



Support for House Bill 1042

Dear Chairman Korman and Members of the Committee:

The Chesapeake Legal Alliance strongly supports HB 1042. As this committee is aware, the U.S. Environmental Protection Agency and the Chesapeake Bay Program Partnership, of which Maryland plays a leading role, publicly acknowledged more than a year ago that the 2025 Bay restoration target was hopelessly out of reach. In the wake of that pronouncement, however, a groundbreaking scientific assessment of the restoration effort illuminated the various deficiencies and uncertainties to help explain how we got here and the path forward. This major assessment, called the Comprehensive Evaluation of System Response, or “CESR”, contained numerous findings and recommendations, but a few major lessons rose to the top.

One of the primary conclusions of CESR is that the current scattershot approach to funding pollution control projects or “best management practices” (BMPs) across the landscape has proven ineffective and that “[a]ppreciable reductions in nutrient loads cannot be achieved unless regional mass imbalances are successfully addressed.” This term “regional mass imbalance” simply refers to a build-up of more nutrient pollution (nitrogen and phosphorus) in a given area than can be taken up by that ecosystem. Smoothing out these imbalances by reducing nutrient inputs to that region or increasing nutrient exports out of it is, therefore, critical to reducing water pollution and achieving our restoration goals.

This bill achieves *both* of these high level recommendations from the CESR report, making it potentially one of the single most effective and cost-effective water quality bills in years (if it is properly and fully implemented). The bill clearly and emphatically addresses part of that “scattershot” problem by providing incentive payments to farmers or landowners to focus their efforts on the most effective projects in just the right locations to maximize not only pollution reduction capability, but also ecosystem response and public health protection. This is exactly what is needed to resolve the conclusion from CESR that “field and monitoring studies showed mixed or little to no improvement from BMP implementation.”

However, what could make the bill truly transformational is its focus on practices that have the potential to actually address that nutrient mass imbalance in the first place. Among the list of practices eligible for receiving incentive payments are “vegetative environmental buffers” and other projects that prevent the deposition to land and water of nutrients from the air. The bill not only makes these projects eligible for incentive funding, but establishes a separate process for scoring these projects based on their public health and environmental justice benefits.

According to recent estimates, there are millions of pounds of a form of nitrogen that are deposited to the land and waters of the Eastern Shore with virtually no controls in place today. Yet the solution to this massive problem is as cheap as planting certain species of trees, shrubs, and grasses in just the right locations to intercept those gaseous emissions and begin soaking up those nutrients. By our estimate there

is no other water pollution control project or practice with a greater cost-effectiveness value than these. More importantly, while these vegetative buffers reduce nutrient runoff to the Atlantic and Chesapeake Coastal Bays, they also substantially reduce hazardous air pollutants in certain communities, especially the overburdened communities in places like Somerset, Wicomico, and western Worcester counties that are often surrounded by high concentrations of ammonia and particulate matter pollution.

Finally, it is important to note that there are ample funds in the annual budget to carry out most of these projects and practices, between the Maryland Agricultural Cost Share program at the Department of Agriculture, the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund at the Department of Natural Resources, and the Clean Water Commerce Act account with the Department of the Environment's Bay Restoration Fund program. What the bill does is provide a modest additional incentive payment that is geared toward ensuring greater buy-in from property owners so that we can unlock the dramatic potential that comes from prescribing the right BMPs and targeting them in just the right spots.

A program like this could not have really existed a decade ago, but is primed for deployment now thanks to tremendous advances in Bay restoration science of recent years, as well as new modeling tools that the State is capable of utilizing.

For these and many other reasons we support House Bill 1042. For more information, you may reach Evan Isaacson at evan@chesapeakelegal.org.