

JASON C. GALLION
Legislative District 35
Harford and Cecil Counties

Education, Energy, and
the Environment Committee



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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

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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