



# CHESAPEAKE BAY COMMISSION

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## HIGHLIGHTS OF THE 2021 STATE LEGISLATIVE SESSIONS Pennsylvania, Maryland, and Virginia

### **PENNSYLVANIA (as of 4-30-2021)**

***(2021-2022 2-year, full-time Session, January 5, 2021-November 30, 2022)***

#### ***PENDING - INTRODUCED***

#### **[SB 64](#) (Senator Martin)**

##### **Ag Preservation Funds**

Would allow a portion of state farmland preservation funding to be set-aside for use by land trusts.

Status: House Agriculture & Rural Affairs Committee

#### **[SB 251](#) (Senator Yaw)**

##### **Fertilizer**

Would update components of the existing fertilizer program and adds new requirements for the certification of professional fertilizer applicators and establishes provisions related to the application of fertilizer to non-agricultural lawns and turf for the purpose of protecting water quality.

Status: Senate Appropriations Committee

#### **[SB 302](#) (Senator Yaw) / [HB 1166](#) (Representative Sturla)**

##### **PFAS**

Would prohibit the use of PFAS chemicals in firefighting foam used for testing or training purposes.

Status: Senate Environmental Resources & Energy Committee (SB 302)/House Veterans Affairs & Emergency Preparedness Committee (HB 1166)

#### **[SB 465](#) (Senator Yaw)**

##### **Agricultural Conservation Assistance Program**

Would create a new statewide agricultural cost-share program administered by the State Conservation Commission and county conservation districts.

Status: Senate Agriculture & Rural Affairs Committee

#### **[SB 475](#) (Senator Yaw)**

##### **Nutrient Procurement**

Would establish a pay-for-success program within the Pennsylvania Infrastructure Investment Authority, to allow for long-term (up to ten year) contracts for nutrient or sediment reduction activities.

Status: Senate Environmental Resources & Energy Committee

**[SR 50 \(Senator Yaw\)](#)**

**Conservation District Week**

Resolution recognizing April 18-24, 2021 as “Conservation District Week” in Pennsylvania.

Status: Senate Rules & Executive Nominations Committee

**[HB 810 \(Representative Sturla\)](#)**

**Livestock Stream Exclusion**

Would repeal a clause in current law that prohibits the Commonwealth or a municipality from requiring livestock to be fenced out of streams. The new language would allow for appropriate stream crossings.

Status: House Environmental Resources & Energy Committee

**[HB 1226 \(Representative Sturla\)](#)**

**Clean & Green**

Would require a conservation plan as a pre-requisite for a farm to enroll in the Clean & Green preferential property tax assessment program.

Status: House Agriculture & Rural Affairs Committee

***PENDING – NOT YET INTRODUCED***

**[Co-Sponsor Memo \(Senators Yaw, Martin, and Laughlin\)](#)**

**Clean Streams Fund**

Would establish a Clean Streams Fund in the State Treasury, to support non-point source pollution reductions.

Could receive funds from federal, state or other sources.

**[Co-Sponsor Memo \(Senator Yaw\)](#)**

**“Stream Cleaning”**

Would direct the Environmental Quality Board to develop regulations for stream “cleaning” and maintenance and the removal of obstructions and flood-related hazards from waterways.

**[Co-Sponsor Memo \(Senator Yaw\)](#)**

**Susquehanna River Basin Commission (Senator Yaw)**

Resolution recognizing SRBC on its 50<sup>th</sup> Anniversary.

**[Co-Sponsor Memo \(Representative Sturla\)](#)**

**Pennsylvania Water Resource Act**

Would charge large water users (those who withdraw more than 10,000 gallons/day) a fee of 1/100 of a cent for non-consumptive uses and 1/10 of a cent for consumptive uses. The fee would not apply to agricultural or residential uses. Revenue would be used to fund water improvement projects.

**[Co-Sponsor Memo \(Representative Sturla\)](#)**

**Environmental Justice**

Would create The Commission on Environmental Justice and Sustainable Communities to advise the Commonwealth on effective laws and policies. Would also allow for permit denials if an environmental justice analysis determines that a new facility will have a disproportionately negative impact on an overburdened community.

## **MARYLAND**

***(90-day session, January 13-April 12)***

### **PASSED**

**[HB0076](#) (Delegate Love) / [SB0334](#) (Senator Carter)**

#### **Water Pollution Control – Intervention in Civil Actions – Rights and Authority**

Establishes that a person who meets the threshold standing requirements under the federal Clean Water Act has an unconditional right and the authority to intervene in a civil action initiated by the State in State court to require compliance with: (1) Subtitle 3 of Title 9 of the Environment Article, which governs water pollution control; (2) related regulations; or (3) any related discharge permit, effluent limitation, or order issued by MDE.

**[HB0094](#) (Delegate Stein)**

#### **Environment - Water Quality Revolving Loan Fund - Uses of Fund**

Expands the authorized uses of the guarantee authority under the Maryland Water Quality Revolving Loan Fund to include long-term pay for success contracts, green bonds, or environmental impact bonds by any public, private, or nonprofit entity for the purchase of outcomes that provide a water quality benefit.

**[HB0204](#) (Delegate Lierman) / [SB0324](#) (Senators Elfreth and Bailey)**

#### **Environment and Natural Resources - Complaints, Inspections, and Enforcement - Information Maintenance and Reporting**

Establishes tracking and reporting requirements for MDE and DNR with respect to the enforcement of environmental and natural resources laws. Among other things, MDE must maintain specified complaint data and develop and maintain a website with specified information and data relating to the enforcement of certain environmental laws.

**[HB0295](#) (Delegate Love) / [SB0227](#) (Senators Elfreth, Hester, and Pinsky)**

#### **Water Pollution - Stormwater Management Regulations and Watershed Implementation Plans - Review and Update**

Requires MDE to update specified stormwater management regulations and criteria once every five years to incorporate specified updated precipitation data. The bill also: (1) establishes new related reporting requirements and (2) requires MDE to submit a climate load allocation addendum to the Chesapeake Bay TMDL Phase III Watershed Implementation Plan, as well as updated two-year milestones, to the EPA by December 31, 2025.

**[HB0407](#) (Delegate Stein) / [SB0022](#) (Senator Young)**

#### **On-Site Sewage Disposal Systems - Inspection - Licensing**

Requires that by July 1, 2022, any person (unless exempted) who engages in the business of inspecting a septic system must obtain an on-site wastewater property transfer inspection license issued by the MDE. By January 1, 2022, MDE must adopt regulations that establish license eligibility criteria, minimum training standards, license terms, and fees for license applications and renewals, as specified. The bill also establishes an administrative penalty for violators; administrative penalties are deposited into the Septics Account within the Bay Restoration Fund (BRF).

**[HB0507](#) (Delegate Stein) / [SB0119](#) (Senators Guzzone and Elfreth)**

**Clean Water Commerce Act of 2021**

Reauthorizes and modifies the Clean Water Commerce Act through June 30, 2030, by establishing the Clean Water Commerce Account within the Bay Restoration Fund; requiring the MDE to transfer \$20,000,000 from the Fund to the Account to purchase “environmental outcomes” to achieve the Chesapeake Bay TMDL. Requires minimum funding allocations of 35% to agricultural practices, 20% to environmentally-disadvantaged communities and 10% to natural landscape restoration. Establishes program requirements, standards, etc.

**[HB0860](#) (Delegate Gilchrist) / [SB0692](#) (Senator Young)**

**State Planning – Preservation of Agricultural Land – Goal**

Establishing a State goal of preserving a total of 1,030,000 acres of productive agricultural land by 2030 through the State’s ag preservation programs.

**[HB0878](#) (Delegate Chang) / [SB0701](#) (Senator West)**

**Bay Restoration Fund - County Authority to Incur Indebtedness**

Authorizing a county to borrow money and incur indebtedness through the issuance and sale of notes in anticipation of the receipt of the county’s allocation of funds from a certain separate account of the Bay Restoration Fund.

**[HB0991](#) (Delegate Gilchrist)**

**Tree Solutions Now Act of 2021**

Allows the conservation of existing forest to be allowed within the definition of “forest mitigation banking” under the Forest Conservation Act (FCA). Creates a new programmatic goal to plant an additional five million trees in the State by 2031, with 500,000 of those trees to be planted in underserved communities. Creates staffing and funding to support these programs, including: (1) \$1000/acre bonus payment for new CREP enrollments for forest buffers; (2) provides funding for technical assistance positions within DNR; and (3) a grant program to be administered by the Chesapeake Bay Trust to support the DEIJ initiative. The bill also requires the Harry R. Hughes Center for Agro-Ecology (Hughes Center) to conduct a technical study to review changes in forest cover and tree canopy in the State and report its findings by December 1, 2023.

**[HB1207](#) (Delegate Bridges) / [SB0674](#) (Senators Elfreth, Guzzone et al.)**

**Environment - Commission on Environmental Justice and Sustainable Communities - Reform**

Bill does the following: (1) alters the composition of the commission and provisions governing the appointment of members and the designation of the chair; (2) requires that, to the extent practicable, the membership must reflect the racial, gender, ethnic, and geographic diversity of the State, as specified; (3) requires MDE to provide new commission members with a specified orientation; (4) requires CEJSC to meet at least six times per calendar year, requires CEJSC to hold at least four “community listening sessions” per calendar year, and establishes meeting and community listening session requirements, as specified; and (5) alters and expands the required duties of CEJSC.

**[SB0344](#) (Administration)**

**Agriculture - Cost-Sharing Program - State Cost-Sharing Funds**

Increasing from 87.5% to 100% the percentage of eligible costs for which State cost-sharing funds may be made available for projects that prevent or control agriculturally related nonpoint source water pollution.

**[SJ0004](#) (Senator Guzzone) (also crossfiled as HJ0001 by Delegate Stein)**

**Natural Resources – Fishing – Wild–Caught Blue Catfish**

Joint resolution that states the General Assembly’s opposition to inspection rules promulgated by the USDA that have impeded the harvest and sale of blue catfish and thus rendered the State unable to adequately use the commercial harvest as a form of control over the invasive blue catfish species; urging the U.S. Congress to amend 21 U.S.C. § 601(w) to exempt the wild catch of domestic catfish from certain inspection requirements; and requiring a copy of the Resolution to be forwarded to certain elected officials.

***DID NOT PASS***

**[HB0022](#) (Delegate Love) / [SB0195](#) (Senator Elfreth)**

**Environment - PFAS Chemicals - Prohibitions and Requirements**

Prohibiting, on or after January 1, 2022, the using, manufacturing, or selling or distributing the following items with intentionally added PFAS chemicals: (1) Class B fire-fighting foam; (2) rug or carpet; and (3) food packaging.

**[HB0082](#) (Delegate Fisher et al) / [SB0151](#) (Senator Patterson)**

**Constitutional Amendment - Environmental Rights**

Proposing an amendment to the Maryland Constitution to establish that every person has an inalienable right to a healthful environment; declaring that the State's natural resources are the common property of every person and the State is the trustee of the natural and historic resources of the State.

**[HB0583](#) (Delegate Stein) / [SB0414](#) (Senators Pinsky, Elfreth, Guzzone et al.)**

**Climate Solutions Now Act of 2021**

Requiring the State to reduce statewide greenhouse gas emissions by 60% from 2006 levels by 2030; requiring the State to achieve net-zero statewide greenhouse gas emissions by 2045; requiring the Maryland Department of Labor to adopt regulations establishing certain energy conservation requirements for certain buildings by July 1, 2022; establishing a goal of planting and helping to maintain in the State 5,000,000 sustainable trees of species native to the State by the end of 2030.

**[HB1267](#) (Delegate Henson) / [SB0925](#) (Senator Elfreth)**

**Workgroup on Public Water Access**

Establishes the Workgroup on Public Water Access to: (1) convene a group of diverse stakeholders; (2) make recommendations to increase public water access; and (3) consider the benefits of public water access on public health and environmental justice. The Chesapeake Bay Trust (CBT) must provide staff for the workgroup. A final report is due by December 1, 2022.

**[SB0737](#) (Senator Rosapepe)**

**Comprehensive Conservation Finance Act**

Makes changes to a broad variety of existing programs related to environmental conservation and natural resources management and expands opportunities for agencies to obtain private investment and financing for State environmental projects, including conservation efforts, restoration projects, and the installation and repair of green and blue infrastructure. The bill also alters existing and establishes new State policies for several related programs and establishes a new workgroup, commission, and task force. Creates a new task force and a new Commission.

## **BUDGET HIGHLIGHTS**

- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund: \$48.8 million**
- **Program Open Space State Share: \$43.6 million**
- **Rural Legacy: \$20.0 million**
- **MDA Agricultural Land Preservation (state funds): \$40.5 million**
- **DNR Oyster Restoration Program: \$260K**
- **DNR Costal Resilience Program: \$2.8 million**
- **MDA Cost Share Program: \$5.0 million**
- **MDE Water Quality Revolving Loan Fund \$7.7 million**
- **MDE Bay Restoration Fund: \$75 million**
- **MDE Septic System Upgrade Program: \$15 million**

## **VIRGINIA**

***(30-day Regular Session January 13-February 11, Special Session February 10-March 1)***

### **PASSED**

#### **[SB 1354](#) (Senator Hanger) / [HB 2129](#) (Delegate Lopez)**

##### **Chesapeake Bay; wastewater treatment; Enhanced Nutrient Removal Certainty Program.**

Requires pollution reductions for specific wastewater treatment facilities including schedules for compliance. These reductions are deemed to implement through January 1, 2026, the Chesapeake Bay Phase III Watershed Implementation Plan. The bill provides that if, after July 1, 2026, Virginia has not achieved its nitrogen pollution reduction commitments in the Phase III Watershed Implementation Plan, the Secretary of Natural Resources may develop an additional plan.

#### **[SB 1162](#) (Senator Hanger) / [HB 1763](#) (Delegate Wilt)**

##### **Tax credit; agricultural best management practices.**

Creates an enhanced individual and corporate income tax credit beginning in taxable year 2021 for the implementation of a certified resource management plan. The enhanced tax credit is equal to 50 percent of the first \$100,000 expended in implementing these practices. The bill retains a tax credit for 25 percent of expenses made for all other agricultural best management practices that are not eligible for the enhanced credit rate.

#### **[SB 1163](#) (Senator Hanger)**

##### **Tax credits of agricultural equipment.**

Establishes for taxable years 2021 through 2025 a refundable individual and corporate income tax credit for 25 percent of expenditures, up to a maximum of \$17,500, made for the purchase of conservation tillage and precision agriculture equipment.

#### **[SB 1350](#) (Senator Lewis) / [HB 2071](#) (Delegate Convirs-Fowler)**

##### **Transportation projects; resiliency.**

Requires the Commonwealth Transportation Board to determine whether a project has been designed to be resilient to climate change impacts when evaluating projects for the Six-Year Improvement Program and consider resiliency when establishing the Statewide Transportation Plan. The bill also requires the Commissioner of Highways to ensure resiliency is incorporated into the design standards for new construction projects.

**[SB 1374](#) (Senator Lewis)**

**Carbon Sequestration Task Force; report.**

Directs the Secretary of Natural Resources, jointly with the Secretary of Agriculture and Consumer Services, to convene a task force for the purpose of studying carbon sequestration. The task force will consider possible methods of increasing carbon sequestration, recommend benchmarks for increasing carbon sequestration, develop a carbon baseline and accounting method, identify carbon markets, and identify funding mechanisms to encourage carbon sequestration in the Commonwealth.

**[SB 1393](#) (Senator Marsden) / [HB 2042](#) (Delegate Guy)**

**Replacement and conservation of trees during development.**

Gives a locality the ability to exceed general requirements in its tree replacement and conservation ordinances in specific circumstances. These include development that impacts stormwater permit requirements, recurrent flooding, formerly redlined areas, and comprehensive plan compliance. The bill must be reenacted to become effective July 1, 2022, and a workgroup to study the issue shall be formed.

**[SB 1404](#) (Senator Lewis)**

**Stormwater Local Assistance Fund; grant requirements.**

Authorizes grants from the Stormwater Local Assistance Fund to consider total phosphorus reductions or total nitrogen reductions. The bill authorizes grant awards greater than 50 percent of projects costs in localities with above average fiscal stress.

**[HB 2159](#) (Delegate Guy)**

**Release of balloon prohibited; civil penalty.**

Prohibits any individual 16 years of age or older from intentionally releasing, discarding, or causing to be released or discarded any nonbiodegradable balloon outdoors and provides that any person convicted of such violation is liable for a civil penalty of \$25 per balloon, to be paid into the Game Protection Fund. The bill provides that if a person under the age of 16 releases a balloon at the instruction of an adult, the adult shall be liable for the civil penalty.

**[HB 1902](#) (Delegate Carr)**

**Expanded polystyrene food service containers; prohibition; civil penalty.**

Prohibits the dispensing by a "food vendor" of prepared food to a customer in a single-use expanded polystyrene food service container. The bill requires certain chain restaurants to stop using such containers by July 1, 2023 and sets the date for compliance by all food vendors as July 1, 2025. The bill exempts nonprofit organizations and provides a process by which a locality may grant consecutive one-year exemptions to individual food vendors on the basis of undue economic hardship.

***DID NOT PASS***

**[SB 1373](#) (Senator McClellan) / [HB 2221](#) (Delegate Hayes)**

**Environmental permits; community and environmental justice outreach.**

Requires the permit applicant for specific facilities to hold a public hearing and publish notices in English and Spanish in a newspaper, on social media, and on signage at the site location at least 60 days prior to the hearing. The bill also requires the applicant to mail notices to interested parties, accept written comments, transcribe

meeting information and respond to community concerns to the satisfaction of the Department of Environmental Quality.

**[SB 1318](#) (Senator Hashmi) / [HB 2074](#) (Delegate Simonds)**

**Environmental justice; interagency working group; report.**

Establishes the Interagency Environmental Justice Working Group as an advisory council in the executive branch of state government to further environmental justice in the Commonwealth and directs each of the Governor's Secretaries to designate at least one environmental justice coordinator to represent the secretariat as a member of the Working Group. The bill provides that the Working Group shall expire on July 1, 2031.

**[SB 1352](#) (Senator Lewis)**

**Flood control; Department of Flood Control and Commonwealth Flood Control Board established.**

Creates the Commonwealth Flood Control Board as a policy board in the executive branch with various duties coordinating and implementing (existing and new) flood control programs in Virginia. The bill creates the Department of Flood Control to assist in the administration of the Board's duties and to provide technical expertise. Funding for the Department is provided in part by funds collected from the sale of credits pursuant to the RGGI program.

***BUDGET HIGHLIGHTS (CBC member amendments)***

- **Agricultural Cost Share Program: \$65,000,000 (including 13% for technical assistance)**
- **Stormwater Local Assistance Fund: \$25,000,000**
- **Wastewater Treatment Plant Upgrades: \$100,000,000 (general funds and bonds)**
- **Cooperative Extension Resilience: \$1,600,000**
- **Environmental Literacy: \$250,000**