

SENATE BILL 597

M4

0lr2553
CF HB 687

By: **Senators Young, Hester, Beidle, Kagan, Pinsky, and Rosapepe**

Introduced and read first time: January 31, 2020

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2020

CHAPTER _____

1 AN ACT concerning

2 **Agriculture – Cost-Sharing Program – Fixed Natural Filter Practices**

3 FOR the purpose of prohibiting the use of certain cost-sharing funds to fund a conservation
4 practice that does not meet certain requirements; authorizing certain cost-sharing
5 funds to be made available for certain fixed natural filter practices; prohibiting
6 basing a reduction in certain cost-sharing rates on certain information or on a
7 certain formula; requiring that certain cost-sharing funds be based on a certain rate;
8 requiring that certain cost-sharing rates for the planting of multiple species of cover
9 crops equal or exceed the rates paid for the planting of a single species of cover crop;
10 requiring that certain cost-sharing funds be disbursed for a fixed natural filter
11 practice only after the State Department of Agriculture makes a certain
12 determination; ~~expanding the use of certain funds transferred from the Bay~~
13 ~~Restoration Fund to include the implementation of fixed natural filter practices;~~
14 defining a certain term; making stylistic and conforming changes; and generally
15 relating to the cost-sharing program and fixed natural filter practices.

16 BY repealing and reenacting, with amendments,
17 Article – Agriculture
18 Section 8-701, 8-703(b)(2), and 8-704
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2019 Supplement)

21 ~~BY repealing and reenacting, without amendments,~~
22 ~~Article – Environment~~
23 ~~Section 9-1605.2(a)(1)~~
24 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~(2014 Replacement Volume and 2019 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Environment~~

~~Section 9-1605.2(h)(2)(ii) and (i)(2)(xi)~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2019 Supplement)~~

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

Article – Agriculture

8–701.

(a) In this subtitle the following words have the meanings indicated.

(b) “Best management practice” means a conservation or pollution control practice that manages soil loss due to farming practices or manages nutrients, animal wastes, or agricultural chemicals so as to minimize movement into the surface waters of the State.

(c) “Eligible cost” means a capital expenditure for installing, purchasing, or constructing a best management practice. It does not include the cost of land or interests in land, or the costs of operating or maintaining best management practices.

(d) **“FIXED NATURAL FILTER PRACTICE” MEANS ONE OF THE FOLLOWING PRACTICES:**

(1) THE PLANTING OF RIPARIAN FOREST BUFFERS;

(2) THE PLANTING OF RIPARIAN HERBACEOUS COVER;

(3) TREE PLANTINGS THAT ARE:

(I) ON AGRICULTURAL LAND; AND

(II) OUTSIDE A RIPARIAN BUFFER;

(4) WETLAND RESTORATION; OR

(5) PASTURE MANAGEMENT, INCLUDING ROTATIONAL GRAZING SYSTEMS SUCH AS:

(I) LIVESTOCK FENCING; AND

1 **(II) WATERING SYSTEMS IMPLEMENTED AS PART OF THE**
2 **CONVERSION OF CROPLAND TO PASTURE.**

3 **(E)** “Person” means an individual, partnership, corporation, trust, or other
4 business enterprise which as an owner, landlord, or tenant, participates in the operation of
5 a farm.

6 **[(e)] (F)** “Pooling agreement” means a written agreement between persons,
7 approved by the Secretary of Agriculture, to perform best management practices and which
8 is intended to solve a mutual pollution problem on different farms.

9 **[(f)] (G)** “Project” means a project to prevent or control agriculturally related
10 nonpoint source water pollution by establishing best management practices on a farm.

11 8–703.

12 (b) (2) State **[cost sharing] COST-SHARING** funds may not be used to
13 **[reestablish]:**

14 **(I) REESTABLISH** agricultural practices which have deteriorated
15 due to the negligence or mismanagement of an applicant;

16 **(II) FUND A CONSERVATION PRACTICE THAT DOES NOT:**

17 **1. ADDRESS A NATURAL RESOURCE CONCERN**
18 **IDENTIFIED BY THE U.S. DEPARTMENT OF AGRICULTURE’S NATURAL RESOURCES**
19 **CONSERVATION SERVICE; OR**

20 **2. RESULT IN AN IMPROVED CONSERVATION BENEFIT.**

21 8–704.

22 (a) (1) State cost sharing in any project may be made available for up to **[87**
23 **1/2 percent] 87.5%** of eligible costs, not to exceed a dollar amount of up to \$200,000 as
24 determined by a regulation adopted jointly by the Secretary of Agriculture and the
25 Secretary of the Environment.

26 (2) State **[cost sharing] COST-SHARING** funds may be made available for
27 any project if:

28 (i) The Department of Agriculture, the soil conservation district,
29 and a person have executed an agreement which, among other things, obligates the person
30 to **[establish]:**

1 **1. ESTABLISH**, construct, or install the best management
2 practice **OR FIXED NATURAL FILTER PRACTICE** in accordance with technical
3 specifications[, to maintain];

4 **2. MAINTAIN** the best management practice **OR FIXED**
5 **NATURAL FILTER PRACTICE** for its expected life span[,]; and [to provide]

6 **3. PROVIDE** the required matching funds for the project;

7 (ii) The Board of Public Works has given approval to the project
8 when the proceeds of State bonds are to be used to finance the State share; and

9 (iii) The soil conservation district has certified to the Department
10 that the project meets all applicable technical standards, and that all submitted invoices
11 properly represent eligible costs.

12 **(3) A REDUCTION IN STATE COST-SHARING RATES FOR RIPARIAN**
13 **FOREST BUFFERS, RIPARIAN HERBACEOUS COVER, WETLAND RESTORATION, OR**
14 **PASTURE MANAGEMENT MAY NOT BE BASED ON TONS OF SOIL SAVED OR AN**
15 **AMORTIZATION FORMULA.**

16 **(4) STATE COST-SHARING RATES FOR PASTURE MANAGEMENT SHALL**
17 **BE BASED ON THE APPLICABLE RATE ESTABLISHED BY THE U.S. DEPARTMENT OF**
18 **AGRICULTURE'S ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

19 **(5) STATE COST-SHARING RATES PAID FOR THE PLANTING OF**
20 **MULTIPLE SPECIES OF COVER CROPS SHALL EQUAL OR EXCEED THE RATES PAID**
21 **FOR THE PLANTING OF A SINGLE SPECIES OF COVER CROP.**

22 **(3) (6) (i) 1.** Except as authorized under subparagraph 2 of
23 this subparagraph and before the Department of Agriculture executes a [cost sharing]
24 **COST-SHARING** agreement with a farm tenant, it shall obtain the consent of the landlord
25 to the terms and conditions of the agreement.

26 2. The Department may execute the agreement without the
27 consent of the landlord if:

28 A. The agreement concerns a short-term project that
29 involves only the planting of a cover crop; and

30 B. The Department has sent by first-class mail written
31 notice of a cover crop project to the landlord at least 10 calendar days before executing the
32 agreement for the first cover crop project during the term of the lease.

1 (ii) The Department may also require the granting to the State of an
 2 appropriate security interest in any equipment, structures or similar items purchased with
 3 State money.

4 [(4)] (7) A [cost sharing] **COST-SHARING** agreement executed as
 5 required under this subtitle may be assigned and transferred to a successor in title of all or
 6 part of a tract of land subject to a best management practice.

7 (b) (1) State [cost sharing] **COST-SHARING** funds shall be disbursed, [upon]
 8 **ON** warrant of the Comptroller, only after the Department has determined that the best
 9 management practice **OR FIXED NATURAL FILTER PRACTICE** has been established, or in
 10 the case of equipment, structures, or similar items, that it has been received and properly
 11 installed.

12 (2) Payment may be made either to the person when the person has
 13 advanced money, or directly to a vendor or contractor in accordance with the written
 14 agreement required by this section, or supplemental written agreements with the vendor
 15 or contractor.

16 (c) (1) (I) [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 17 **PARAGRAPH, THE** Secretary of Agriculture and the Secretary of the Environment shall
 18 jointly [promulgate rules and] **ADOPT** regulations to implement this subtitle.

19 (II) [However, rules and regulations] **REGULATIONS** solely
 20 involving internal management of the [cost sharing] **COST-SHARING** program need only
 21 be [promulgated] **ADOPTED** by the Secretary of Agriculture.

22 (III) The Department of Natural Resources shall be consulted [prior
 23 to] **BEFORE** any [rule making effort] **REGULATIONS ARE ADOPTED** to assure
 24 coordination with its sediment control and related watershed programs.

25 (2) All [rules and] regulations [promulgated] **ADOPTED** under this section
 26 shall be approved by the Board of Public Works prior to the use of the proceeds of State
 27 bonds in the [cost sharing] **COST-SHARING** program.

28 (3) The Department of Agriculture and the Department of the
 29 Environment may enter into agreements with appropriate federal and local governmental
 30 entities to assist in administering this subtitle.

31 ~~Article—Environment~~

32 ~~9-1605.2.~~

33 (a) (1) ~~There is a Bay Restoration Fund.~~

34 (b) (2) ~~The Comptroller shall:~~

1 (ii) ~~Transfer 40% of the funds to the Maryland Agriculture Water~~
 2 ~~Quality [Cost Share] COST SHARE Program in the Department of Agriculture in order to~~
 3 ~~fund cover crop activities AND THE IMPLEMENTATION OF FIXED NATURAL FILTER~~
 4 ~~PRACTICES AS DEFINED UNDER § 8 701 OF THE AGRICULTURE ARTICLE.~~

5 (i) ~~(2) Funds in the Bay Restoration Fund shall be used only:~~

6 (xi) ~~Subject to the allocation of funds and the conditions under~~
 7 ~~subsection (h) of this section, for projects related to the removal of nitrogen from on-site~~
 8 ~~sewage disposal systems [and], cover crop activities, AND FIXED NATURAL FILTER~~
 9 ~~PRACTICES AS DEFINED UNDER § 8 701 OF THE AGRICULTURE ARTICLE;~~

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 11 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.