

HOUSE BILL 44

M3

3lr0704

(PRE-FILED)

By: **Delegate Vitale**

Requested: November 5, 2012

Introduced and read first time: January 9, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Maryland Clean Water Fund – Uses**

3 FOR the purpose of requiring the Department of the Environment to use certain
4 penalties or fines that are paid into the Maryland Clean Water Fund to restore
5 certain areas associated with the penalty or fine; restricting the use of certain
6 penalties or fines for administrative purposes; making certain technical
7 changes; and generally relating to uses of the Maryland Clean Water Fund.

8 BY repealing and reenacting, with amendments,
9 Article – Environment
10 Section 9–320
11 Annotated Code of Maryland
12 (2007 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Environment**

16 9–320.

17 (a) There is a Maryland Clean Water Fund.

18 (b) The following payments shall be made into the Maryland Clean Water
19 Fund:

20 (1) All application fees, permit fees, renewal fees, and funds collected
21 by the Department under this subtitle, including any civil or administrative penalty or
22 any fine imposed by a court under the provisions of this subtitle;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Any civil penalty or any fine imposed by a court under the
2 provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use;

3 (3) Any civil or administrative penalty or any fine imposed by a court
4 under the provisions of Title 4, Subtitle 1 of this article; and

5 (4) Any fees or funds that the Department collects under Subtitle 2,
6 Part III of this title and §§ 9–269 and 9–270 of this title and any civil or
7 administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of
8 this title.

9 (c) (1) The Department shall use the Maryland Clean Water Fund for
10 activities that are related to:

11 [(1)] (I) The identification, monitoring, and regulation of the proper
12 discharge of effluent into the waters of the State including program development of
13 these activities as provided by the State budget;

14 [(2)] (II) The management, conservation, protection, and preservation
15 of the State's groundwater and surface water including program development of these
16 activities as provided by the State budget;

17 [(3)] (III) Correcting to the extent possible the failure to implement or
18 maintain erosion and sediment controls;

19 [(4)] (IV) Administration of the sediment control program;

20 [(5)] (V) Emergency removal of sewage sludge or mitigation of the
21 effect of any utilization of sewage sludge that the Department finds:

22 [(i)] 1. Endangers public health, safety, or welfare; or

23 [(ii)] 2. Endangers or damages natural resources;

24 [(6)] (VI) Activities that are:

25 [(i)] 1. Conducted by the Department, by a local health
26 official, or by the local health official's designee under § 9–243(e) of this title; and

27 [(ii)] 2. Related to identifying, monitoring, or regulating the
28 utilization of sewage sludge, including program development; and

29 [(7)] (VII) Providing supplemental inspections and monitoring of
30 sewage sludge utilization sites by:

1 [(i)] 1. Contracting with a county on request of that county to
2 provide supplemental inspections and monitoring; and

3 [(ii)] 2. Limiting the value of services provided under the
4 contract to no more than 45% of the generator fees for sludge utilized in that county
5 that is generated outside of that county or service area.

6 (2) THE DEPARTMENT SHALL USE ANY CIVIL OR
7 ADMINISTRATIVE PENALTY OR FINE THAT IS PAID INTO THE MARYLAND CLEAN
8 WATER FUND TO RESTORE:

9 (I) THE AREA ASSOCIATED WITH THE PENALTY OR FINE; OR

10 (II) AN AREA THAT IS SIMILAR IN BIOLOGICAL FUNCTION
11 AND IN CLOSE PROXIMITY TO THE AREA ASSOCIATED WITH THE PENALTY OR
12 FINE.

13 (3) THE DEPARTMENT MAY NOT USE MORE THAN 1% OF A
14 PENALTY OR FINE THAT IS PAID INTO THE MARYLAND CLEAN WATER FUND
15 UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR ADMINISTRATIVE PURPOSES.

16 (d) An expenditure that the Department makes under subsection [(c)(5)]
17 (C)(1)(V) of this section shall be reimbursed to the Department by the sewage sludge
18 utilizer whose sewage sludge utilization brought about the expenditure by:

19 (1) Endangering public health, safety, or welfare; or

20 (2) Endangering or damaging natural resources.

21 (e) In addition to any other legal action authorized by this subtitle, the
22 Attorney General may bring an action against any person who fails to reimburse the
23 Department under subsection (d) of this section to recover any expenditure that the
24 Department makes under subsection [(c)(5)] (C)(1)(V) of this section.

25 (f) In determining the use of the Maryland Clean Water Fund, priority shall
26 be given to activities relating to the water quality of the Chesapeake Bay and its
27 tributaries.

28 (g) Notwithstanding any law to the contrary, funds credited and any interest
29 accrued to the Fund:

30 (1) Shall remain available until expended; and

31 (2) May not be reverted to the General Fund under any other
32 provision of law.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.