



## **Building Environmental Justice, Climate Resilience, and Innovative Finance into Maryland's State Revolving Funds for Water Infrastructure**

Communities around the country face environmental and health consequences due to failing water infrastructure. At the same time, the water utilities that serve them have opportunities to innovate with water infrastructure to ensure it delivers co-benefits, climate resilience, and better outcomes for historically underinvested communities.

The Clean Water State Revolving Fund and Drinking Water State Revolving Fund are federally funded programs implemented by states that finance projects to improve water infrastructure. These programs have financed more than \$195 billion in projects over the last 35 years and Congress and the Biden Administration added another \$55 billion to them for the next 5 years.

To make the best use of ongoing and new funding for the programs, Maryland legislators just passed the bipartisan **Conservation Finance Act** (Senate Bill 0348 and House Bill 0653) that makes more than a dozen changes to the two State Revolving Funds to ensure the state delivers financing to the communities and projects that most need it.

Here is a summary of the ways the **Conservation Finance Act** improves Maryland's State Revolving Funds:

### **Clean Water**

1. The legislature has never set priorities for the Clean Water program – the law now directs the state to prioritize projects that benefit disadvantaged communities,<sup>1</sup> especially those facing environmental justice issues, and also to prioritize nature-based infrastructure.

<sup>1</sup> Each state has discretion to define disadvantaged communities in their state. In Maryland, a community is considered disadvantaged for the purpose of the Clean Water SRF if it satisfies at least one of the following criteria:

- (1) Sewer user rate per year Equivalent Dwelling Unit (EDU) > 1% of Community Median Household Income (MHI); or
- (2) Project is physically located and benefits an MDE approved Environmental Benefit District; or
- (3) Project is physically located and benefits a community with MHI less than 70% of State MHI; or
- (4) Project is physically located and benefits a community in a Maryland County (including Baltimore City) with a high unemployment rate (upper 33rd percentile); or

2. Maryland and Pennsylvania share a major water body – the Susquehanna River – which is way behind in reducing nutrient pollution. The law makes Maryland the first state to authorize cross-state loans in statute, so that Maryland can help Pennsylvania communities with water quality projects in certain situations.
3. No-cost green infrastructure projects have been a success in other states, but not yet in Maryland. The law encourages the state to finance ‘sponsorship’ green infrastructure projects added to sewage treatment loans it is financing, including projects led by nonprofits or other partners in a community. This financing arrangement allows the green projects to not have any additional cost added to a loan.
4. Other states have used Revolving Funds to support land acquisition and easements – Maryland now has the authority to do so in statute, to protect source water areas for drinking water or important Chesapeake Bay watersheds.
5. Linked deposit programs allow trusted local banks to make loans – at SRF rates – for important water quality projects. The law now allows those banks to support state-subsidized loans for forest restoration and protection.
6. It is hard to bundle multiple government programs together to support big projects that provide benefits to each program. The law makes that a little easier by directing two state agencies (Departments of Environment and Natural Resources) to prioritize multi-year projects that include fund or funding requests from any combination of: FEMA disaster risk mitigation programs, NOAA climate resilience programs, state revolving loans, and the Chesapeake Bay Trust Fund.

## **Drinking Water**

1. Maryland’s Drinking Water SRF already has some statutory priorities but the new law adds more. The state should now prioritize mergers of small, struggling water utilities; toxic lead water pipe replacement; and green infrastructure that addresses environmental justice issues.
2. Disadvantaged communities<sup>2</sup> and small, under-resourced water utilities can struggle to apply for funds or develop project designs – the law makes clear that they can apply for planning and design grants (rather than only loans).

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(5) Project is physically located and benefits a community in a Maryland County (including Baltimore City) where the U.S. Census data shows a declining population. In addition to the above criteria, if sufficient SRF subsidies are available, up to 25% of the SRF loan amount can be forgiven where sewer (or water) rates would otherwise need to be increased by more than 20% to repay the loan.

<sup>2</sup> In 2015, Maryland harmonized how it defines disadvantaged communities for the Clean Water SRF and the Drinking Water SRF. See criteria listed in footnote 1.

3. Many Maryland communities depend upon well water – the law prioritizes the use of loans and guarantees to support assessment of all kinds of well-head protection areas, including through technical assistance grants.
4. Forests are one of the best ways to protect clean drinking water at the source. The law makes clear that the Drinking Water fund can be used to protect source water areas through easement and land acquisition.
5. The law adds Pay for Success as a new kind of contract – and within the SRF it allows the program to be used to guarantee those contracts.
6. The law makes technical assistance grants and loans available to small or disadvantaged communities to develop inventories of where toxic lead water pipes are found in those communities.

### **Both programs**

1. The law includes a new policy statement that puts blue and green infrastructure on equal footing to gray infrastructure when it comes to financing; this is meant to make it crystal clear to state agencies that such projects are eligible for a diversity of state support.
2. The bill creates expansive new definitions of green and blue infrastructure to cover projects like oyster reef and seagrass restoration as well as wetlands, forests and a diversity of more engineered features that can provide water quality or climate benefits.
3. In the federal Infrastructure Law, Congress provided more funding for ‘technical assistance’ than ever before to help utilities and communities develop projects. The law puts those funds into dedicated sub-accounts so it will be clear how much money is available for grants and highly subsidized loans to provide technical assistance to disadvantaged and rural communities to plan and design projects.
4. The Department of Environment will develop a new report every year on the amounts and types of support for green and blue infrastructure projects through the programs.
5. The bill defines environmental outcomes like nutrient pollution in the state finance code and makes it easier for these programs to be used to buy outcomes as a good or commodity instead of through service contracts.
6. The law tasks a new green and blue infrastructure commission with making recommendations on how to make the financing and permitting of projects easier so that Maryland can implement more of the resilience, water quality, and ecological work that it needs to respond to climate change.