



Maryland Department of the Environment
Fiscal Year 2021 Capital Budget Hearing

**Testimony of
Ben Grumbles, Secretary**

**Senate Budget and Taxation Committee
Capital Budget Subcommittee
Senator Douglas J. J. Peters, Chair
February 25, 2020**

**House Appropriation Committee
Capital Budget Subcommittee
Senator Mark S. Chang, Chair
February 26, 2020**

This response addresses the Legislative Analyst's recommended actions and the items noted for discussion. The department is prepared to discuss the items and recommended actions as requested.

Budget Overview

1. Comprehensive Flood Management Program: The Department of Legislative Services (DLS) recommends that the \$5,980,000 GO bond authorization for the Comprehensive Flood Management Grant Program be reduced by \$2,800,000 and that the Administration bring in a supplemental budget appropriation to provide for the remaining \$2,800,000 general fund appropriation that is required by the mandate.

Department Response: The department respectfully disagrees with this recommendation. DLS is suggesting that the mandate from HB 428/SB 269/Ch 651 in the 2019 Session has not been met with the inclusion of GO Bond funds for this Program. Specifically the mandate says THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF AT LEAST \$5,000,000 FOR THE COMPREHENSIVE FLOOD MANAGEMENT GRANT PROGRAM OF AT LEAST: 1. FOR FISCAL YEAR 2021, \$3,000,000; 2. FOR FISCAL YEAR 2022, \$3,000,000; AND 3. FOR FISCAL YEAR 2023, \$2,000,000.

DLS stated in its fiscal note that "because some of the additional projects authorized to be awarded grants under the bill can be funded with GO bonds, it is possible that the bill's mandated appropriation may be met using some combination of general funds and GO bonds. To the extent that this occurs, the need for general funds decreases."

To meet the high demand for funding requested by local governments, the Governor’s Allowance includes twice the mandated amount to both meet the legislative mandate and provide funding to local governments for 13 high priority public safety projects that help mitigate the effects of increased precipitation due to climate change. All projects included in the proposed budget are capital in nature.

It is not likely that additional general funds will be allocated to these capital projects through a supplemental budget request. A reduction of the level recommended by DLS will eliminate funding for the following projects: Ellicott City - Maryland Avenue Culverts; Calvert County - North Beach Ninth and Fifth Streets Pump Stations; and Talbot County / Easton Utilities - Windmill Sanitary Sewer Pump Station Relocation and Force Main project.

2. Septic System Upgrade Program: DLS recommends that MDE comment on whether any jurisdictions have sought BRF funds to develop a septic stewardship plan.

Department Response: To date, no jurisdictions have sought to use BRF funds to develop a septic stewardship plan. House Bill 1765 (Ch 585) of 2018 established septic stewardship plans as an optional tool for local governments under the Bay Restoration Fund. That legislation authorized the department to provide financial assistance to local jurisdictions in fiscal years 2020 and 2021 for the development of a septic stewardship plan. Following the passage of the legislation in 2018, the department developed a septic stewardship plan guidance document to outline the requirements of the law and provide examples of things a local government could include in their local plan to meet the requirements of the law. This document was shared with the County Environmental Health Directors October 2018. The department remains prepared to assist any local jurisdiction that is interested in developing a plan, including providing financial assistance for the development of a plan that meets the requirements of the law.

Issues

1. BRF Balance Transfer Recommendation: DLS recommends using a portion of the balance to fund the Maryland Department of Transportation (MDOT) projects that support the State’s compliance with the Watershed Implementation Plan (WIP). This could be accomplished through an amendment to the Budget Reconciliation and Financing Act of 2020 transferring up to \$25 million of fund balance to MDOT that would allow for a corresponding reduction in the general funds budgeted for the Washington Metropolitan Area Transit Authority contribution.

Department Response: The department respectfully disagrees with this recommendation. The grant funding MDE provides through the BRF is particularly important to many disadvantaged communities, as this funding makes projects affordable; ultimately many of the projects may not move ahead or would be further delayed without this grant funding. Transferring \$25 million from the BRF to provide funding to MDOT would require MDE to eliminate \$25 million for three Washington Suburban Sanitary Commission (WSSC) sewer rehab projects needed to comply with an sanitary sewer overflow (SSO) consent order, two sewer rehab projects in Cumberland, needed to comply with a combined sewer overflow (CSOs) consent order, and Phase 2 of the Southern Kent Island sewer connection project to eliminate failing septic systems, all of which are currently under consideration for fiscal 2021 funding. These jurisdictions would then need to reapply for funding during the fiscal 2023 project solicitation period.

The department diligently manages the cash flow of the BRF to ensure that there is sufficient cash to reimburse local governments in a timely manner. The exhibit in the analysis does not show a complete picture of the available cash in fiscal 2020 and future years, as it does not take into account the projects that have previously been approved by the Maryland General Assembly and are in various stages of planning or design. These commitments include five projects in Allegany County to eliminate CSOs, several WSSC projects to eliminate SSOs, as well as Enhanced Nutrient Removal (ENR) upgrades to minor wastewater treatment plants, and sewer extensions to eliminate failing septic systems. Projects under legal orders have received commitments for grant funding that has not yet been awarded.

MDE has bonds outstanding that were issued to secure funding to upgrade the State's 67 largest WWTPs. Although the department is not currently considering issuing additional debt in this Program, diverting fee revenue while bonds are outstanding could impact existing bonds and negatively impact any future BRF bond ratings.

PAYGO Recommended Actions

1. Recommended Action: Adopt Committee Narrative requesting MDE to submit Bay Restoration Fund Cash Flow Spreadsheet: The budget committees request that MDE submit an electronic editable cash flow spreadsheet for the BRF with the fiscal 2022 budget submission and annually thereafter.

Department Response: The department will provide the requested spreadsheet.

2. Recommended Action: Concur with Governor's allowance of \$111,600,000 in special funds and \$38,430,000 in federal funds for the Water Quality Revolving Loan Fund.

Department Response: The department accepts this recommended action.

3. Recommended Action: Concur with Governor's allowance of \$500,000 in general funds for the Hazardous Substance Clean-Up Program.

Department Response: The department accepts this recommended action.

4. Recommended Action: Concur with Governor's allowance of \$14,800,000 in special funds and \$14,716,000 in federal funds for the Drinking Water Revolving Loan Fund.

Department Response: The department accepts this recommended action.

5. Recommended Action: Concur with Governor's allowance of \$15,000,000 for the Bay Restoration Fund – Septic Systems program.

Department Response: The department accepts this recommended action.

6. Recommended Action: Concur with Governor’s allowance of \$200,000 in general funds for the Comprehensive Flood Management Grant Program.

Department Response: The department accepts this recommended action.

GO Bond Recommended Actions

1. Recommended Action: Reduce the authorization for the Comprehensive Flood Management Grant Program by \$2,800,000.

Department Response: The department respectfully disagrees with this recommended action. If these funds are eliminated, the following projects will not be funded in fiscal 2021: Ellicott City - Maryland Avenue Culverts; Calvert County - North Beach Ninth and Fifth Streets Pump Stations; and Talbot County - Easton Utilities Windmill Sanitary Sewer Pump Station Relocation and Force Main project.

2. Recommended Action: Approve the \$4,032,000 general obligation bond authorization for the Maryland Drinking Water Revolving Loan Fund to finance drinking water projects.

Department Response: The department accepts this recommended action.

3. Recommended Action: Approve the \$7,686,000 general obligation bond authorization for the Maryland Water Quality Revolving Loan Fund to finance water quality improvement projects.

Department Response: The department accepts this recommended action.

4. Recommended Action: Approve the \$500,000 general obligation bond authorization for the Mining Remediation Program to design, construct, and equip active and passive measures to remediate damage to water quality related to abandoned mine operations.

Department Response: The department accepts this recommended action.

5. Recommended Action: Approve the \$4,175,000 general obligation bond authorization for the Supplemental Assistance Program to provide grants to assist grant and loan recipients to meet the local share of construction costs for wastewater facility improvements.

Department Response: The department accepts this recommended action.

6. Recommended Action: Approve the \$1,426,000 general obligation bond authorization for the Water Supply Financial Assistance Program to provide funds for assistance to State and local government entities to acquire, design, construct, rehabilitate, equip, and improve water supply facilities.

Department Response: The department accepts this recommended action.

Budget Reconciliation and Financing Act Recommendations

1. Recommended Action: The Department of Legislative Services recommends that \$25,000,000 of the Bay Restoration Fund balance be transferred in fiscal 2021 to the Maryland Department of Transportation in order to allow for a corresponding reduction in the general funds budgeted for the Washington Metropolitan Area Transit Authority contribution.

Department Response: The department respectfully disagrees with this recommendation. As discussed earlier, the grant funding MDE provides through the BRF is particularly important to many disadvantaged communities, as this funding makes projects affordable; ultimately many of the projects may not move ahead or would be further delayed without this grant funding. Transferring \$25 million from the BRF to provide funding to MDOT would require MDE to eliminate \$25 million for six projects currently under consideration for fiscal 2021 funding and would require the local jurisdictions to reapply for funding.