



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

Senate Bill 737

Comprehensive Conservation Finance Act

Date: April 1, 2021

To: House Environment and Transportation and
Appropriations Committees

Position: **SUPPORT AS AMENDED**

From: Robin Clark, Maryland Staff Attorney

Chesapeake Bay Foundation **SUPPORTS SB 737 AS AMENDED**. This bill considers changes and updates to various elements of the State's environmental laws and financing and envisions new avenues for private investment of environmental policy and programs in Maryland. Leveraging private investment may speed environmental outcomes that help restore the Chesapeake Bay.

In the Senate, CBF supported the legislation with amendments, noting several areas worthy of consideration if the State were to enact the broad changes envisioned in SB 737. Based on amendments to the bill's forest conservation section, CBF is shifting its position to support. However, the **Chesapeake Bay Foundation hopes to continue to be a part of the discussion as the State implements these broad changes in consideration of the following comments.**

This legislation draws several subject matters to the foreground that are worthy of consideration and update. For example, the creation of a Maryland-based carbon market could support environmental work in key areas – including providing ongoing financial resources for conservation practices in agriculture, and stormwater management practices, such as tree plantings in developed areas. The State should investigate and determine what updates to the law, if any, are needed to help that market develop.

The development of an interstate trading program between Pennsylvania and Maryland in the Susquehanna Basin, envisioned in this legislation could help Bay's recovery efforts. While water quality benefits might accrue more substantially to the state where the best management practice is installed, as long as the benefit is in the same basin, the Chesapeake Bay will benefit.

This legislation also seeks to define concepts currently lacking definition. These include blue and green infrastructure. In drafting these definitions, consideration must be made of the ways that blue and green infrastructure fit in current laws, and also the way that they may be emphasized in the future. For example, the definition of green infrastructure includes engineered elements that protects communities from flooding or storm surge or sequesters carbon. Green infrastructure, even when partly engineered, requires a natural tie. And while flood mitigation and carbon sequestration are co-benefits of green infrastructure, they may not merit standalone inclusion in the definitions.

The legislation expanded uses for the Drinking Water Revolving fund may allow the fund to support non-point source pollution reduction, forest and wetland protection and restoration so long as they can be tied to drinking water quality. Precedent for this extension may be found in New York's acquisition of the Catskills and Adirondack parks to protect drinking water quality for New York City. This concept seems

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The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Bay and its resources.



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worthy of exploration, including the dynamic it would create between existing sources of funding for the Bay's restoration.

Other areas of this legislation that demand further review and consideration include the provisions relating to hydroelectric power and forest conservation. On the latter, the legislation's mandated priorities and contribution rates are piecemeal changes that may create disincentives to forest preservation without broader updates across the Forest Conservation Act. While the original bill allowed landowners to use forests on state properties as the buffer or insurance requirements for private forest transactions, the amended version specifies that only forests restored after July 1, 2021 may be so used.¹

The challenge with such a broad set of environmental outcomes that can be traded and the complicated blending of funds that could include state grants and loans includes tracking the transactions to make sure environmental outcomes are achieved and loaned money is repaid by offset payments. The "stacking" of several types of environmental outcomes into a single instrument also invites the potential for confusion. If a single action such as planting trees can reduce nitrogen and sequester carbon, stacking is appropriate. However, definitions of commodities in the legislation list multiple environmental outcomes which could be conflated, and if paid for with a grant and reimbursed by offset credits, could lead to miscounting or double dipping.

CBF urges the Committee's FAVORABLE AS AMENDED report on SB 737. For more information, please contact Robin Jessica Clark at rclark@cbf.org and 443.995.8753.

¹ 2021 General Assembly Session, SB 737 Third Reader Draft, page 22, line 30.