

# SENATE BILL 323

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By: **Senator Simonaire**

Introduced and read first time: January 22, 2020

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Supplemental Environmental Projects and Study on Discharge**  
3 **Permit Fees**

4 FOR the purpose of requiring the Department of the Environment to consider and, as  
5 appropriate and to the extent consistent with State and federal law, use certain  
6 supplemental environmental projects as part of a settlement or enforcement action  
7 concerning an alleged violation of certain provisions of law; requiring the  
8 Department to conduct a certain study and report to certain committees of the  
9 General Assembly on or before a certain date; defining certain terms; making  
10 conforming changes; and generally relating to supplemental environmental projects  
11 and discharge permit fees.

12 BY repealing and reenacting, with amendments,  
13 Article – Environment  
14 Section 9–320  
15 Annotated Code of Maryland  
16 (2014 Replacement Volume and 2019 Supplement)

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

19 **Article – Environment**

20 9–320.

21 (a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
22 **INDICATED.**

23 **(2) “FUND” MEANS THE MARYLAND CLEAN WATER FUND.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**(3) “SUPPLEMENTAL ENVIRONMENTAL PROJECT” MEANS AN ENVIRONMENTALLY BENEFICIAL PROJECT OR ACTIVITY THAT IS NOT REQUIRED BY LAW, BUT THAT AN ALLEGED VIOLATOR AGREES TO UNDERTAKE AS PART OF A SETTLEMENT OR ENFORCEMENT ACTION.**

**(B)** There is a Maryland Clean Water Fund.

**[(b)] (C)** The following payments shall be made into the **[Maryland Clean Water]** Fund:

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

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

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

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

**[(c)] (D) (1)** The Department shall use the **[Maryland Clean Water]** Fund for activities that are related to:

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

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

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

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

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

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

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

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

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

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

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

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

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

13                   **(2) THE DEPARTMENT SHALL CONSIDER AND, AS APPROPRIATE AND**  
14 **TO THE EXTENT CONSISTENT WITH STATE AND FEDERAL LAW, USE SUPPLEMENTAL**  
15 **ENVIRONMENTAL PROJECTS RELATED TO THE PURPOSES OF THE FUND AS PART OF**  
16 **A SETTLEMENT OR ENFORCEMENT ACTION CONCERNING AN ALLEGED VIOLATION**  
17 **OF:**

18                   **(I) THIS SUBTITLE;**

19                   **(II) TITLE 4, SUBTITLE 1 OF THIS ARTICLE; OR**

20                   **(III) TITLE 5, SUBTITLE 5 OF THIS ARTICLE.**

21           [(d)] **(E)** An expenditure that the Department makes under subsection [(c)(5)]  
22 **(D)(1)(V)** of this section shall be reimbursed to the Department by the sewage sludge  
23 utilizer whose sewage sludge utilization brought about the expenditure by:

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

25                   (2) Endangering or damaging natural resources.

26           [(e)] **(F)** In addition to any other legal action authorized by this subtitle, the  
27 Attorney General may bring an action against any person who fails to reimburse the  
28 Department under subsection [(d)] **(E)** of this section to recover any expenditure that the  
29 Department makes under subsection [(c)(5)] **(D)(1)(V)** of this section.

30           [(f)] **(G)** In determining the use of the [Maryland Clean Water] Fund, priority

shall be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.

**[(g)] (H)** Notwithstanding any law to the contrary, funds credited and any interest accrued to the Fund:

(1) Shall remain available until expended; and

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

**[(h)] (I)** On or before January 15 of each year, the Department shall report to the Senate Education, Health, and Environmental Affairs Committee and the House **[Environmental Matters] ENVIRONMENT AND TRANSPORTATION** Committee, in accordance with § 2–1257 of the State Government Article, on the status of the **[Maryland Clean Water]** Fund, including a detailed description of all revenues and expenditures of the Fund for the previous year.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment shall:

(1) conduct a study to determine the level at which discharge permit fees would need to be set in order to cover the administrative costs associated with the activities described in § 9–320(d)(1) of the Environment Article, as enacted by Section 1 of this Act; and

(2) on or before December 31, 2020, report to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee, in accordance with § 2–1257 of the State Government Article, on the results of the study required under this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.