

Senate Bill 196 - MASCD - Support.pdf

Uploaded by: Jen Nelson

Position: FAV



January 23, 2024

The Honorable Brian Feldman, Chairman
Senate Education, Energy, and the Environment Committee

Re: Senate Bill 196 – Soil Conservation Districts - Small Ponds - Plan Review Fees

Position: *Support*

Chair Feldman & Committee Members:

I am writing on behalf of the Maryland Association of Soil Conservation Districts (MASCD) to express our *support* for **Senate Bill 196 – Soil Conservation Districts - Small Ponds - Plan Review Fees**, which authorizes a soil conservation district to recommend a fee system to cover the cost of reviewing plans for small ponds. A small pond is a water impoundment created by a dam or embankment, or by digging a pit or dugout. These manmade water bodies are constructed for a variety of purposes, including stormwater management, recreation, and irrigation.

Authority for the construction of small ponds is granted to Maryland's conservation districts for plan review and approval. As part of the approval process, several conservation districts that did not employ an engineer were able to provide small pond reviews through an MOU with NRCS, relying on their job approval authority and technical oversight to conduct plan reviews and grant approvals. In January 2021, NRCS issued Bulletin 210-21-01 notifying the conservation districts that **NRCS would discontinue their support of small pond reviews in January 2022**, exempting those small ponds that are included in an agricultural conservation plan. For counties where neither the conservation district nor county government staffed an engineer with expertise on small ponds, a technical service gap was created where there was no local expertise that could provide reviews and approvals.

Since 2022, the Maryland Department of Environment's Dam Safety Program has worked with MASCD and the conservation districts to clarify the qualifications and process that districts should use to review and approve plans and adopted Maryland's Small Pond Approval Process Policy in August 2022. At the same time, conservation districts have taken a variety of measures to address the issue. Some conservation districts already employed an engineer that could address the needs of their communities. Other districts sought to work with their local jurisdictions to hire an engineer to maintain services and reduce impacts to development timelines. Districts with lower demand for small pond reviews have opted to defer to Maryland Department of Environment's

Dam Safety Program. In all cases, one common barrier to all the conservation districts is clear authority to charge a fee for service for small pond reviews. If a conservation district seeks to employ an engineer to offer this important service, there is not a clear path to fund that position.

This legislation tackles existing service and funding gaps by introducing a specified and approved fee arrangement between the districts and the local governing body. It's crucial to highlight that the funds collected by the districts will be exclusively allocated to staffing the position and covering any essential fees related to conducting the review. Enabling soil conservation districts in Maryland to charge small pond review fees supports their financial sustainability, ensures the availability of expertise, and contributes to responsible land use practices, ultimately benefiting the environment and the community at large.

Thank you for your kind consideration and attention to this legislation.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jen Nelson". The signature is written in a cursive style with a large, stylized initial "J".

Jen Nelson, Executive Director
Maryland Association of Soil Conservation Districts

SB196 - CBF - FAV.pdf

Uploaded by: Matt Stegman

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 196

Soil Conservation Districts – Small Ponds – Plan Review Fees

Date: January 23, 2024

To: Education, Energy, and the Environment Committee

Position: **Favorable**

From: Alan Girard

Eastern Shore Director

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 196 which authorizes a Soil Conservation District (SCD) to recommend a fee system to cover the cost of reviewing plans for small ponds. The bill would enable a program to be established that pays for the expenses incurred by SCDs administering small pond plan reviews.

SCDs are delegated by the Maryland Department of the Environment (MDE) to review designs to construct small ponds. Until recently, USDA's Natural Resources Conservation Service (NRCS) supplied technical review and professional engineering services in some counties to assist SCDs with small pond plan reviews. These SCDs are now absorbing the cost of this service without authority to propose a fee system that would cover a District's plan review expenses.

State law currently limits supervisors of an SCD to recommend a fee system that covers the cost of reviewing grading and sediment control plans. SB 196 would enable supervisors to also recommend a fee system to cover the cost of reviewing small pond plans, ensuring that Districts are adequately resourced to meet demand for this public service.

CBF urges the Committee's FAVORABLE report on SB 196

For more information, please contact Alan Girard, Eastern Shore Director, at agirard@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

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 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

SB 0196, FAV, OCE, JF, LS24.pdf

Uploaded by: Sarah Price

Position: FAV



JESSICA FITZWATER
COUNTY EXECUTIVE
FREDERICK COUNTY, MARYLAND

SB 196 – Soil Conservation Districts – Small Ponds – Plan Review Fees

DATE: January 23, 2024
COMMITTEE: Senate Education, Energy, and the Environment
POSITION: Support
FROM: Frederick County Executive Jessica Fitzwater

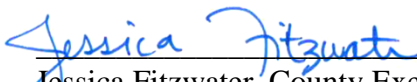
As the County Executive of Frederick County, I urge the committee to give SB 196 a FAVORABLE report.

This bill authorizes each soil conservation district to recommend a fee system for enactment by the local governing body, to cover the cost of reviewing small pond plans. Currently, the Maryland Department of Environment delegates the authority to review and approve small pond designs to Soil Conservation Districts. These small ponds are often used for sediment control and stormwater management.

The Catoctin / Frederick Soil Conservation Districts utilize a part-time engineer for these small pond design reviews, a position supported by revenue from sediment control review fees. Unfortunately, this fee structure is not sufficient for all County operations and small pond review. In order to continue offering this service locally, we must identify sustainable and fair funding mechanisms. This bill allows us to do exactly that and would help ensure property owners can receive prompt review and approval of their small ponds.

The ability to establish a fee would allow Frederick County to expand and sustain our current service offering. As the budget tightens, measures such as these are important to ensure continued County services.

Thank you for your consideration of SB 196. On behalf of County Executive Fitzwater and the residents of Frederick County, I urge a FAVORABLE report.



Jessica Fitzwater, County Executive
Frederick County, MD

SB 196 FAV Testimony.pdf

Uploaded by: Senator Gallion

Position: FAV

JASON C. GALLION
Legislative District 35
Harford and Cecil Counties

Education, Energy, and
the Environment Committee



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64 S. Main Street
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January 22nd, 2024

The Honorable Brian Feldman, Chair

Senate Education, Energy, and Environment Committee

RE: SB196 – Soil Conservation Districts – Small Ponds – Plan Review Fees

Position: **Favorable**

Dear Chairman Feldman,

For purpose of this legislation, “Small Ponds” is defined as a water impoundment created by a dam or embankment, or by digging a pit or dugout. These manmade water bodies are constructed for a variety of purposes, including stormwater management, recreation, and irrigation.

“Small ponds”, also meet a specific set of criteria: 1) drainage area to the pond must be less than 640 acres; the height of the pond (measured from the upstream toe to the top of dam) must be less than 20 feet; and the dam must be a “low hazard” structure, the failure of which is not likely to cause loss of life or property damage.

Currently, Authority for the construction of small ponds is granted to Maryland’s conservation districts for plan review and approval. As part of the approval process, several conservation districts that did not employ an engineer were able to provide small pond reviews through an MOU with NRCS (Natural Resources Conservation Service), relying on their job approval authority and technical oversight to conduct plan reviews and grant approvals.

In January 2021, NRCS issued notice to the conservation districts that NRCS would discontinue their support of small pond reviews in January 2022, excepting those small ponds that are included in an agricultural conservation plan. NRCS contends that only small ponds included in conservation plans are in line with their mission and sought to focus resources accordingly.

For counties where neither the conservation district nor county government staffed an engineer with expertise on small ponds, a technical service gap was created where there was no local expertise that could provide reviews and approvals. In these counties, small pond reviews are routed to MDE’s Dam Safety Program for a permit, resulting in significantly longer wait times (over a year in some cases) to receive a permit.

Since January 2022 when NRCS ceased to provide support for small pond approvals, MDE’s Dam Safety Program has worked with MASCD (Maryland Association of Soil Conservation Districts) and the conservation districts to clarify the qualifications and process that districts should use to review and

JASON C. GALLION
Legislative District 35
Harford and Cecil Counties

Education, Energy, and
the Environment Committee



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approve plans and adopted Maryland's Small Pond Approval Process Policy in August 2022 which I've included in my written testimony to the committee.

At the same time, conservation districts have taken a diversity of measures to address the issue. Some conservation districts already employed an engineer that could address the needs of their communities. Other districts sought to work with their counties to hire an engineer to maintain services and reduce impacts to development timelines.

Some districts with lower demand for small pond reviews opted to defer to MDE's Dam Safety Program. In all cases, one barrier common to all the conservation districts is clear authority to charge a fee for service for small pond reviews. If a conservation district seeks to employ an engineer to offer this important service, there is not a clear path to fund that position. Soil conservation districts are currently authorized to recommend a fee system to cover the cost of reviewing grading and sediment control plans, SB 196 would grant soil conservation districts the authority to recommend a fee system for small pond review in the same manner.

Passage of this legislation will help to address the technical service gap and reduce long wait times that are occurring in some counties.

Thank you for your time and I respectfully ask the committee for favorable passage of SB196.

Sincerely,

A handwritten signature in blue ink that reads "Jason Gallion".

Jason Gallion

Senator, District 35

SB 196 MDE SWA PS .docx - Google Docs.pdf

Uploaded by: Les Knapp

Position: FWA



The Maryland Department of the Environment
Secretary Serena McIlwain

SB 0196

Soil Conservation Districts - Small Ponds - Plan Review Fees

Position: Supports with Amendments
Committee: Education, Energy, and the Environment
Date: January 22, 2024
From: Les Knapp

The Maryland Department of the Environment (MDE or the Department) **SUPPORTS SB 196 WITH AMENDMENTS**. This bill would authorize a soil conservation district to recommend a fee system to cover the cost of reviewing plans for small ponds.

Soil Conservation Districts (SCDs) review and approve certain sediment and erosion control plans, as well as small pond plans. Currently, SCDs are able to enact a fee system to cover the cost and review of the sediment and erosion control plans. Senate Bill 196 would expand this to allow SCDs to enact a fee system to cover the cost of the review of small pond plans as well. Senate Bill 196 would also create a definition of “small pond”.

Overall, the Department supports the proposed bill. However, the Department is concerned about potential confusion related to the use of certain terms in the proposed definition of “small pond”, which may unnecessarily limit the scope of what is considered a small pond. The proposed definition includes terms such as “artificial,” “constructed,” and “pit or dugout.” These are non-technical terms that have not been defined by the Department. Additionally, the proposed definition would exclude “natural” impoundments that fit within the permit exemption for reservoirs, dams, or waterway obstructions under § 5-503(b) of the Environment Article, which the Department considers small ponds, but might not be “artificial,” “constructed,” or “excavated.” To avoid any potential confusion, it is recommended that the bill be amended to streamline the definition and more consistently track terms used in the Environment Article.

Additionally, the Department is concerned that as written the definition of “small pond” will render a small pond owner ineligible for funding under the Department’s proposed Private Dam Repair Fund (see HB0245). Consequently, the Department requests that the definition of “small pond” be modified using the language below. The Department has spoken with the sponsor, as well as the Maryland Association of Soil Conservation Districts, and they have agreed to incorporate the amendment. .

Senate Bill 196 would provide Soil Conservation Districts with the economic means to review small pond plans, thereby reducing the environmental risk associated with small pond design, construction, and maintenance. Accordingly, MDE urges a **FAVORABLE WITH AMENDMENTS** report for SB 196.

Bill Amendment:

On page 2, strike beginning with "AN" in line 26 down through "EXEMPT" in line 29 and substitute, "A DAM, RESERVOIR, OR WATERWAY OBSTRUCTION THAT IS EXEMPT".