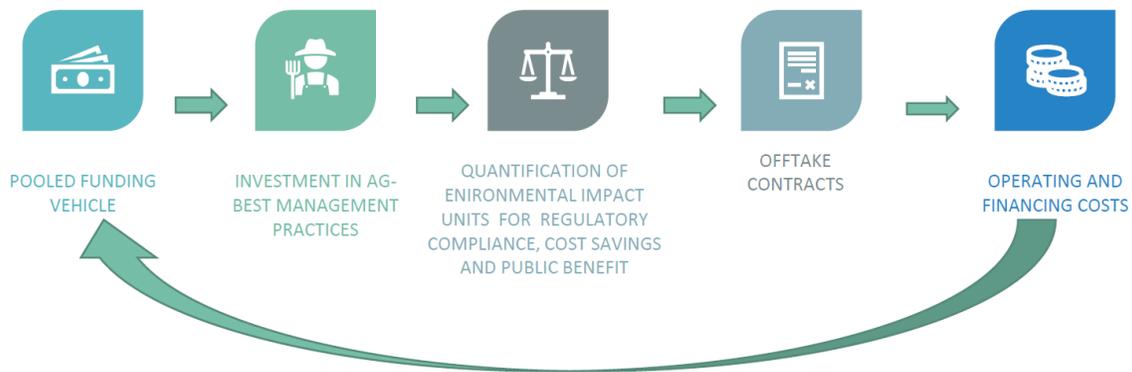
Re: SB0348 The Conservation Finance Act of 2022

Dear Senator Elfreth, Delegate Love and Delegate Boyce,

i2 Capital is a conservation finance firm that works at the intersection of public and private sectors to advance innovative solutions that bring additional private capital to bear on the conservation challenge. As part of that work, i2 Capital designed and operates the Revolving Water Fund (RWF), a funding mechanism that invests in natural infrastructure solutions (e.g. conservation projects on agricultural properties) that provide water quality benefits to surrounding communities and downstream water bodies.

The RWF model, developed in the Delaware River Watershed with funding from an NRCS Conservation Innovation Grant, the William Penn Foundation, Dupont, the Bunting Family Foundation and i2 Capital, is at once a finance, governance, and operating mechanism. The RWF aligns natural infrastructure development practices with compliance guidelines (in this case PADEP offset rules), to deliver “full-service” quantified pollution reductions (sediment, nitrogen, phosphorous) to regulated MS4s. Contracts include long-term operating and maintenance commitments and manage for non-compliance risk. Importantly – MS4 “offtake” of such reductions under Pay-for-Performance contracts, is triggered by receipt of regulatory approval, thereby reducing regulatory risk for the RWF’s regulated partners, while providing a ready on-ramp for adoption of such price-efficient contract practices.

The RWF has now executed pilot contracts with three municipalities: (i) the City of Newark, DE; (ii) Kennett Township, PA; and (iii) East Marlborough Township, PA. Each of these contracts reflects close working partnerships with regulators, MS4s, conservation experts and engineers, supported by RWF’s deep expertise in finance, legal and regulatory realms.



We believe that the RWF model reflects a material breakthrough in conservation finance practice, with broad applicability across the Delaware and Chesapeake Bay watersheds and beyond. The model provides regulated permittees a cost-effective and efficient approach to meet a portion of their MS4 compliance obligations with reduced risk and lower strain on operating capacities. The process of project identification, quantification, contracting, verification, and regulatory alignment becomes part of RWF project development, relieving municipalities of this often complex and time-consuming practice. Regulated entities can enter contracts for pollution reductions, with cash obligations contingent upon regulatory approval.

The RWF also provides an efficient on-ramp for agricultural producers and private landowners to install conservation practices on their farms. Many producers are interested in installing such practices, but the economics of agricultural production, coupled with the traditional funding environment that combines Federal or state cost-share, philanthropic grants and farmer co-payments, often restrict conservation adoption to the largest, most well-capitalized producers. Our alignment of agricultural conservation priorities with funding velocity and installation efficiency supports broad practice adoption by willing farmers who were previously capacity constrained.

We have reviewed SB0348 and based on our experience in the conservation finance field and our deep interest in expanding private capital support for conservation, we strongly encourage the Legislature to pass this bill. The policy changes and initiatives contained within it will make it easier for Maryland to attract private funding and finance of conservation, and for innovative efforts like the RWF to provide turnkey compliance options for permit holders.

While not panaceas, these types of market-based solutions provide a welcome compliment to non-profit and state cost-share efforts to achieve compliance objectives and address water quality priorities. Indeed, the EPA has expressed strong support for “accelerated adoption of market-based programs that will incentivize implementation of technologies and land use practices that reduce nonpoint pollution in our Nation’s waterways.” Recent announcements from major technology companies, airlines and other commercial market actors suggests that



with basic policy improvements, Maryland also will see increased purchases under voluntary markets.

We believe private investment and funding of conservation outcomes depends on:

- (i) clear pipeline of demand for “quantified offtake;”
- (ii) risk reduction around contracting;
- (iii) regulatory compliance;
- (iv) ESG adoption of voluntary purchase practices;
- (v) relevant “conservation finance” pools; and
- (vi) aligned intellectual capital.

The Conservation Finance Act addresses (i), (ii) and (iii), in terms of government as a first in line “purchaser” of environmental products, contract practice clarity and regulatory compliance clarity, and (v) in the expansion of State Revolving Loan Fund pools to facilitate project development and/or product offtake. It also addresses (vi) in terms of providing for a Task Force that aligns intellectual capital. In short, passage of SB0348 will position Maryland as an innovative problem solver and de facto leader in the conservation finance field and will create powerful incentives for the private sector to join in that effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley Jones', with a long, sweeping horizontal line extending to the right.

Ashley Allen Jones

CEO

i2 Capital

Advisor, Chesapeake Bay Program Water Quality Goals Implementation Team

Member, EPA Environmental Financial Advisory Board

LTA Conservation Finance Act Letter.pdf

Uploaded by: Harry Huntley

Position: FAV



February 4, 2022

The Honorable Senator Guy J. Guzzone, Chair
The Honorable James C. Rosapepe, Vice Chair
Maryland Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen St.
Annapolis, Maryland 21401-1991

Re: SUPPORT for SB0348 / HB0653 Conservation Finance Act of 2022

Dear Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee:

The Land Trust Alliance (Alliance) represents more than 1,000 nonprofit land trusts (including 25 organizations in Maryland), which count more than 5 million Americans as supporters. The work of the Alliance and our member land trusts to advance the climate and conservation goals furthered by SB348 has never been more important. The Conservation Finance Act supports Maryland's efforts to slow address/slow climate change, build community climate resilience, achieve critical Chesapeake Bay water quality goals, protect and restore forests, and address environmental justice priorities. SB348 does this by enacting targeted, measured, and cost-conscious changes to Maryland's conservation programs and policies. Consequently, the Alliance encourages you and the entire Maryland General Assembly to pass SB348 and establish a national example for advancing strategic conservation.

We embrace the goal of protecting thirty percent of the United States by 2030 ("30x30"), which is a science-based target that aims to prevent the most severe impacts of climate change on biodiversity. Protecting and restoring private, as well as public, lands and waters will play an essential role in reaching this target. Land trusts are our nation's primary drivers of private land conservation and the Conservation Finance Act ("SB348") will directly support their efforts to engage private landowners in the effort to realize this audacious, but necessary, "moonshot for nature."

The Alliance recognizes that more financial resources are required to address unmet needs for land conservation and restoration. The Alliance focuses considerable

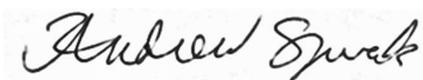
resources on education and capacity building around conservation finance. We increase access to public and philanthropic resources for water-focused conservation and expand availability of new and innovative funding that supplements these resources. Together with the Chesapeake Bay Funders Network, the Alliance has made 31 grants since 2017 through its Land and Water Initiative totaling more than \$760,000. These grants helped launch and sustain partnerships that advance water quality through land protection and management. The Alliance also sponsors conservation finance trainings for public and private partners in the Chesapeake Bay Watershed.

SB348 contains unique and visionary policy tools that embody the kinds of solutions necessary to seriously pursue 30x30 and the continued health of Maryland's natural resources. It makes important changes to Maryland's State Revolving Fund that facilitate financing for projects that protect water quality through land conservation. It enables more nonprofit land trusts to receive loan guarantees that will increase their participation in water quality work. It also strengthens and incentivizes forest banks that offset forest losses through permanent protections.

The Alliance also notes that tax deductions for charitable conservation donations are authorized by Internal Revenue Code 170(h) and that these deductions are of primary importance to our community. We request that Maryland state agencies continue to ensure consistency between IRC 170(h) and its own conservation programs.

In closing, the Alliance enthusiastically encourages the Maryland General Assembly and Governor to enact SB348. We look forward to SB348 becoming a national model for state policy that encourages cost-conscious conservation. Thank you for favorably considering this critical legislation.

Sincerely,



Mid-Atlantic Program Manager

Lyme Conservation Finance Act letter.pdf

Uploaded by: Harry Huntley

Position: FAV



23 SOUTH MAIN STREET
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January 24, 2022

Senator Sarah Elfreth
103 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Delegate Sara Love
210 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Regina Boyce
316 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: SB0348 The Conservation Finance Act

Dear Senator Elfreth, Delegate Love, and Delegate Boyce:

The Lyme Timber Company LP is a private timberland investment manager that focuses on the acquisition and sustainable management of lands with unique conservation values. Our portfolio includes approximately 1.5 million acres throughout the United States. Lyme Timber Advisory Services, a separate consulting arm of the company, has been engaged by the Environmental Policy Innovation Center to help offer a practitioner’s perspective on SB0348 The Conservation Finance Act (CFA).

Conservation investing—intentional investments in companies, funds, and organizations with the goal of generating both a financial return and a measurable environmental result—is growing dramatically. In just two years, the total private capital committed to conservation investments jumped by 62%, to a total committed private capital of \$8.2 billion.¹ It is not a lack of capital holding back conservation investing. Public policy has a critical role to play in unlocking the

¹ Kelley Hamrick, “State of Private Investment in Conservation 2016: A Landscape Assessment of an Emerging Market,” Forest Trends’ Ecosystem Marketplace, (2016) https://www.forest-trends.org/wp-content/uploads/2017/03/doc_5474.pdf

potential for conservation investing - bolstering demand, improving transaction efficiency and reducing risk.

Our analysis of the CFA suggests that the proposed legislation strengthens these enabling conditions and would attract significantly more private investment capital for conservation in Maryland. The following memo summarizes the most important ways the CFA, if enacted, would be likely to trigger higher levels of investment.

Bolstering demand

Government policy can encourage private investment by signaling consistent and dependable demand for conservation outcomes. By authorizing Pay-for-Success as a competitive procurement practice, the CFA creates the opportunity for the state to buy completed environmental outcomes. If private investors perceive the state as a predictable buyer of environmental commodities, they will start investing in the delivery of water quality and similar outcomes in advance of the state's need.

Improving transaction efficiency

Overly high transaction costs are a significant barrier in preventing private investment in public goods.² The CFA seeks to improve transaction efficiency in a number of ways. By defining "environmental outcome" as a commodity, it creates a way for agencies to use commodity or supply contracting authorities, which should dramatically simplify the paperwork needed for them. The legislation encourages the formation of public/private partnerships to aggregate projects for carbon market offset sales. Given the importance of scale for successful carbon development projects, aggregation is critical to reducing transaction costs. The Green and Blue Infrastructure Policy Advisory Commission recommended by the CFA is, among other things, tasked with identifying overlapping areas of state and local procedures that could be simplified to make restoration easier. Similarly, the working group on carbon offset sales is charged with reducing barriers for Maryland landowners to participate in growing carbon markets.

Reducing Risk

Publicly funded mechanisms that reduce risk have the potential to leverage significant private capital.³ The CFA proposes changes to the state revolving funds for drinking water and clean water to clarify all the ways these funds can be used for source water protection. These

² Thornley, Ben and Wood, David. Impact Investing: A Framework for Policy Design and Analysis. Insight at Pacific Community Ventures and The Initiative for Responsible Investment at Harvard University, 2011. <https://iri.hks.harvard.edu/files/iri/files/impact-investing-policy-framework.pdf>. Accessed September 22, 2020.

³ Whelpton, Leigh and Ferri, Andrea. Private Capital for Working Land Conservation: A Market Development Framework. Washington DC: The Conservation Finance Network, 2017. https://www.conservationfinancenetwork.org/sites/default/files/Private_Capital_for_Working_Lands_Consevation.pdf, accessed September 22, 2020.

federally-backed programs provide very low interest rate financing (typically less than 2% and down to 0% for certain projects) that has largely been used for traditional water infrastructure. Out of the \$2.5 billion provided over the last 20 years in Maryland, only \$130 million has gone toward green infrastructure. State revolving funds have been critical to large conservation efforts in other states because they reduce risk to private partners by offering them access to concessionary rate financing. For example, Lyme accessed financing from Pennsylvania's clean water revolving loan fund to acquire 67,500 acres of timberland in northwest Pennsylvania. In addition to managing the timberland sustainably, Lyme donated a conservation easement on 9,400 acres and agreed to fund \$75,000 of acid mine drainage remediation work.

Maryland has committed significant public financial resources toward safeguarding the Chesapeake Bay. However, public funding is limited and will be stretched even further to keep up with the growing need in the current economic environment. Markets that encourage conservation and support ecosystem functions on private lands are critical to protecting the Bay and safeguarding natural resources and community health throughout Maryland. We think the changes proposed in the CFA will help Maryland become a leader in the region – and perhaps the country - in attracting private conservation dollars. Maryland would be the first state in the country to introduce comprehensive legislation like this and we hope others will follow its lead.

A handwritten signature in black ink, appearing to read "Peter R. Sten". The signature is fluid and cursive, with a small dot above the "i" in "Sten".

Sincerely,

Managing Director
The Lyme Timber Company LP

QV Conservation Finance Act letter.pdf

Uploaded by: Harry Huntley

Position: FAV

January 27, 2022

Senator Sarah Elfreth

103 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Delegate Sara Love

210 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Regina Boyce

316 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: SB0348 Conservation Finance Act

Dear Senator Elfreth, Delegates Boyce, and Delegate Love,

On behalf of Quantified Ventures, an outcomes-based capital firm based in Chevy Chase, Md., we are writing to voice our strongest support for the proposed Conservation Finance Act. This legislation will have dramatic positive impact on Maryland's environment, economy, and population by incentivizing new environmental projects, facilitating projects of greater scale and impact, and unlocking capital from federal programs and private impact investors. By passing this Act, Maryland will be the standard for environmental conservation finance that other states and federal agencies look to as a model for innovation and vision.

Quantified Ventures develops and structures financing for transformative environmental projects across the country using an outcomes-based approach (also known as Pay-for-Success). An outcomes-based approach aligns project financing with the actual results – or outcomes – of the project. For example, a municipality issuing a bond for a project with environmental benefits would repay that bond based on the actual and verified environmental outcomes from the project. Using an outcomes-based approach transfers execution risk (i.e., the risk that a project does not get completed or completed on budget) and performance risk (i.e., the risk that a project does not produce desired results) from the project sponsor (e.g., municipalities, states) to third-party impact investors. This transfer of execution and performance risk makes outcomes-based financing more efficient than traditional financing for ambitious and innovative environmental projects.

An additional benefit of an outcomes-based approach is verified, data-driven reporting on project results. Since the repayment of loans and investments are tied directly to actual environmental results, all our projects include a monitoring and verification process that provides project sponsors, impact investors, public entities, and citizens with tangible data on the environmental outcomes from specific projects.

The Conservation Finance Act has several positive implications for our work and for environmental projects across the state.

- A Pay-For-Success procurement code that allows the state to buy environmental outcomes will create a defined income stream that will spur new investment and projects. Developers will engage in new environmental projects knowing there is a customer and a transparent price for outcomes produced. These projects will become more efficient as developers eliminate costs that are superfluous to generating outcomes. Investors and banks will finance these projects knowing there is a future income stream to repay their loans if the outcomes are achieved. We have seen the benefits of this type of code in our Soil and Water Outcomes Fund. The USDA's Natural Resources Conservation Services (USDA-NRCS) is providing \$15.8 million through the Regional Conservation Partnership Program Alternative Funding Arrangement (RCPA-AFA) to buy verified water quality outcomes in Illinois, Indiana, Iowa, Missouri, and Ohio that allowed us to scale that program by 10x in 2021 and to expand to additional states in 2022/2023. This code also has the potential to save money for the state. In Iowa, the Iowa Department of Agriculture found that buying verified water quality outcomes from the

Soil and Water Outcomes Fund is up to 30% cheaper than current programs aimed at achieving similar outcomes.

- Greater scope and flexibility in the use of state revolving funds (including use for loan guarantees) can launch projects that today struggle with financing due to the nature of the project and timing of the associated environmental outcomes. In Quantified Ventures' Forestry and Land Use practice, we have seen several innovative forest conservation projects stall despite the carbon and water quality benefits. Because the benefits from environmentally-focused forestry projects accrue over a long period of time, long-term and low- cost financing is required to make the economic model work. In the Soil and Water Outcomes Fund, the Iowa Finance Authority's flexibility in structuring the working capital investment has been critical to supporting the project growth. This financing allows us to expand faster within Iowa and allocate a greater proportion of upfront funding to paying farmers for implementing conservation practices.
- Encouraging and incentivizing programs that address environmental justice and equity is a welcome feature of this Act and will focus development on projects that address water quality and quantity challenges in disadvantaged communities. In our Atlanta, Buffalo, and Hampton Environmental Impact Bonds, environmental justice played an important role in defining the project scope, investments, and outcome metrics to monitor and verify. Leaders in these cities were attracted to the outcomes-based approach (i.e., Pay-for-Success) to align the city investments with verified environmental equity outcomes (e.g., reduced flooding, improved water quality, access to green space) in communities that had suffered from years of underinvestment.
- Facilitating landowner participation in carbon markets can result in new projects that have both water quality and carbon benefits. We have found a large corporate market for voluntary carbon credits as companies set ambitious carbon reduction goals. Combining carbon outcome revenues with water quality outcomes can unlock enough total revenue to fund upfront costs of a project. Corporate carbon outcome sales also have the benefit of subsidizing costs for the state agency or municipality buying the water quality outcomes. In the Soil and Water Outcomes Fund, selling the carbon outcome benefits to corporations such as Cargill makes the project economically feasible and helps subsidize the water quality outcome costs to the downstream municipalities.

Examples of Quantified Ventures outcomes-based projects include the DC Water Environmental Impact Bond, Atlanta Environmental Impact Bond, and the Soil and Water Outcomes Fund.

- **DC Water Environmental Impact Bond:** Quantified Ventures structured the very first Environmental Impact Bond (EIB) with the Washington, DC, Water and Sewer Authority (DC Water), which financed green infrastructure in support of its stormwater management goals and EPA consent decree obligations to stem combined sewer overflows. Recognizing the potential cost-effectiveness and the environmental, economic, and health benefits of green infrastructure compared to traditional grey infrastructure, DC Water had several green infrastructure projects planned and ready to go. However, they lacked capital to deploy those projects and were concerned about taking on debt, given that the performance of green infrastructure in capturing stormwater in DC had not been tested. Using the funds raised through the EIB, DC Water has developed green infrastructure such as permeable pavement, green roofs, and landscaped retention facilities on 20 acres. If the project underperforms – that is, the reduction in stormwater runoff is significantly less than anticipated – then DC Water will pay reduced interest payments to investors. If the project significantly exceeds expectations, investors will be compensated through a performance payment from DC Water.

- **Atlanta Environmental Impact Bond:** Quantified Ventures structured the first-ever publicly offered EIB with Atlanta’s Department of Watershed Management (DWM) in 2019. Several historic but distressed neighborhoods suffered from environmental justice issues stemming from increased rainfall and urbanization and a lack of stormwater and wastewater infrastructure investment to manage flooding and poor water quality. The Atlanta EIB financed six green infrastructure projects to manage stormwater, reduce local flooding, alleviate water quality impacts, increase access to green space, and create local green jobs in these economically and environmentally distressed neighborhoods. Similar to DC Water’s EIB, the effective interest rate on the Atlanta EIB was tied to verified environmental outcomes including flood reduction and water quality improvement.
- **Soil and Water Outcomes Fund:** Quantified Ventures, in partnership with the Iowa Soybean Association, created the Soil and Water Outcomes Fund to incentivize farmers to implement conservation agriculture practices that result in water quality benefits (i.e., reduced nitrogen, phosphorus and sediment runoff) and carbon sequestration. The Fund monetizes the environmental outcomes produced by the conservation practices by selling the verified carbon outcomes to corporations such as Cargill, Nutrien, Ingredion, and PepsiCo, and the verified water quality outcomes to downstream municipalities and state departments of agriculture. The Fund launched in Iowa in 2020 with 9,500 acres enrolled and has scaled to more than 120,000 acres enrolled across 6 states, backed by purchase agreements of over \$10 million. The Fund is projected to grow to more than a million acres enrolled by 2025. The Iowa Finance Authority is playing a central role in providing the annual working capital to finance upfront farmer incentives, farmer enrollment costs, and monitoring and verification costs.

We are excited to see this legislation facilitate transformative environmental projects and attract new capital to the state. Thank you for your consideration of this Act and its impact on Maryland’s environment, economy, and communities.

Sincerely,



Eric Letsinger
CEO



George Kelly
Managing Director

Restoration Systems Conservation Finance Act Lette

Uploaded by: Harry Huntley

Position: FAV



Senator Sarah Elfreth
103 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: SB0348 The Conservation Finance Act of 2022

Dear Committee Staff,

Restoration Systems enthusiastically welcomes the introduction of the “Conservation Finance Act” in Maryland. The legislation is a long overdue modernization of conservation approaches which will drive an explosion of private investment in Maryland green infrastructure.

Restoration Systems is America’s most experienced mitigation banker and has two projects underway in Maryland, The Heritage Harbor and Turkey Point projects are being performed for Anne Arundel County under their innovative contracting approach which helped inspire the Act.

Since the overall approach and benefit of the bill has been well described by others, Restoration Systems would like to comment specifically on the hazardous dam removal provisions. Our firm has removed, under precisely the pay-for-performance contracts the legislation encourages, three hazardous large river dams in North Carolina and restored natural flow to over a hundred miles of large river and tributaries. Each dam removal was celebrated locally and nationally.

As Maryland and other states well know, obsolete dams are dangerous and environmentally destructive. There is nearly universal support for removing non-controversial structures.

However, as our company has experienced, the multiple complex disciplines and numerous technical and physical actions required of the dam removal process are complex to manage under current government financing and contractual practices. Piecemeal contracting, bifurcated responsibilities, and liability concerns of the current approach would be reduced if the provisions of the Conservation Finance Act were in place, and an agency chooses to employ them. Restoration Systems and others would invest private capital – just as we did in the three previous removals -- to make available turn-key, ready projects at our own cost, with implementation funded on a results basis – rather than hourly invoicing.

Please consider our company a resource for your committees as the legislation progresses. The Conservation Finance Act promises policy improvements which have national implications – and Maryland’s environment will be the better for it. We would be happy to testify to our experience with dam removal or other important topics addressed by the bill.

A handwritten signature in black ink, appearing to read 'George Howard', is written in a cursive style.

George Howard, CEO

UMD EFC Conservation Finance Act Letter.pdf

Uploaded by: Harry Huntley

Position: FAV



UNIVERSITY OF MARYLAND

ENVIRONMENTAL FINANCE CENTER

February 7, 2022

TO: Members of the Budget and Taxation and the Education, Health and Environmental Affairs Committees
FROM: Jennifer Cotting, Director, Environmental Finance Center
Jennifer Egan, Conservation Finance Program Manager, Environmental Finance Center
POSITION: Supporting SB 348 – Conservation Finance Act

The Environmental Finance Center (EFC) supports SB 348 – Conservation Finance Act offered by Senator Elfreth. The EFC is one of ten centers nationwide that work to protect natural resources by strengthening the capacity of local decision-makers to analyze environmental problems, develop innovative and effective methods of financing environmental efforts, and educate communities about the role of finance and economic development in the protection of the environment. The EFC works with decision-makers throughout the state who are struggling to fund and finance the increasing responsibility to manage natural resources and prepare for the impacts of complex challenges such as climate change.

The Conservation Finance Act will enable public funds to better leverage the private sector and the different structures available for the enhancement of natural resource protection and restoration. The innovation provided by adjusting the departments of Environment, Natural Resources, Transportation, and Agriculture and to Maryland's finance and procurement code will make it easier for private funding and financing to play a role in helping the state achieve efficient outcomes in resource management. The bill will strengthen the capacities and options to address not only improving water quality, but 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.

The temporary task force will convene government officials and finance experts to determine how the current Government Accounting Standard Board (GASB) guidance can be implemented for natural asset accounting that facilitates conservation finance opportunities. The task force will determine gaps in GASB standards and implementation and make recommendations on potential ways the natural asset accounting can be used in practice.

Financing large scale long-term projects for environmental impact increasingly calls for clear and transparent linkages to strong benefits in environmental, social and governance. This Act will ensure that expanded mechanisms will be available to decision-makers. We support SB 348 and hope for a favorable report.

Sincerely,

Jennifer Cotting, Director
Jennifer Egan, Program Manager Conservation Finance
University of Maryland Environmental Finance Center

FAVORABLE SB348 - Maryland LCV et al_ Comprehensive

Uploaded by: Kim Coble

Position: FAV



February 7, 2022

SUPPORT: SB 348 - Conservation Finance Act

Chairman Pinsky, Chairman Barve, and Members of the Committees:

The below-signed organizations strongly support SB 348: Conservation Finance Act, and we thank Senators Elfreth and Rosapepe for their leadership on this issue.

Maryland is widely recognized for its natural resources and has a long history of working to conserve and protect these resources while also maintaining the industries that rely on them. The State has created a number of funding programs to support these efforts. However, state funds are limited and the funding needed to improve “environmental outcomes” and reduce pollution, especially greenhouse gas emissions, continues to increase. In order to meet this challenge it would be far more effective and efficient to facilitate the engagement of the private investment market. This is exactly what SB 348 accomplishes.

This bill provides a long-term vision and process of how the State will achieve environmental outcomes. The financial systems created by SB 348 provide “signals” to the private investment market that Maryland is prioritizing conservation goals and creating policies to support these goals. Additionally, it creates structures, such as public-private partnerships and procurement and contractual systems that are attractive to private investors. Thereby, enabling and incentivizing more private funds directed at environmental outcomes. SB 348 also allows for mitigation practices to be eligible for financial assistance through the State Revolving Loan Fund, Chesapeake Bay Trust Fund, Drinking Water Loan Fund, and by doing so, provides incentives for the private market to engage through pay-for-success models, green bonds, and environmental impact bonds. The bill also leverages local, state and federal funds thereby creating a more attractive investment opportunity for the private sector. Additional provisions in SB 348 that we strongly support include:

- addressing water infrastructure and water quality needs by allowing and providing financing mechanisms for “blue infrastructure” including filters such as oysters, seagrass and wetlands and “green infrastructure” such as forest, buffers, permeable pavers and green roofs;

- providing a mechanism for funds to be allocated to address pollution from the Susquehanna River watershed;
- allowing for a longer loan repayment period for disadvantaged communities and targeting funds to these communities;
- creating a workgroup that will develop recommendations that create systems for forest carbon sequestration programs;
- creating a task force and working group to assess procedures that could be simplified and barriers that could be removed that will result in future investments.

It is likely that by creating a comprehensive approach and financial opportunities to support environmental outcomes that Maryland could attract private conservation investment funds from a wider geographic area and set Maryland up as a leader in the conservation finance arena as well as make significant strides to protect our natural resources

For all of these reasons, the below-signed organizations urge a favorable report.

Maryland League of Conservation Voters

Clean Water Action

Forever Maryland

Maryland Conservation Council

Maryland Legislative Coalition

MLC/Climate Justice Wing

Sierra Club - Maryland

Takoma Park Mobilization Environment Committee

Unitarian Universalist Legislative Ministry of Maryland

WISE

MD Catholic Conference_FAV_SB0348.pdf

Uploaded by: MJ Kraska

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 09, 2022

**SB 348
Conservation Finance Act**

**Senate Budget & Taxation Committee
Senate Education, Health, & Environmental Affairs 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.

Senate Bill 348 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”.

Senate Bill 348 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 Senate Bill 348.

2022 Conservation Finance Act section summary (002

Uploaded by: Sarah Elfreth

Position: FAV



2022 Conservation Finance Act

The following provides a detailed section-by-section analysis of changes the Conservation Finance Act would make to regarding the departments of Environment, Natural Resources, Transportation, and Agriculture and to Maryland’s finance and procurement code. The overwhelming 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.

DEPARTMENT OF AGRICULTURE

EXPANDING OPTIONS FOR CARBON CREDITS FROM AGRICULTURE

- Allows the Department to negotiate partnerships with experienced organizations who can work with the state to assist private landowners with voluntary participation in carbon offset markets. A separate provision ensures that existing cost share agreements between the state and private landowners do not interfere with their ability to get compensation from carbon credit or soil health markets.

MARYLAND DEPARTMENT OF ENVIRONMENT

ONE STEP TOWARD A HUMAN RIGHT TO WATER

- California has adopted a ‘human right’ to affordable, clean water in its state law and in 2021, New York voters approved the establishment of a right to clean water in the state constitution. This provision of the bill asks the state’s Commission on Environmental Justice & Sustainable Communities to make recommendations to MDE that would

	<p>create progress toward a right to safe, clean, and affordable water.</p>
<p>DIRECTING FINANCING TO HAZARDOUS DAM REMOVAL AND RENEWABLE POWER GENERATION</p>	<ul style="list-style-type: none"> Like all states, Maryland has old, often abandoned dams that experts believe could fail and therefore create significant risk to lives and property, but there is little or no funding to address the problem. This language encourages private financing for hazardous dam removal, including by making clear that the restored habitat created by dam removal can be used to mitigate impacts caused by other projects to water resources, just like federal policy. It also directs the Department to notify the Maryland Industrial Development Financing Authority of its priorities so that they may be consider helping to finance projects. The language gives first priority to dam removals for fish passage or other ecological benefits before identifying hazardous structures that could be retrofitted to generate small scale hydropower.
<p>GREEN INFRASTRUCTURE FINANCING FOR WATERSHEDS</p>	<ul style="list-style-type: none"> Makes Maryland the second state (after California) to put green and blue infrastructure on par with gray infrastructure by explicitly stating that they can be financed in the exact same manner as gray infrastructure.
<p>DEFINING GREEN INFRASTRUCTURE AND BLUE INFRASTRUCTURE</p>	<ul style="list-style-type: none"> Makes Maryland the first state to define blue infrastructure, and creates definitions of both green and blue infrastructure that include water quality improvements, flood risk reduction, and carbon sequestration; includes wetland and stream restoration as types of green infrastructure, along with a non-exclusive list of other activities.
<p>EXPANDING OPTIONS FOR WATER QUALITY LOAN AND FINANCING PROGRAM</p>	<p>The following changes are made to the Water Quality Revolving Loan Fund based on innovative and effective uses of these federally-backed funds in other states.</p> <ul style="list-style-type: none"> Using linked deposit authority, allows banks and others preapproved by MDE to offer discounted loans for restoration of forests or forest conservation by fee or easement. Allows MDE to provide loans for the protection of source water areas through property acquisition or easements. Using sponsorship authority, allows a local government to serve as the primary borrower and receive a loan for a publicly owned treatment works project at a reduced interest rate if the loan also includes a grant to pay for a green or blue infrastructure project carried out by nonprofits or others. Allows MDE to issue green or blue infrastructure loans for projects carried out in the Susquehanna River watershed that improve Maryland’s water quality and are proposed by a regional or inter-state entity; requires consultation with host state and allocation of total daily maximum load credits.

	<ul style="list-style-type: none"> • Allows loans to fund master-lease purchase agreements whereby DNR agencies contract with private companies or nonprofits to do work to enhance water quality on state-owned lands. • Requires MDE to prioritize funding for projects that also involve funding authorized under the Bay Trust Fund (DNR), under climate disaster risk mitigation funds, or from private or philanthropic sources. • New federal legislation allows states to set aside money to use as grants to provide technical assistance to small drinking water systems, including disadvantaged communities. The bill directs MDE to place these funds in a special subaccount with the purpose of making it clearer to potential applicants that money is available for this purpose. • Requires MDE to provide an annual report to the legislature on the specific kinds of green and blue infrastructure projects that revolving loan funds are supporting.
<p>EXPANDING USES OF THE DRINKING WATER REVOLVING FUND</p>	<p>The following changes are made to the Drinking Water Revolving Loan Fund based on innovative and effective uses of these federally-backed funds in other states.</p> <ul style="list-style-type: none"> • Includes similar new authorities to the Water Quality Revolving Loan Fund (above), including replication of language around pay for success and green bonds that was added by HB94 to the water quality revolving fund last year. • Creates a new priority for environmental justice through the annual intended use plan (i.e. list of loan priorities) with a particular emphasis on toxic lead pipe removal, small water utility consolidation, and green infrastructure installation to mitigate environmental and health hazards in environmental justice communities. • New federal legislation allows states to set aside money to use as grants to provide technical assistance to small drinking water systems, including ones serving disadvantaged communities. The bill directs MDE to place these funds in a special subaccount with the purpose of making it clearer to potential applicants that money is available for this purpose.
<p>COMMISSION ON GREEN AND BLUE INFRASTRUCTURE AND RESTORATION POLICY</p>	<ul style="list-style-type: none"> • This establishes a Green and Blue Infrastructure Commission for 3 years, whose membership includes state agencies, local government, restoration businesses, conservation nonprofits, and others. The purpose of the Commission is to make recommendations on how to promote ecological restoration through green and blue infrastructure practices, including by looking at overlapping local, state, and federal requirements

that may hinder climate resilience or ecological restoration projects.

DEPARTMENT OF NATURAL RESOURCES

HELPING LANDOWNERS PARTICIPATE IN CARBON MARKETS

- Allows the Department to negotiate partnerships with experienced organizations to create statewide or regional partnerships on private and public lands and to assist private landowners with the aggregation of projects so they can participate in carbon offset markets.

MARYLAND ENVIRONMENTAL TRUST AND DNR FOREST EASEMENTS

- Ensures that existing easements between the trust or DNR and private landowners do not interfere with landowners' ability to get compensation from carbon credit or other ecosystem service markets; also defines ecosystem services to include carbon sequestration, climate resilience, forest health and other services; elsewhere the bill also ensures that any contract or agreement with a private landowner cannot prevent them from participating in voluntary carbon markets if the participation is tied to delivering additional environmental outcomes.

FOREST CARBON MARKETS AND AFFORESTATION OF STATE LANDS

- Allows the state to pay for the afforestation of state lands after July 2022 by permitting private landowners to pay for it and thereby be able to count those acres to satisfy buffer or insurance requirements of private carbon credits.

SUSQUEHANNA WATERSHED CONSERVATION FINANCE

- Allows Maryland to purchase environmental outcomes from long-term or permanent green or blue infrastructure projects in the Susquehanna River watershed that provide water quality benefits to Maryland; requires Maryland to consult with the host state for their support and agreement as to which watershed implementation plan would be credited for the purchased outcomes.

IMPROVING PRIVATE INVESTMENT IN BAY TRUST FUND GOALS

- The Chesapeake and Coastal Bays 2010 Trust Fund is among Maryland's best funded conservation programs, providing millions in annual grant support. The bill expands the program authority by allowing DNR to use Pay for Success contracts with non-profit or for-profit organizations to achieve trust fund goals. The text provides definitions of environmental outcomes, aggregators, quantification plans, and other features that are necessary to make effective use of Pay for Success contracts.

- Additional language requires the department to look beyond water quality benefits and also prioritize other co-benefits, including but not limited to, restoration of marine or aquatic resources such as oyster restoration, climate resilience, carbon sequestration, wildlife habitat, local employment, recreation, and environmental justice.
- The bill requires DNR to prioritize funding for projects that also have or are seeking support from other programs including MDE revolving loan funds, climate disaster risk mitigation funds, or from private or philanthropic sources.

DEPARTMENT OF TRANSPORTATION

GREEN AND BLUE INFRASTRUCTURE PARTNERSHIPS

- DOT has a public private partnership authority created by the legislature. The bill incorporates green and blue infrastructure into the definition of "public infrastructure asset" thus allowing the Department to create partnerships that are expressly focused on delivery of these types of environmentally beneficial infrastructure. One thing that is different than other kinds of public private partnerships is that green or blue infrastructure rarely generates any revenue so a partnership like this is more likely to be valuable to DOT because it creates efficiencies around working with private landowners, managing multiple small projects, or maintaining projects over a long period of time.

STATEWIDE PROCURMENT CODE

PUTTING PAY FOR SUCCESS CONTRACTS IN MARYLAND PROCUREMENT CODE

- One of the most important sections of the bill for private investment is language that adds Pay for Success contracts as an 11th acceptable form of state contract under state procurement law. Pay for Success contracts have been a bipartisan initiative in states and at the federal level that shift payments and risks in contracts or that contractors develop or build or implement projects at their risk, only being paid when projects deliver the outcomes established in a contract.
- A new subsection is added that defines many of the criteria or requirements of Pay for Success contracts and authorizes it to be used by agencies that undertake environmental restoration and conservation including the Department of Agriculture, Department of the Environment, Department of Natural Resources, Department of Transportation, Maryland Environmental Service, and the Department of General Services.
- Creates a definition of "environmental outcome" as a commodity that is modeled or directly measured as a single,

quantifiable, and certified unit of improvement to the environment, including nutrient and carbon benefits, allowing simpler forms of contracting.

UNCODIFIED SECTION

CREATION OF A TASK FORCE ON BEST ACCOUNTING PRACTICES FOR NATURAL CAPITAL

- This section creates a temporary task force, primarily of state and local government officials, that would focus on changes that could be made to take advantage of new federal accounting standards regarding nature's economic benefits, make recommendations on public accounting practices that could account for those benefits, and make recommendations on potential ways to engage land trusts and others in using these natural assets to create equity and climate resilience in disadvantaged communities.

SB348_SenElfreth_FAV.pdf

Uploaded by: Sarah Elfreth

Position: FAV

SENATOR SARAH ELFRETH
Legislative District 30
Anne Arundel County

Budget and Taxation Committee

Subcommittees

Education, Business and Administration

Chair, Pensions

Senate Chair

Joint Committee on Administrative,
Executive, and Legislative Review

Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 9, 2022

**Testimony in Favor of SB 0348
Conservation Finance Act**

Chairman Guzzone, Vice-Chair Rosapepe, and fellow members of the Budget and Taxation Committee,

I respectfully request a favorable report of SB348, the Conservation Finance Act, to ensure that Maryland lays the groundwork for increased private investment and participation in our environmental restoration efforts and Chesapeake Bay clean-up goals.

Last session, under the leadership of the Vice-Chair, similar legislation was introduced and passed unanimously by the Senate; however, unfortunately it was not able to pass through the House. Over the course of the interim the House Environment and Transportation Committee convened a workgroup on this legislation to better understand the legislation in the hopes of securing its passage this session.

The product of that workgroup is what you have before you – legislation that would ensure that Maryland remains a leader in environmental restoration and conservation efforts. Today you will also hear from Tim Male who is an expert on this legislation, Jeff Eckle the CEO of Hannon Armstrong who specializes in environmental financing, and Kim Coble to discuss the importance of this legislation from the perspective of the environmental community.

Meeting our Chesapeake Bay restoration goals will require an all-hands-on-deck approach. SB348 leverages the power of the private sector community to improve water quality, 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, and climate resilience. It has the potential to bring unprecedented private-sector investment into this critical effort.

Please find a section-by-section summary of the bill attached to this testimony and a thorough analysis of what has changed from last year to this year included with Tim Male's testimony. I respectfully request a favorable report of SB348.

Sincerely,

A handwritten signature in black ink that reads "Sarah Elfreth".

Sarah Elfreth

EPIC testimony SB 348 Conservation Finance Act.pdf

Uploaded by: Timothy Male

Position: FAV



February 7, 2022

TO: Members of the Budget and Taxation Committee
FROM: Timothy Male, Executive Director, Environmental Policy Innovation Center
POSITION: Supporting SB 348 – Conservation Finance Act

Dear Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee,

We write to offer our strongest support for the Conservation Finance Act and hope that your committee and the legislature pass this bill this year.

The Environmental Policy Innovation Center (EPIC) is a 5-year-old nonprofit organization that develops and supports policy ideas that would dramatically increase the speed and scale of environment, climate and public health progress. Our largest program is focused on improving outcomes for disadvantaged communities from investment in drinking and wastewater infrastructure. This legislation has benefits for all of those goals.

Globally, private investment in environment and climate is happening on a scale that has never previously occurred, but this investment depends on the right government policies to make it possible. That is what this bill does – it tweaks Maryland’s policies to make it more likely that the state will attract private investment in ecological restoration, clean water, environmental justice, and climate progress.

We want to identify the following parts of the bill that are particularly important:

Climate The bill makes carbon sequestration outcomes easier to procure by creating procurement authorities that allow state agencies to buy the outcome – carbon stored – from sequestration projects. It also pushes the state to learn more about carbon quantification tools by creating a deadline for at least one project to occur in state forest and marine habitats. In the Chesapeake and Coastal Bays Trust Fund, the legislation prioritizes projects that deliver carbon sequestration or climate resilience co-benefits alongside water quality benefits. Other provisions make clear that the existence of a state contract for a different purpose should not get in the way of farmers, forest landowners, or others’ efforts to also be able to participate in voluntary or regulatory carbon market if there is an additional benefit from doing so. While the procurement change is the one that creates the most profound long-term opportunities to expand investment in Maryland climate solutions, they all help Maryland lean in on important climate solutions.

Procurement This legislation puts Maryland ahead of national efforts – and other states - in making our state the first state to adopt a definition of carbon, water quality and other environmental outcomes as a commodity, and creating procurement authorities to buy those outcomes. We have carried out reviews of this kind of procurement authority at the state level in Louisiana and California and the county level here in Maryland and the evidence we have seen shows that this approach significantly lowers the cost of contracted work and incentivizes a high rate of success. For example, both Anne Arundel County and Prince George’s County have received national recognition for the use of this approach to contracting for water quality improvements. This legislation will make it easier to replicate the success of initiatives like these across state programs.

Environmental Justice and Water Infrastructure Congress and the Biden Administration have appropriated more than \$50 billion in water infrastructure funds for the next five years and Maryland will almost certainly receive at least \$700 million of these funds, mostly through two programs called the 'state revolving funds.' This legislation makes adjustments in these programs to make it easier to use them in Maryland in the same innovative ways that other states have been using the programs for wastewater, stormwater, and drinking water management and the removal of toxic lead water pipes. Installation of green infrastructure in disadvantaged communities, replacement of toxic lead water pipes, and watershed and forest protection would all become easier to finance. The bill also sets aside the small amount of this funding that Congress allowed to be used for technical assistance grants for burdened communities – by putting it into a dedicated sub-account within the funds, it will be easier for these communities and local advocates to secure grants to develop loan proposals, or otherwise plan and prioritize future projects that create health and other benefits. Spending the funding dedicated for lead pipe inventories and removal is a once-in-a-generation opportunity for Maryland to eliminate more than half of the estimated 500,000 lead pipes in Maryland.

Changes from last year

We are extremely thankful to have had the chance to provide technical support to a House of Delegates working group in 2021 that carried out an extensive review of the 2021 draft of this bill and made a modest series of amendments that strengthen the bill. I've provided a more detailed summary of those changes in the attachment to this testimony. For example, the revisions add disadvantaged communities and nature-based green and blue infrastructure as priorities for the Maryland Department of Environment's Water Quality Revolving Loan Fund. Also, the changes eliminate areas of duplication with other pieces of legislation that passed in 2021.

Summary

Since 2019, we have been working with private investors, Maryland businesses, nonprofits, and other on the core concepts in this legislation. We also spent dozens of hours in meetings with many career staff from Department of Transportation, Natural Resources, Agriculture, Environment, Maryland Environmental Trust, and the University of Maryland as well as members of the Bay Cabinet as they discussed the bill. Rounds of input from all these agencies and stakeholders are reflected in the budget-neutral bill before you, that if enacted, will expand private investment and jobs in Maryland while delivering carbon, green infrastructure, climate resilience, environmental justice and water quality benefits throughout the state.

Sincerely,



Timothy Male, PhD
Executive Director
Environmental Policy Innovation Center

The Conservation Finance Act of 2022 (HB 0653 / SB 0348) follows an earlier introduction of the legislation in 2021. The overwhelming 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. The following summarizes the modest differences incorporated into the bill in 2022 – all of these changes are to areas of code that were already being amended by the 2021 legislation.

ARTICLE - ENVIRONMENT

SECTION 5-509 INCENTIVES FOR HAZARDOUS DAM REMOVAL & REPAIR

- Associated with the removal of dams the state determines to be dangerous or in need of repair or removal adds “other environmental benefits” alongside ‘improving fish passage’ as a reason for MDE to prioritize a removal or repair project or the assignment of mitigation credit to it; clarifies that the list of hazardous or damaged dam structures that MDE forwards to the Industrial Development Financing Authority be only ones that aren’t important for fish passage and that could be suitable for small hydropower production (defined as less than 30 megawatts – the same definition elsewhere in state code)

SECTION 9-1601 DEFINITIONS

- Slightly modifies the definition of ‘blue infrastructure’ including adding floating wetlands and restored freshwater mussel populations to the list of examples that could as blue infrastructure.
- Slightly modifies the definition of ‘green infrastructure’ to explicitly include streams and wetlands alongside other examples of green infrastructure.

SECTION 9- 1605 WATER QUALITY REVOLVING LOAN FUND

- Amends a provision that allows Maryland’s Water Quality Revolving Loan Fund to be used in other states to only be allowable if proposed by a multi-government entity that includes Maryland as a member, that have been reviewed by the environment agency in the state in which projects would occur, and for which the allocation of water pollution reduction credits has been assigned by the MDE Secretary to a specific watershed implementation plan.
- Adds direction that when MDE creates an annual ‘intended use plan’ for the fund that it prioritizes assistance to disadvantaged communities and green and blue infrastructure projects, especially those focused on natural areas or natural features.

SECTION 1-110

SECTION 5-9A-05 MARYLAND ENVIRONMENTAL TRUST

SECTION 5-1607 AND 5-1610

SECTION 8-203.1 SUSQUEHANNA RIVER

SECTION 8-2A-03 AND SECTION 8-2A-04
SECTION 8-2A-04 CHESAPEAKE 2010 TRUST FUND

- The bill eliminates language associated with forest carbon offsets similar to language that was already passed in legislation in 2021.
- Makes changes to proposed amendments to be more specific that credits from ecosystem services on a property under a MET easement could be used only to offset damage in a priority funding area or in a manner consistent with a local comprehensive plan and other state and local objectives.
- The bill makes no changes to these sections of code (i.e. all amendments removed) since related provisions were passed in 2021.
- The bill includes a new version of an authorization for DNR to use existing interstate agreement authorities to purchase environmental from long-term or permanent green or blue infrastructure projects in the Susquehanna River watershed that provide water quality benefits to Maryland; requires Maryland to consult with the host state for their support and agreement as to which watershed implementation plan would be credited for the purchased outcomes.
- The bill eliminates what had been a proposed name change of the 'BayStat Program' to the 'Bay Cabinet;' a single date is also updated from 2023 to 2024.
- Within an already proposed priority for multi-year projects under the Trust Fund, adds joint funding by FEMA for hazard risk mitigation as a reason to consider support.

GREEN AND BLUE INFRASTRUCTURE POLICY ADVISORY COMMISSION

SECTION 5- 1401

- Adds two nonprofit organizations and one representative of Morgan State University to the Commission.

UNCODIFIED SECTION

CREATION OF A TASK FORCE ON BEST ACCOUNTING PRACTICES FOR NATURAL CAPITAL

STUDY OF THE POTENTIAL FOR DIGITAL TECHNOLOGIES TO CONTRIBUTE TO CLIMATE SOLUTIONS AND BAY RESTORATION

- Adds two nonprofit organizations to the Task Force.
- Adds a new study, modelled after one being carried out by the federal Department of Energy associated with climate, to look at the potential for digital innovations like smart sensors and crowdsourcing to contribute to Maryland's climate and Bay goals.

SB348 LOS.pdf

Uploaded by: Tyler Abbott

Position: FAV



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

February 9, 2022

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

Re: Senate Bill 348 – Conservation Finance Act

Dear Chair Guzzone and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB 348, 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.

The Honorable Guy Guzzone

Page 2

The necessary changes in SB 348 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 SB 348 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 Sarah K. Elfreth
Terri Wilson, Director, Office of Budget & Infrastructure Financing

SB0348_DNR_SWA_B&T_2-9-22.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: SB 348

Short Title: Conservation Finance Act

Department's Position: Support with Amendments

Explanation of Department's Position

The Maryland Department of Natural Resources supports SB 348 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, primarily Pennsylvania. SB348 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~~ 2024:

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 \$1M, which DNR has submitted to DLS 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 SB 348 a favorable report with amendments.

SB 348_CBF SUPPORT.pdf

Uploaded by: Doug Myers

Position: FWA



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 348

Conservation Finance Act

Date: February 9, 2022	Position: Support
To: Budget and Taxation	From: Doug Myers
Education, Health and Environmental Affairs	Maryland Senior Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 348. 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 a 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 SB 348. For more information, please contact Robin Clark, Maryland Staff Attorney at rclark@cbf.org and 443.995.8753.

SB 348_CWRP_Testimony_FWA.pdf

Uploaded by: Liam O'Meara

Position: FWA

Chesapeake Watershed Restoration Professionals

**Senate Bill 348
Conservation Finance Act**

Position: FAVORABLE WITH AMENDMENTS

February 9, 2022

Honorable Guy Guzzone
Chair, Budget & Taxation Committee

Honorable Paul Pinsky
Chairman, Education, Health, and
Environmental Affairs Committee

Chairman Guzzone, Chairman Pinsky, and Committee Members,

On behalf of the Chesapeake Watershed Restoration Professionals (CWRP), we strongly support SB 348 – Conservation Finance Act with several amendments that we consider strengthen the bill. 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. We have several amendments that are outlined and explained following the written testimony. However, our amendments are briefly described two of our amendments below.

First, we suggest adding an amendment to the Blue and Green Infrastructure fund to include any other best management practice (BMP) approved by the Administration. We believe this amendment ensures that the Maryland Water Infrastructure Financing Administration has the discretion to approve new BMPs without having to return to the Maryland General Assembly to seek such approvals. We suggest a similar amendment related to ecosystem services in the Maryland Environmental Trust.

Second, while CWRP is in strong support of Pay-for-Success contracting as tool for agencies to more efficiently to tackle large-scale environmental procurements, we are concerned that there could be a race-to-the-bottom and the awarding of contracts to the lowest bidder without regard for the qualifications of the awardee. A Pay-for-Success contract would entrust a private entity to work with sensitive natural resources on behalf of the State. CWRP strongly believes that the entity entrusted with such a responsibility should be qualified. CWRP proposes integrating qualifications-based selection (QBS) criteria for Pay-for-Success contracts for services only. As the legislation states, Pay-for-Success contracting shifts the risk of performance to the contractor as payment is not made until achievement of the outcome. Requiring QBS on services contracts ensures the outcomes are reached.

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

Amendments to Senate Bill 348 – Conservation Finance Act

Submitted By:

Chesapeake Watershed Restoration Professionals

Amendment No. 1:

On page 8, line 23: Strike “AND”. In line 24, after “POPULATIONS”, insert, “AND ANY OTHER BEST MANAGEMENT PRACTICE APPROVED BY THE DEPARTMENT”

On page 11, line 9: Strike “AND”. In line 10, after “HARVESTING”, insert, “AND ANY OTHER BEST MANAGEMENT PRACTICE APPROVED BY THE DEPARTMENT”

On page 24, line 13: Strike “AND”. In line 14, after “WETLANDS”, insert, “AND STREAMS; AND ANY OTHER ECOSYSTEM SERVICE APPROVED BY THE DEPARTMENT”

On page 25, line 27: Strike “AND”. In line 28, after “WETLANDS”, insert, “AND STREAMS; AND ANY OTHER ECOSYSTEM SERVICE APPROVED BY THE DEPARTMENT”

Explanation: This ensures that as best management practices and ecosystem services evolve, the responsible department has the discretion to approve new methods without going to the Legislature for approval.

Amendment No. 2:

On page 9, line 27: After “NUTRIENT”, insert “, SEDIMENT,”

On page 27, line 20: After “NUTRIENT”, insert “, SEDIMENT,”

On page 39, line 1: After “NUTRIENT”, insert “, SEDIMENT,”

Explanation: Nutrients and sediments are different, and the law should explicitly recognize the difference. Sediment is its own pollutant and impairment.

Amendment No. 3

On page 27, line 24: After “MEASURES”, insert, “THAT: (1) IS A RECOGNIZED EXPERT IN ECOSYSTEM SERVICES AND THE DESIGN, MONITORING, AND MANAGEMENT OF BLUE AND GREEN INFRASTRUCTURE; AND (2) IS AN INDEPENDENT AND IMPARTIAL PERSON OR GROUP”

On page 39, line 7: After “MEASURES”, insert, “THAT: (1) IS A RECOGNIZED EXPERT IN ECOSYSTEM SERVICES AND THE DESIGN, MONITORING, AND MANAGEMENT OF BLUE AND GREEN INFRASTRUCTURE; AND (2) IS AN INDEPENDENT AND IMPARTIAL PERSON OR GROUP”

Explanation: This amendment adds guardrails to the evaluator to ensure they have the necessary expertise to make such determinations.

Amendment No. 4

On page 37: After line 15, insert: “(H) QUALIFICATIONS-BASED SELECTION CRITERIA MEANS A PROCESS THROUGH WHICH A UNIT UTILIZING A PAY-FOR-SUCCESS CONTRACT FOR SERVICES TAKES INTO CONSIDERATION THE QUALIFICATIONS AND DEMONSTRATED COMPETENCE OF THE ORGANIZATION.”

Explanation: Qualifications-based selection (QBS) in environmental engineering projects ensures that the State avoids race-to-the-bottom bidding for projects when dealing with our complex ecosystems and natural resources. In a pay-for-success environment, an engineering firm can offer the lowest bid and essentially have an unlimited amount of time to complete a project because the payment is not due until a significant portion of the environmental outcome is delivered. Utilizing QBS balances the importance of recognizing environmental outcomes in a timely manner.

MD Bilding Industry Assn

Uploaded by: Lori Graf

Position: FWA

February 9, 2022

The Honorable Guy Guzzone
Senate Budget and Taxation Committee
Miller Senate Office Building,
3 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: MBIA Letter Requesting Amendments to SB 348 – Conservation Finance Act

Dear Chairman Guzzone:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 348 – Conservation Finance Act**. **MBIA Supports this Act with Amendments**. However, with amendments as discussed below the MBIA would be favorable.

This bill would establish a statewide cost sharing program to leverage private investments to help pay for improvements to meet Chesapeake Bay TMDL requirements. It does this by creating a carbon trading market that takes advantage of carbon offsets associated with making improvements required by the TMDL. The MBIA does not oppose this in principle, but it does raise some important questions and concerns.

- First, who should own a carbon credit that is the byproduct of state spending on Chesapeake Bay cleanup?
- Second, as the state moves towards a carbon neutral future, how can we allow credits to be sold into the international markets to offset emission generated out of state when the regulated community will need those local credits to offset activities to meet an economy-wide net zero carbon emission target in the future?
- Finally, what is the state's carbon generating capacity and how long will it take for international markets to deplete local credit generating opportunities?

MBIA respectfully requests that this program be revised to require reciprocal agreements with other carbon credit markets in order to track carbon offsets generated in the State of Maryland and allow an equivalent amount of those credits to be purchased in the future, by the regulated community in the state of Maryland, as we all work together to combat climate change. The larger market creates the same total climate reductions while incentivizing the investments we need now to meet TMDL requirements while also factoring in carbon offset needs of the state in the future.

Additionally, this bill allows for the Department of Natural Resources to make changes to water infrastructure assets if they are determined to have an environmental benefit. We respectfully submit that this standard for removal or change is overbroad and can be too broadly interpreted to have a consistent application. The department also lacks the capacity and resources to review the significant number of Water Infrastructure Assets in Maryland and needs to be expanded to effectively administer the program.

For these reasons, MBIA respectfully requests the Committee adopt these amendments and give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Budget and Taxation Committee

SB 348 Conservation Finance Act - NAIOP Testimony

Uploaded by: Tom Ballentine

Position: FWA



February 9, 2022

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

Support w/ Amendment: SB 348– Conservation Finance Act

Dear, Chair Guzzone and Committee Members:

The NAIOP Maryland Chapters represents more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I writing to support SB 348 with amendments. The amendment we recommend would provide that no credits certified by the state of Maryland can be traded to entities in other states unless the Department of the Environment has determined that the receiving state has adopted a program to allow the reciprocal trading of credits created in that state on an equal basis.

Related Bill Provisions

SB 348 stands up a structure that leverages private capital investments to lower the costs of the water quality improvements necessary to implement the state’s Chesapeake Bay restoration plans. Among its provisions, the bill allows the state to contract with ecosystem credit brokers to install the water quality practices required by those plans. In addition to being paid for the water quality improvements, credit brokers and landowners are permitted to keep the carbon emissions reductions that are a byproduct of forest and water quality practices and sell those credits into out-of-state carbon trading markets.

The bill allows the use of state assets, including state forest lands and dedicated drinking water and water quality funds, to guarantee the emissions reductions of these projects so that they are sufficiently collateralized to qualify for sale in greenhouse gas emissions markets. [p. 25, line 4] Other than credits sold from Rural Legacy easements, the bill does not specify the geography where credits may be sold. [p. 26, line 6] It specifically prohibits the Department of Agriculture cost share agreements and other environmental easements from limiting a landowner’s participation in greenhouse gas markets. [p. 4, line 36 & p. 27, line 1] Once certified, carbon credits could then be sold into international carbon trading markets where they will be purchased by individuals and corporations to offset out-of-state carbon emissions.

SB 348 is in many ways an ingenious bill that is the work product of an unusual coalition of environmental non-governmental organizations, state agencies, private equity firms and credit brokers. It promises state agencies access to new funding sources to underwrite the costs of Chesapeake Bay cleanup. The private equity funds that aggregate large scale environmental restoration projects and sell credits into international carbon markets are oversubscribed and would benefit from access to a new pool of credits that can be fed into those markets.

Opportunity Costs and the Transition to a Net-Zero Carbon Economy

While the bill may have a positive influence on Bay cleanup, we believe the committee and bill sponsors should carefully evaluate how selling Maryland carbon credits to offset out-of-state emissions interacts with the transition to a state-wide net-zero carbon emissions economy. A net-zero economy will require that all activities of daily life be accomplished in ways that generate zero carbon emissions or are offset through practices like the purchase of carbon credits. Access to carbon trading markets will be an essential element of climate mitigation. Without offsets and credits, mitigation will be far more expensive and take longer. There are no provisions in the bill to allow regulated, in-state entities access to the carbon markets that will receive credits generated in Maryland.

The bill makes the current and future carbon emissions reductions on millions of acres under agricultural, Maryland Historical Trust, Rural Legacy, and other environmental easements eligible for sale. Today, the carbon sequestration value of the forest on these lands is counted as emissions sinks in the state's greenhouse gas inventories. These carbon reductions cannot both be counted as in-state sinks and sold to mitigate out-of-state emissions. Existing estimates of in-state sinks would likely need to be adjusted downward, putting additional climate mitigation burdens on other sectors - including sectors that pay the taxes and fees that fund the land conservation easements and the water quality improvement programs leveraged by SB 348.

Despite substantial potential, *Blue Carbon*, the carbon captured by coastal ecosystems, has not been included in the state's inventory of emissions sinks. SB 348 would allow use of state funds to enhance the water quality functions of *Blue Carbon* assets. In addition to being paid for the on-the-ground water quality improvements, compensation to landowners and credit aggregators includes the right to sell associated carbon reductions. To the extent these sales mitigate out-of-state emissions this arrangement will diminish the future role of *Blue Carbon* as a resource in reaching Maryland's greenhouse gas mitigation targets.

Questions Raised by the Bill

Evaluating the bill's influence on the transition to a net-zero emissions economy raises several questions:

- + Who should own a carbon credit that is the byproduct of state spending on Chesapeake Bay cleanup?
- + Should state lands, and dedicated funds be pledged as collateral to guarantee the performance of privately owned carbon credits?
- + Would selling carbon credits from land under Rural Legacy, Maryland Environmental Trust and other state conservation easements on out-of-state trading markets require removing them from the state's greenhouse gas inventory of carbon sinks?
- + What is the carbon credit generating capacity of the state and how long would it take for international markets to deplete local credit generating opportunities?
- + Why should credits be sold into international markets to offset emissions generated out-of-state when regulated in-state households, businesses, governments, and institutions do not have access to those markets and may need those locally sourced credits to meet an economy-wide net-zero carbon emissions target?

We believe amending the bill to include reciprocal agreements that allow regulated entities in Maryland to access the markets that receive credits generated here will serve the purpose of the bill and provide in-state entities access to the tools they may need to transition to a net-zero carbon economy.

For these reasons NAIOP respectfully requests your favorable with amendments report on SB 348.

Sincerely,



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

cc: Senate B&T Committee Members
Nick Manis – Manis, Canning Assoc.