



NEWS:

"Water Bill" Released from Committee, but Faces Criticism and an Uncertain Future

June 9, 2019 -- A provocative bill seeking to redefine how water projects are selected and financed in Delaware has cleared one barrier but is facing others.

[House Bill 200](#) seeks to divert a minimum of \$25 million annually from revenue generated by four specific taxes for a new water project trust fund. The fund would be managed by a five-member board, primarily comprised of cabinet secretaries, which would have the power to borrow additional money.

Those funds would be spent on programs related to water quality, water supply, drainage, stormwater management, and flood control with guidance from an expanded Water Infrastructure Advisory Council.

The Carney administration has expressed reservations about the bill based on its revenue earmarks.

Other critics of the proposal note that the state already places a high value on water quality; has mechanisms in place for financing and managing water projects; and has a long history of allocating and leveraging tens-of-millions of dollars annually for such work -- a trend that will continue in the upcoming FY 2020 budgets.

Additionally, some legislators maintain the bill cannot legally carry out what it proposes. They note that short of a constitutional amendment, the actions of a future General Assembly cannot be bound by those preceding it. Even if HB 200 were to be enacted, as a simple statute, it would cease to carry the weight of law at the conclusion of the current 150th General Assembly.

Illustrating this fact is a 2005 law ([Title 30, Section 5426](#)) that calls for the Farmland Preservation Program to receive \$10 million annually from the state's share of the Realty Tax revenue. However, since the law was enacted, there have been many

instances where the program has either received a fraction of this amount or no funding at all. In those years, the governor and the Joint Finance Committee chose to disregard the statute because they were not obligated to honor it.

The "Clean Water for Delaware Act" was released from the House Natural Resources Committee on Wednesday (6/5), but has been assigned to the House Appropriations Committee for further consideration. Because the state budgets are all but complete, the bill is not expected to emerge from the committee until next year, if then.

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