

SB354_ShoreRivers via MPluta_Fav.pdf

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**Testimony in SUPPORT of SB354 – Bay Restoration Fund –
Intended Use Plans and Privately Owned Wastewater Facilities**

February 24, 2022

Dear Chairman Pinsky and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **SB354** on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with over 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

This bill will provide much needed oversight to the Maryland Department of Planning (MDP) and Department of Environment (MDE) on how Bay Restoration Funds (BRF) are allocated to assist local governments – as intended with the fund, versus assisting privately owned wastewater treatment plants that have the financial capacity to purchase or upgrade their treatment system.

This bill also builds upon the General Assembly's 2021 position to require a 50% cost-share for any BRF funds that are allocated to a privately owned treatment plant. Through this bill, however, the cost-share option is only available for a privately owned plant that (1) delivers service to the public, (2) is small, independently-owned and not a subsidiary of another business, and (3) has not violated their discharge permit within the prior two years, or if they have violated their permit they (4) lack the financial capacity to come back into compliance on their own.

ShoreRivers supports this bill because it removes barriers and prioritizes BRFs to assist small rural towns on the Eastern Shore that have long struggled to receive prioritization in the BRF allocation process.

Sewer overflows in the City of Cambridge occur frequently due to the unique inflow and infiltration (I&I) problems that result from stormwater and tidal influences in their sewer collection system. The City has requested for many years support from BRF to address the sewer overflow issues that cause local public beaches in Cambridge to fail to meet bacteria water quality standards nearly 50% of the time and making it unsafe for families and pets to swim in the Choptank River near these areas.

In 2021 on MDE's "Final Project Priority List for State FY2022 Clean Water Funds"¹ the City of Cambridge was ranked 56 (of 99) for their request for a \$1.9 million loan. Similarly the towns of Hurlock, Sharpstown, Snow Hill, East New Market, Easton, and Federalsburg and the cities of Fruitland and Pocomoke all failed to receive priority ranking status that year. Meanwhile, Valley Proteins, a *privately-owned* rendering facility in Dorchester County worth \$1.1 billion that has repeatedly and significantly violated their discharge permit for at least the last five years was ranked 5 (of 99) for their request for a \$15.3 million *grant* that would not need to be paid back. Thankfully the General Assembly stopped this allocation from happening in 2021 and removed the possibility of Valley Proteins receiving this gift of public funding as a reward for their years of noncompliance.

This bill will make it clear that situations like with Valley Proteins won't happen again, freeing up millions of dollars of funding in the BRF for the small rural towns on the Eastern Shore that have struggled to receive this much needed funding in the past.

¹ <https://mde.maryland.gov/programs/Water/WQFA/Documents/FFY20SFY22CWPPPL.pdf>

For these reasons stated above, ShoreRivers urges the Committee to adopt a **FAVORABLE** report on **SB354**.

Sincerely,



Matt Pluta

Choptank Riverkeeper, on behalf of:

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

SB 354_CBF SUPPORT.pdf

Uploaded by: Robin Jessica Clark

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 354

Bay Restoration Fund – Intended Use Plans and Privately Owned Wastewater Facilities

Date: February 24, 2022

Position: **Support**

To: Education, Health and Environmental Affairs

From: Doug Myers, Maryland Senior Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 354 which clarifies conditions by which Maryland Department of Environment may support state water quality funding for privately-owned wastewater treatment plants and requires reporting to the General Assembly on Intended Use plans submitted to EPA for approval seeking federal capitalization grants.

This bill sets forth parameters and criteria for when public assistance should be offered to privately owned wastewater facilities to implement upgrades that will improve water quality. These updates to the law add clarity in line with the purpose of the Bay Restoration Fund. The bill's reporting provisions will provide a helpful record to account for the uses of the Fund and measure progress toward water-quality goals.

The bill clarifies that a private facility must provide wastewater service to homes, and not just be disposing of its own industrial discharges, to qualify for funding. It also states that a facility that is out of compliance with its permit may not receive funding unless the ownership of the facility demonstrates financial need.

CBF sits on the Bay Restoration Fund Advisory Committee and in the past has expressed caution to the Maryland Department of Environment (MDE) about extending state grants to privately-owned facilities, especially for those facilities who do not serve residential homes, or with a history of permit violations. CBF has further suggested that it would be more appropriate for those private facilities to receive loans while reserving grant funding for municipally owned wastewater treatment plants.

The change in policy set forth by SB 354 will protect the integrity of the Bay Restoration Fund's purpose of upgrading the state's public wastewater treatment facilities. Upgrades include enhanced nutrient removal, retrofitting failing septic systems, and other water quality goals. This work is critical to the State's progress toward the 2025 deadline under the Chesapeake Bay Blueprint.

CBF urges the Committee's FAVORABLE report on SB 354. For more information, please contact Robin Jessica Clark, Maryland Staff Attorney at rclark@cbf.org and 443.995.8753.

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The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

SB354_Elfreth_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 24, 2022

Testimony in Favor of SB354
Bay Restoration Fund - Intended Use Plans and Privately Owned Wastewater Facilities

Chairman Pinsky, Vice-Chair Kagan, and members of the Education, Health, and Environmental Affairs Committee:

I respectfully request a favorable report of Senate Bill 354 to set forth more guardrails on the use of Bay Restoration Fund (BRF) dollars as well as create a more transparent process on the use of public BRF dollars in the future.

Last session, the Chair and I were – simply put – taken aback at the proposed use of \$13M dollars of public BRF dollars to support a private wastewater treatment plant. However, through the Operating Budget the General Assembly was able to lower the funding to that project to \$7,650,000 (roughly half) and through the BRFA we were able to codify that the BRF fund could be used to award grants for up to 50% of eligible costs for privately owned wastewater facilities.

This legislation builds on the BRFA and actions in the Budget last year to **further protect the public dollars in the BRF by:**

1. Ensuring that we are not awarding private facilities that fail to follow our water quality laws
2. Authorizing a 50% cost-share using BRF funds for small, independently owned wastewater systems that lack the financial capital to purchase the necessary upgrades to bring the facility into compliance with the Department's discharge permit.

This legislation also creates more transparency throughout the entire BRF awarding process by:

1. Requiring that in the annual report issued jointly by MDE and the Department of Planning on the use of BRF funding that there include a list of each privately owned wastewater facility that received funding.
2. Ensuring that MDE provides to the General Assembly a copy of each intended use plan that they submit to the EPA to request Federal Capitalization grants and awards for use in the Maryland Water Quality Revolving Loan Fund.
3. Requiring that when MDE submits its proposed operating budget to DBM that they disclose the list of privately owned wastewater facilities that it provided funding to in the previous year and

the reason why it provided funding - additionally it will require DBM to immediately provide this list to the General Assembly.

The BRF is a public fund – filled using taxpayer dollars. This legislation will ensure that the BRF is prioritizing strategic investments in our public infrastructure all while creating a process to ensure that privately owned facilities, that lack the necessary financial capital to bring their facilities into compliance, are still able to receive some funding from the BRF.

Once again I respectfully request a favorable report of SB354 to add additional transparency and further protect the BRF.

SB 354 - CLA Testimony.pdf

Uploaded by: William Halnon

Position: FAV



Support for Senate Bill 354

Dear Chairman Pinsky and Members of the Committee:

The Chesapeake Legal Alliance strongly supports SB 354 because it will significantly benefit water quality in the Chesapeake Bay watershed and represents sound public policy. Generally, the bill accomplishes four things.

1. The bill builds upon the foundation wisely established by the General Assembly in the 2021 regular session by maintaining the 50 percent restriction on funding from the Bay Restoration Fund for privately owned wastewater facilities. This restriction could have a substantial fiscal benefit for the State and local governments, ***freeing up potentially tens of millions of dollars*** over the next decade that could be put to use to help update and upgrade publicly owned wastewater treatment systems.
2. The bill harmonizes this existing restriction with the overall purpose and longstanding interpretation of the Bay Restoration Fund as a policy designed to assist ***local governments*** in financing capital upgrades associated with the delivery of clean water. As such, only private wastewater facilities that ***actually deliver services to the public*** would be eligible to receive funds for 50 percent of the cost of the project.
3. The bill strikes a delicate balance in ensuring that funds are not awarded to private facilities that ***fail to abide by our water quality laws***, except where certain criteria are met. Thus, if a small, independently-owned wastewater system is struggling to provide safe and sanitary wastewater service to a community in noncompliance with the law, the bill would allow such a system to receive funds, subject to the 50 percent cost share; but systems owned by larger entities with the ability to pay for their own capital upgrades would not be allowed to take advantage of state funds. This is consistent with the current state policy to allow publicly owned facilities with compliance issues to receive funds to help them upgrade their facilities and regain compliance.
4. The bill ***adds much needed transparency*** to the very consequential process of determining which applicants receive funding from the Bay Restoration Fund and from federal clean water funds. With well over \$100 million being distributed in any given year - mostly to local governments, but also some private entities - it only makes sense that the Department of the Environment should be proactively notifying the General Assembly, Bay Restoration Fund Advisory Committee, and Department of Budget and Management about how funds are proposed to be distributed.

For these reasons, the Chesapeake Legal Alliance strongly supports Senate Bill 354 and urges a favorable report. For additional information, you may contact Staff Attorney Evan Isaacson at evan@chesapeakelegal.org.