



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HOUSE BILL 942

**WETLANDS AND WATERWAYS PROGRAM – AUTHORIZATIONS FOR STREAM RESTORATION
PROJECTS**

March 3, 2023

SUPPORT

GOOD AFTERNOON CHAIR BARVE, VICE CHAIRMAN STEIN, AND ESTEEMED COLLEAGUES: I AM PLEASED TO SUPPORT HB 942 ALONG WITH DELEGATES TERRASA AND RUTH. THIS BILL REVISES CRITERIA AND STANDARDS FOR STREAM RESTORATION ELIGIBILITY CRITERIA AND REVIEW STANDARDS, ENSURING THAT THESE PROJECTS WILL RESULT IN A NET POSITIVE IMPACT ON THE ENVIRONMENT.

STREAM RESTORATION PROJECTS ARE NOT CREATED EQUALLY: SOME ARE WELL DESIGNED AND EXECUTED. OTHERS MAY BE DOING MORE HARM THAN GOOD ECOLOGICALLY AND ENVIRONMENTALLY. OF PARTICULAR CONCERN ARE THOSE THAT RESULT IN EXTENSIVE DEFORESTATION AND LONG-TERM, POSSIBLY PERMANENT NEGATIVE IMPACTS ON FISH, WILDLIFE AND THE LONG-TERM BIOLOGICAL HEALTH OF THE PROJECT AREA.

SO WHY THE DISCREPANCY? WE BELIEVE THE PROBLEM WITH STREAM RESTORATION IS THAT IT IS OVERLY INCENTIVIZED BY THE MD DEPT OF ENVIRONMENT AS A MEANS OF HELPING COUNTIES ACHIEVE THEIR MUNICIPAL STORMWATER (MS4) RUNOFF REDUCTION GOALS AS WELL AS EFFORTS TO DECREASE THE TOTAL MAXIMUM DAILY LOAD (TMDL) OF NUTRIENTS IN THE BAY.

WE ARE AWARE OF RESTORATION PROJECTS THAT HAVE CREATED UNNATURAL, DEEPLY ALTERED LANDSCAPES. DAMAGED STREAM CHANNELS, CAUSED EXCESSIVE DEFORESTATION, AND LED TO THE

PROLIFERATION OF INVASIVE PLANTS REPLACING THE NATIVE UNDERSTORY THAT EXISTED PRIOR TO THE PROJECT.

STREAM RESTORATION PROJECT CREDITS ARE DIRECTLY ASSOCIATED WITH THE LENGTH OF STREAM MILES AFFECTED AND THE INTERVENTION METHODS THAT ARE USED. OVER THE LAST FIVE YEARS, THE NUMBER AND AVERAGE LENGTH OF RESTORATIONS **TRIPLED**; HOWEVER, NOT ENOUGH DOCUMENTATION EXISTS ON WHY AND HOW STREAM RESTORATION PROJECTS ARE SELECTED, DESIGNED, AND IMPLEMENTED. MANY OF THESE PROJECTS HAVE NO POST-EVALUATION, AND THE MONITORING IS LACKING TO THE EXTENT THAT THERE IS NO POSSIBLE WAY TO EFFECTIVELY CORROBORATE THAT STREAM RESTORATION MEETS ITS GOALS – EVEN MINIMALLY. AN ESTIMATED \$400 MILLION HAS BEEN SPENT ON STREAM RESTORATION PROJECTS IN THE CHESAPEAKE BAY WATERSHED SINCE 1990 (HASSET ET AL. 2005). HOWEVER, ONLY 5.4% OF THE PROJECT RECORDS INDICATED THAT RELATED MONITORING OF PROJECT PERFORMANCE HAS OCCURRED (MATTERN ET AL. 2020). ALSO, MITIGATION BANKS SOMETIMES FUND PROJECTS THAT ARE THE CHEAPEST AND LONGEST, NOT NECESSARILY THE ONES THAT ARE THE MOST EFFECTIVE.

THE BILL ADDRESSES THESE CHALLENGES AND INCONSISTENCIES BY REQUIRING MDE TO REVISE:

- PROJECT ELIGIBILITY CRITERIA AND STANDARDS FOR PROJECT REVIEW; AND
- CONSIDERATION OF MS4 PERMIT TARGETS; TMDL REDUCTION; MITIGATION AND OTHER RESTORATION GOALS.

THE BILL ALSO INCENTIVES ALTERNATIVES TO STREAM RESTORATION BY GRANTING MORE CREDITS ON AN EQUIVALENT BASIS TO UPLAND PROJECTS THAT AFFECT IMPERVIOUS ACREAGE. LIKE STREAM RESTORATION PROJECTS, UPLAND PROJECTS MUST HELP COUNTIES ACHIEVE MS4 AND TMDL REDUCTION GOALS, MITIGATION AND OTHER WATERSHED RESTORATION GOALS.

FOR RESTORATION PROJECTS THAT MITIGATE WETLAND OR STREAM IMPACTS AND DONE SPECIFICALLY FOR CREDIT, THE BILL IMPOSES NEW STANDARDS. THE BILL REQUIRES THAT PROJECTS:

BE LOCATED IN THE SAME WATERSHED AS THE ONE WHERE THE WETLAND OR STREAM DAMAGE OR LOSS OCCURRED;

RESULT IN A NET “UPLIFT” OF INSTREAM BIOLOGY;

MINIMIZE TREE REMOVAL; AND

BE MONITORED AND EVALUATED FOR TEN (10) YEARS AFTER THEY ARE COMPLETED.

PUBLIC NOTICE: BEYOND THE CHANGES TO STREAM RESTORATION ELIGIBILITY AND REVIEW CRITERIA, THE BILL TACKLES THE LACK OF TRANSPARENCY AND THE ABSENCE OF PUBLIC NOTICE REGARDING FUTURE PROJECTS. THUS, FOR STREAM RESTORATION PROJECTS, MDE MUST INFORM THE PUBLIC OF THE GEOGRAPHICAL EXTENT OF THE PROJECT AND THE ESTIMATED AMOUNT OF TREE REMOVAL ASSOCIATED WITH THE PROJECT. FURTHERMORE, CITIZENS THAT WILL BE AFFECTED BY THESE PROJECTS MUST BE INFORMED ABOUT THE IMMEDIATE, MEDIUM- AND LONG-TERM IMPACTS OF STREAM RESTORATION PROJECTS.

HB942 SEEKS IN THIS WAY TO INCENTIVIZE ALTERNATIVES TO STREAM RESTORATION THAT ARE LESS POTENTIALLY DAMAGING TO THE ENVIRONMENT, FOCUSING ON BIOLOGICAL UPLIFT; REQUIRING PROJECTS TO MINIMIZE TREE REMOVAL IN RIPARIAN AREAS, PROTECTING THE REMAINING TREES; AND MANDATING PROJECT MONITORING AND EVALUATION TO ENSURE THAT GOALS ARE ACHIEVED BEFORE CREDITS ARE ISSUED.

MR. CHAIR, COLLEAGUES, I URGE YOUR FAVORABLE REPORT ON HB 942.

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