BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment
Join by phone
(US) +1 443-402-6998 PIN: 709 803 712#
And Keep Your Phone Muted Unless Speaking
July 16, 2020
1:00 p.m. to 4:00 p.m.

Meeting Agenda

- Introduction – Chris Murphy, Acting Committee Chairman
- Approve previous meeting minutes – Chris Murphy, Acting Committee Chairman
- Update on Major and Minor WWTPs ENR Implementation – Walid Saffouri, MDE
- Update on Clean Water Commerce Solicitation – Walid Saffouri, MDE
- O&M Grant Proposed Change to Regulations – Walid Saffouri, MDE
- Update on Cover Crops Activities – Norman Astle, MDA
- Update on Onsite Sewage Disposal Systems (OSDS) – Jeff Fretwell, MDE
- Update on BRF Fee Collection and Budget – Jeff Fretwell, MDE
- Update on the Legislative Session – Jeff Fretwell, MDE
- Next meetings and other administrative issues to be discussed with the committee – Chris Murphy, Acting Committee Chairman

  2020 Pre-Scheduled Meeting: October 15th

- ADJOURNMENT

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment
Aqua/Aeris Conference Rooms (MDE Lobby Area)
1800 Washington Boulevard
Baltimore, Maryland 21230
January 16, 2020

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Chris Murphy, Acting Chairman of the Bay Restoration Fund Advisory Committee.

- Mr. Murphy welcomed the committee members and other attendees.

Review of Meeting Minutes

- Previous meeting minutes from the October 10, 2019 meeting were handed out to the committee members for their review and comments. An electronic copy of the meeting minutes was also e-mailed to the committee members prior to the meeting.

- Mr. Murphy asked if anyone had any questions, comments, or a motion to approve. Mr. Astle pointed out a possible discrepancy on the 2nd page of the minutes. Also, Mr. Myers suggested more changes on the same page to provide more clarifications. Both changes will be made before the minutes are posted on the web. The minutes were approved with the corrections.

Discussion

I. Update on Major and Minor WWTPs ENR Implementation:

- Mr. Saffouri provided an update on minor WWTPs. The Town of Cecilton has signed the funding agreement and started in planning. Port Deposit has initiated the design.

- In response to the committee members request at the last meeting, Mr. Saffouri provided a handout for the minor WWTPs with the estimated costs for the upgrade, pounds of nitrogen reduction, and

cost per pound of nitrogen for each facility. The average cost per pound for minor facilities is currently about $20 per pound of nitrogen reduced per year.

- Mr. Saffouri advised that there has been no change in status in the upgrade of major wastewater treatment plants since the last meeting because most of them have been completed or in construction. Planning for Princess Anne WWTP is underway. Hampstead and Westminster are progressing with the construction. Construction at Patapsco is substantially complete and the plant is being optimized for ENR operation, which may have been completed. This will be confirmed by the next meeting.

- Mr. Myers asked whether the Headworks project at Back River is considered part of the ENR upgrade and whether MDE is providing BRF funding for it. Mr. Saffouri responded that it is not part of the ENR upgrade and BRF is not being provided toward the project. Even though it is considered to be part of the sewer overflow control and it can be funded under the expanded use of BRF, MDE is directing the BRF funding toward the City's collection system upgrades and improvements.

- Mr. Cohee asked for the reason why Patapsco's construction has been on hold for a long time. Mr. Saffouri responded that the project was delayed for almost three years due to litigation between the City and the contractor. Recently, the City has decided to hire another contractor to finish up the work, while it independently continues its litigation with the original contractor.

II. Update on Clean Water Commerce Act:

- Mr. Saffouri provided an update on the Clean Water Commerce Act. FY21 solicitation was initiated in December and applications are due January 31st. This is the final solicitation under this program as no funds are authorized after FY21.

- In the meantime, MDE is moving forward with encumbering the FY20 funds. The Board of Public Works has approved the funding for Little Patuxent WWTP and the agreement was signed. We should start making payments for this practice as soon we as get CY 2109 data. We are still working with Anne Arundel County to finalize the funding agreement before presenting the funding request to the Board.

- Mr. Myers asked whether we are receiving enough proposals to fully utilize the authorized funds. Mr. Saffouri responded that the submitted proposals have far exceeded the authorized funds. For example, in FY20 we received proposals for more than $20 million, whereas the authorized funds were only $10 million.

III. BRF Annual Reports:

- Mr. Saffouri advised the committee that we are up to date with the annual reports. The 2017, 2018, and 2019 reports have been approved and published. The 2020 report has just been approved and it will be published soon.

IV. Update on Cover Crops Activities:

- Mr. Astle provided an update on the Cover Crops Program. All the acres planted have been certified. The numbers will be released publicly soon. At the end of February, the technical advisory committee for the cover crops program will be meeting and discussing possible changes to the program for this year.

- Mr. Murphy asked about the changes that will be considered by the technical committee. Mr. Astle responded that they may consider adding new crops to the list of the eligible crops. Also, there is an interest in extending the planting season.

- Mr. Murphy asked whether there is more acreage available to be planted, if more funding is available. Mr. Astle responded that it varies from year to year. MDA usually uses the Trust Fund before using BRF because BRF allows for funding carryover. If the demand is low in any given year, BRF can carry over to the next year to have the capacity to fund more acres in that year.

V. Update on Onsite Sewage Disposal Systems (OSDS):

- Mr. Roberts updated the committee on the Onsite Sewage Disposal System (OSDS) funding in FY20. Mr. Roberts provided a handout showing that 206 BAT upgrades and 120 sewer connections were funded in FY20.

- Mr. Roberts also reported that the Board of Public Works has approved $5 million in grants allocated to the counties. These funds were not used during this fiscal year and had to be reverted and reallocated to counties with more needs.

- Mr. Roberts advised the committee about some difficulties we are having with the program implementation. The cost of drain fields appears to be too high and not affordable by many homeowners. Many BAT projects have been delayed or did not proceed due to this reason. The county health directors suggested that grant eligibility be changed so funding for drain field be allowed for higher income homeowners. The annual income criteria should be changed from $30,000 to $40,000 or $50,000 to allow more homes to qualify for grants to cover the cost of the drain fields. In addition, the grant for septic connection to sewer is currently capped at $20,000 per connection. The county health director would like this cap to be increased.

- Mr. Murphy asked about what MDE position regarding these requests. Mr. Roberts responded that MDE will make its determination based on the data.

VI. Update on BRF Fee Collection and Budget:

- Mr. Roberts updated the committee on the BRF fee collection using the Comptroller's report through December 31, 2019. Mr. Roberts advised the committee that the report showed the FY20 first quarter and the total revenues for the Wastewater Fund (Line 1), which was approximately $30 million. In addition, $6.32 million came in from Baltimore City in December. These revenues are from FY19 came in late due to the last year cyberattack on Baltimore City system.

VII. Update on the Legislative Session:

- Mr. Roberts provided an update on the legislative session and three bills that may be of interest to the committee. House Bill 78 would expand the statutory use of the Bay Restoration Fund to include climate resiliency and flood control projects.

- Mr. Murphy asked whether MDE is supporting this bill. Mr. Roberts responded that we are not sure if MDE has taken a stance yet. These projects could have multiple benefits that include water quality.

- The second bill discussed has not yet been assigned a number and was being introduced by Senator Eckardt. The bill would allow funding for septic connection to a treatment plant being upgraded to BNR or ENR. Currently, the law allows funding for septic connection only to facilities that are already achieving BNR or ENR.

- The third bill presented by Mr. Roberts was House Bill 177. This bill would authorize MDE to create a Water Infrastructure Emergency Reserve (WIER) to take corrective actions to protect life, property or the environment against risks arising from dams and reservoirs. In addition, the bill would direct the Comptroller to divert up to $10 million from the Bay Restoration Fund to WIER to cover the cost of the corrective actions.

- Mr. Murphy asked whether the reserve fund would be used only for dams. Mr. Robert responded yes. Mr. Myers expressed his concern that there would no water quality benefits under this program and we may be setting the precedence for using Bay Restoration Fund toward purposes not related to water quality. Mr. Roberts responded that these project may prevent sediments overrun in addition to protecting lives and properties.

- Mr. Cohee advised that DNR received several calls in 2018, which was a very wet year, about privately owned dams that were at risk with landowners could not afford the cost of mitigation. So he recognizes the critical need to address this issue. However, he agrees with Mr. Myers that BRF may not be the right mechanism to address it because this fund was created to address water quality and it needs to be used only for that purpose. The committee continued with the discussion mostly elaborating on these two points.

- Mr. Murphy suggested that the committee should recommend to MDE to evaluate and focus the program more based on the water quality impacts of a dam failure. Mr. Myers and most committee members agreed and the recommendation, which will be forwarded to MDE's management.

VIII. Mr. Murphy reminded the Committee members that the next meeting will be held on April 16th. Mr. Murphy also congratulated MDE for getting all pending annual reports approved and published.

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- Program-to-Date BRF Fee Collection Report (Comptroller Report)
- BRF Septic Program Funded Installations
- House Bill 177
- House Bill 78

Attendance

Advisory Committee Members or Designees Attending:

Chris Murphy, BRF Advisory Committee Acting Chairman
Michael Roberts, Maryland Department of the Environment
Walid Saffouri, Maryland Department of the Environment
Bob Buglass, Washington Suburban Sanitary District
Gabe Cohee, Department of Natural Resources
Norman Astle, Maryland Department of Agriculture
Ellen Mussman, Maryland Department of Planning
Robert Kirkham (for Sara L. Tresscott), Conference of Local Environmental Health Directors
Doug Myers, Chesapeake Bay Foundation

Others in Attendance:

Chris Endryas, RK&K
Teresa Wong, Mutt MacDonald

Maryland Department of the Environment (MDE) Attendees:

Sara Albrecht
Rajiv Chawla
Greg Busch
Sunita Boyle
Travis Sterner
Elaine Dietz
Mehdi Majedi
Cheryl Reilly

Wastewater Treatment Plants
ENR Upgrade Status
(July 16, 2020)

Major WWTPs

Status Update:

Previous Meeting	**Current**
63 facilities are in operation	64 facilities are in operation
3 facilities are under construction	2 facilities are under construction
0 facilities are under design	0 facilities are under design
1 facilities are in planning	1 facilities are in planning
67 total	67 total

Status Changes from Previous Meeting:

- Patapsco has been completed and is being administrative closed.

Percentage completion for facilities under construction for ENR Upgrade:

Facility	Percentage complete
Hampstead	65%
Westminster	25%

Status of Minor Wastewater Treatment Plants

#	Facility	County	Flow (MGD)	Nitrogen Est. Reduction (with vs. without Upgrade) lbs/year	Phosphorus Est. Reduction (with vs. without Upgrade) lbs/year	Estimated ENR Cost	Target Date Construction Complete	Date In ENR Operation	% Const. Complete or Other Status
1	Manchester	Carroll	0.500	22,831	2,587	$ 5,032,000	07/01/23		Planning
2	Cecilton	Cecil	0.100	4,566	517	$ 3,312,000	07/01/23		Planning
3	Elk Neck State Park	Cecil	0.060	2,740	310	$ 2,900,000	07/01/22		Planning
4	Vienna	Dorchester	0.137	6,256	709	$ 3,594,000	07/01/23		Planning
5	Grantsville	Garrett	0.600	27,397	3,105	$ 5,277,000	07/01/22		Planning
6	Trout Run - Oakland	Garrett	1.800	82,191	9,315	$ 7,021,000	07/01/22		Planning
7	Rock Hall	Kent	0.480	21,918	2,484	$ 4,979,000	07/01/23		Planning
8	Cheltenham Youth Facility	Prince George's	0.070	3,196	362	$ 3,175,000	07/01/23		Planning
9	Talbot Region V	Talbot	0.150	6,849	776	$ 3,680,000	07/01/23		Planning
10	Trappe	Talbot	0.200	9,132	1,035	$ 3,966,000	07/01/22		Planning
11	Hancock	Washington	0.414	18,904	2,142	$ 7,886,000	07/01/22		Planning
12	Port Deposit	Cecil	0.150	6,849	776	$ 7,837,000	07/01/22		Design
13	Chesapeake City	Cecil	0.200	9,132	1,035	$ 3,765,000	07/01/22		Design
14	Town of Secretary	Dorchester	0.281	12,831	1,454	$ 7,622,000	07/01/22		Design
15	Lewistown	Frederick	0.022	1,005	114	$ 1,901,000	07/01/23		Design
16	Victor Cullen	Frederick	0.050	2,283	259	$ 2,979,000	07/01/22		Design
17	Preston	Caroline	0.115	5,251	595	$ 8,817,000	01/26/21		72%
18	Harbour View	Cecil	0.065	2,968	336	$ 5,132,000	11/15/20		91%
19	Betterton	Kent	0.148	6,758	766	$ 6,180,000	11/15/20		99%
20	Smith Island	Somerset	0.045	2,055	233	$ 3,728,000	03/31/21		10%
21	Oxford WWTP	Talbot	0.150	6,849	776	$ 12,061,000	12/31/20		97%
22	Greensboro	Caroline	0.280	12,785	1,449	$ 6,824,000	Complete	06/30/17	Operation
23	Rising Sun	Cecil	0.500	22,831	2,587	$ 4,498,000	Complete	08/01/15	Operation
24	Southern MD Pre-Release*	Charles	0.020	913	103	$ 2,179,000	Complete	02/01/17	Operation
25	Galena	Kent	0.080	3,653	414	$ 5,288,000	Complete	12/13/18	Operation
26	Sudlersville	Queen Anne's	0.200	9,132	1,035	$ 4,196,000	Complete	03/16/18	Operation
27	Queenstown	Queen Anne's	0.085	3,881	440	$ 3,651,000	Complete	10/01/16	Operation
28	Eastern Correctional Fac.*	Somerset	0.500	22,831	2,587	$ 5,033,000	Complete	01/01/14	Operation
29	Boonsboro	Washington	0.530	24,201	2,743	$ 7,203,000	Complete	10/12/09	Operation
			7.93	362,187	41,048	$149,716,000			
	** Did not receive BRF*								
				Average Grant Per Lb of Nitrogen		**$20.67**			

Status Summary:		
	Operation =	8
	Construction =	5
	Design =	5
	Planning =	11
		29

Proposed Change to the O&M Grants

To Provide Additional Grants for Additional Reductions

Issue:

MDE is authorized to provide up to 10% of the BRF-Wastewater fee revenue toward O&M grants for facilities that can achieve ENR (3 mg/l TN and 0.3 mg/l TP). BRF-Wastewater fee revenue has a slight variation from year to year, but they have been above $110 million in recent years. Therefore, MDE can award close to $11 million a year in O&M grants. However, based on the eligibility criteria, MDE has been able to award about $6 million.

The following is MDE's proposal to use up the whole authorization of about $11 million a year:

1. Continue to award the grant funds based on the current process - $30,000 per MGD up to 10 MGD ($300,000). We can identify this as the "base grant."

2. Apply any remaining funds from the base grant based on additional nitrogen load reductions achieved beyond 3 mg/l TN.

3. As part of the annual application process, an applicant may elect to forfeit in full or in part the grant determined in Step 2 above if the additional load reduction will be used for trading or to receive a grant under the Clean Water Commerce Act.

First Draft for Modifying the Regulations:

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 03 WATER SUPPLY, SEWERAGE, SOLID WASTE, AND POLLUTION CONTROL PLANNING AND FUNDING

Chapter 13 Bay Restoration Fund Implementation

Authority: Environment Article, §9-1605.2, Annotated Code of Maryland; Chs. 80 and 379, Acts of 2014; Chs. 124 and 153, Acts of 2015

.01 - .02 (text unchanged)

.03 Wastewater Fund.

A. – D. (text unchanged)

E. Enhanced Nutrient Removal Operation and Maintenance Grants.

(1) – (3) (text unchanged)

(4) **THE DEPARTMENT MAY OFFER ADDITIONAL OPERATION AND MAINTENANCE GRANTS FOR FACILITIES ACHIEVING BETTER THAN ENHANCED NUTRIENT REMOVAL BASED ON THE ADDITIONAL LOAD REDUCTION ACHIEVED DUE TO THE OUTPERFORMANCE.**

(5) ~~(4)~~ To qualify for the annual operation and maintenance grant, the following criteria shall be met:

(a) – (d) (text unchanged)

.04 (test unchanged)

Option 1

Example O&M Annual Extra Grant Allocation
(Based on Additional Load Reduction)

ENR Wastewater Treatment Plant	Design Capacity (MGD)	CY Average Flow (MGD)	Avg CY TN (mg/l)	Avg CY TP (mg/l)	Base Grant Award	TN Load Reduction Beyond ENR (Lbs/Year)	TN Reduction Forfeiture Per Applicant Request	Additional TN Load Reduction to Be used in the Allocation	Additional Grant for ENR Outperform	Total Grant	Add. Grant as a % of Bal
Cumberland	15.00	14.320	1.8	0.16	$300,000	52,309.81	-	52,309.81	$308,156.91	$608,156.91	6.6%
George's Creek	0.60	1.220	1.8	0.13	$30,000	4,456.56	-	4,456.56	$26,253.59	$56,253.59	0.6%
North Branch	2.00	1.960	1.7	0.19	$60,000	7,756.37	-	7,756.37	$45,692.73	$105,692.73	1.0%
Annapolis	13.00	8.880	2.3	0.13	$300,000	18,922.13	-	18,922.13	$111,470.17	$411,470.17	2.4%
Broadneck	6.00	4.720	1.5	0.08	$180,000	21,552.23	-	21,552.23	$126,964.09	$306,964.09	2.7%
Broadwater	2.00	1.090	1.8	0.12	$60,000	3,981.68	-	3,981.68	$23,456.08	$83,456.08	0.5%
Cox Creek	15.00	11.620	2.3	0.11	$300,000	24,760.71	-	24,760.71	$145,865.24	$445,865.24	3.1%
Dorsey Run	2.00	1.340	0.9	0.31	$0	-	-	-	$0.00	$0.00	0.0%
Maryland City	2.50	1.390	1.9	0.07	$75,000	4,654.43	-	4,654.43	$27,419.22	$102,419.22	0.6%
Patuxent	7.50	5.630	1.8	0.18	$225,000	20,565.94	3,000.00	17,565.94	$103,480.88	$328,480.88	2.2%
Back River	180.00	157.820	2.5	0.09	$300,000	240,209.93	-	240,209.93	$1,415,075.78	$1,715,075.78	30.3%
Chesapeake Beach	1.50	0.910	3.3	0.11	$0	-	-	-	$0.00	$0.00	0.0%
Denton	0.80	0.510	2.2	0.16	$30,000	1,241.99	-	1,241.99	$7,316.57	$37,316.57	0.2%
Federalsburg	0.75	0.400	2.1	0.10	$30,000	1,095.88	-	1,095.88	$6,455.80	$36,455.80	0.1%
Greensboro	0.332	0.185	2.8	0.18	$22,500	84.47	-	84.47	$497.63	$22,997.63	0.0%
Freedom District	3.50	2.470	2.4	0.10	$87,500	3,759.46	-	3,759.46	$22,146.98	$109,646.98	0.5%
Mount Airy	1.20	1.030	1.5	0.07	$36,000	4,703.13	4,703.13	-	$0.00	$36,000.00	0.0%
Taneytown	1.10	1.240	4.7	0.34	$0	-	-	-	$0.00	$0.00	0.0%
Elkton	3.05	2.010	2.2	0.07	$91,500	4,894.91	-	4,894.91	$28,835.91	$120,335.91	0.6%
Northeast River	2.00	1.250	1.9	0.18	$60,000	4,185.64	-	4,185.64	$24,657.57	$84,657.57	0.5%
Perryville	2.00	0.640	2.5	0.14	$60,000	974.11	-	974.11	$5,738.49	$65,738.49	0.1%
Rising Sun	0.50	0.250	3.8	0.14	$0	-	-	-	$0.00	$0.00	0.0%
Indian Head	0.50	0.450	1.5	0.12	$30,000	2,054.77	-	2,054.77	$12,104.63	$42,104.63	0.3%
La Plata	1.50	1.270	1.6	0.06	$45,000	5,412.41	-	5,412.41	$31,884.49	$76,884.49	0.7%
Mattawoman	20.00	11.760	10.5	0.31	$0	-	-	-	$0.00	$0.00	0.0%
SMPRU	0.02	0.030	1.7	0.02	$30,000	118.72	-	118.72	$699.38	$30,699.38	0.0%

Option 1

ENR Wastewater Treatment Plant	Design Capacity (MGD)	CY Average Flow (MGD)	Avg CY TN (mg/l)	Avg CY TP (mg/l)	Base Grant Award	TN Load Reduction Beyond ENR (Lbs/Year)	TN Reduction Forfeiture Per Applicant Request	Additional TN Load Reduction to Be used in the Allocation	Additional Grant for ENR Outperform	Total Grant	Add. Grant as a % of Bal
Cambridge	8.10	3.250	2.2	0.11	$243,000	7,914.66	-	7,914.66	$46,625.23	$289,625.23	1.0%
Hurlock	1.65	1.300	2.0	0.07	$49,500	3,957.33	-	3,957.33	$23,312.62	$72,812.62	0.5%
Ballenger Creek	15.00	8.600	2.8	0.1	$300,000	5,235.85	-	5,235.85	$30,844.38	$330,844.38	0.7%
Brunswick	1.40	0.740	2.4	0.05	$42,000	1,351.58	-	1,351.58	$7,962.15	$49,962.15	0.2%
Emmitsburg	0.75	0.730	3.3	0.21	$0	-	-	-	$0.00	$0.00	0.0%
Frederick	8.00	8.420	2.9	0.22	$140,000	1,495.16	-	1,495.16	$8,807.98	$148,807.98	0.2%
Thurmont	1.00	1.040	1.6	0.06	$30,000	4,432.21	-	4,432.21	$26,110.13	$56,110.13	0.6%
Aberdeen	4.00	2.070	1.2	0.05	$120,000	11,342.32	-	11,342.32	$66,817.54	$186,817.54	1.4%
Havre de Grace	3.03	2.170	2.1	0.06	$90,900	5,945.13	-	5,945.13	$35,022.72	$125,922.72	0.7%
Jopppatowne	0.95	0.920	2.0	0.11	$30,000	2,800.57	-	2,800.57	$16,498.16	$46,498.16	0.4%
Sod Run	20.00	12.860	2.0	0.22	$300,000	39,147.13	-	39,147.13	$230,615.57	$530,615.57	4.9%
Little Patuxent	29.00	19.760	1.2	0.26	$300,000	108,272.55	-	108,272.55	$637,833.17	$937,833.17	13.6%
Chestertown	0.90	0.690	2.3	0.09	$30,000	1,470.30	-	1,470.30	$8,661.53	$38,661.53	0.2%
Damascus	1.50	0.840	1.6	0.07	$45,000	3,579.86	-	3,579.86	$21,088.95	$66,088.95	0.5%
Poolesville	0.75	0.760	4.3	0.16	$0	-	-	-	$0.00	$0.00	0.0%
Seneca	26.00	14.610	2.4	0.13	$300,000	26,684.58	26,684.58	-	$0.00	$300,000.00	0.0%
Bowie	3.30	1.670	2.3	0.12	$99,000	3,558.55	-	3,558.55	$20,963.42	$119,963.42	0.4%
Parkway	7.50	6.740	2.1	0.05	$225,000	18,465.51	-	18,465.51	$108,780.25	$333,780.25	2.3%
Piscataway	30.00	30.790	3.5	0.07	$0	-	-	-	$0.00	$0.00	0.0%
Western Branch	30.00	24.110	2.2	0.18	$300,000	58,714.60	-	58,714.60	$345,887.49	$645,887.49	7.4%
Kent Island	3.00	2.410	2.6	0.06	$90,000	2,934.51	-	2,934.51	$17,287.20	$107,287.20	0.4%
Queenstown	0.20	0.120	8.7	0.32	$0	-	-	-	$0.00	$0.00	0.0%
Blue Plains	169.60	109.000	3.5	0.08	$0	-	-	-	$0.00	$0.00	0.0%
Crisfield	1.00	0.650	2.5	0.04	$30,000	989.33	-	989.33	$5,828.15	$35,828.15	0.1%
ECI	0.50	0.530	1.0	0.08	$30,000	3,226.75	-	3,226.75	$19,008.75	$49,008.75	0.4%
Leonardtown	0.68	0.630	2.3	0.26	$30,000	1,342.45	-	1,342.45	$7,908.36	$37,908.36	0.2%
Marlay Taylor	6.00	4.060	2.1	0.24	$180,000	11,123.14	-	11,123.14	$65,526.38	$245,526.38	1.4%
Easton	4.00	3.030	1.3	0.06	$120,000	15,680.16	-	15,680.16	$92,371.76	$212,371.76	2.0%
Talbot Region II	0.66	0.430	1.8	0.22	$30,000	1,570.76	-	1,570.76	$9,253.32	$39,253.32	0.2%

Option 1

ENR Wastewater Treatment Plant	Design Capacity (MGD)	CY Average Flow (MGD)	Avg CY TN (mg/l)	Avg CY TP (mg/l)	Base Grant Award	TN Load Reduction Beyond ENR (Lbs/Year)	TN Reduction Forfeiture Per Applicant Request	Additional TN Load Reduction to Be used in the Allocation	Additional Grant for ENR Outperform	Total Grant	Add. Grant as a % of Bal
Boonsboro	0.53	0.580	1.9	0.05	$30,000	1,942.14	-	1,942.14	$11,441.11	$41,441.11	0.2%
Conococheague	4.50	3.560	2.8	0.24	$112,500	1,806.17	-	1,806.17	$10,640.12	$123,140.12	0.2%
Hagerstown	8.00	9.540	1.9	0.21	$240,000	31,944.79	-	31,944.79	$188,186.61	$428,186.61	4.0%
MCI	1.60	0.810	2.5	0.08	$48,000	1,232.86	-	1,232.86	$7,262.78	$55,262.78	0.2%
Winebrenner	0.60	0.360	2.7	0.22	$30,000	328.76	-	328.76	$1,936.74	$31,936.74	0.0%
Delmar	0.85	0.910	5.8	0.64	$0	-	-	-	$0.00	$0.00	0.0%
Fruitland	0.80	0.682	1.3	0.28	$27,500	3,235.22	-	3,235.22	$19,058.66	$46,558.66	0.4%
Salisbury	8.50	5.070	2.0	0.2	$255,000	15,433.59	-	15,433.59	$90,919.20	$345,919.20	1.9%
Pocomoke City	1.47	0.900	2.2	0.21	$44,100	2,191.75	-	2,191.75	$12,911.60	$57,011.60	0.3%
Snow Hill	0.50	0.400	2.1	0.15	$30,000	1,095.88	-	1,095.88	$6,455.80	$36,455.80	0.1%
					$6,324,000	828,141.42		793,753.70	$4,676,000	$11,000,000	
				Budgete	$ 11,000,000						
				Balance	$ 4,676,000						
				Rate	$5.89	per Lb.					

BRF Septic Program
Funded Installations FY20 to Date
July 1, 2019 - Present

County	# Septic Systems funded FY 20	# Sewer Connections funded FY 20
Allegany (CVI)	1	2
Anne Arundel	130	12
Baltimore	24	13
Calvert	94	2
Caroline	23	0
Carroll	11	0
Cecil	30	2
Charles	26	1
Dorchester	31	2
Frederick (CVI)	10	0
Garrett	1	0
Harford	0	0
Howard (CVI)	2	10
Kent	23	0
Montgomery (CVI)	9	1
Prince George's	0	0
Queen Anne's	48	192
Somerset	10	1
St. Mary's	26	4
Talbot	50	9
Washington (CVI)	10	2
Wicomoco	12	5
Worcester	0	0
Totals	571	258

Comptroller of Maryland
Revenue Administration Division
Bay Restoration Fee - By County
Program To Date Through June 30, 2020

		Sewer	Septic	Liability	Collection	Returns w/$	Zero $ Returns	Expenses Claimed	Expenses Paid
100	Allegany	$ 20,135,267.34	$ 3,956,387.49	$ 24,108,826.42	$ 24,107,229.58	649	75	$ 241,962.04	$ 235,477.18
200	Anne Arundel	117,849,136.65	30,162,249.13	148,188,410.08	148,057,742.12	757	268	530,677.60	525,904.16
300	Baltimore County	215,658,224.82	22,678,925.58	238,352,862.79	238,374,733.17	542	143	259,271.29	230,920.17
400	Baltimore City	163,986,475.77	2,975,674.91	166,991,445.71	180,565,048.43	197	119	15,900.14	15,900.14
500	Calvert	5,288,977.19	18,995,107.68	24,325,446.22	24,347,435.44	523	32	336,769.87	316,058.02
600	Caroline	3,596,117.80	6,038,929.82	9,657,940.28	9,658,090.77	488	28	54,983.17	53,452.10
700	Carroll	14,631,753.81	30,806,356.76	45,455,195.87	45,456,876.14	702	116	487,557.79	233,549.42
800	Cecil	12,324,987.01	16,986,316.62	29,521,778.49	29,312,982.79	1,385	134	309,721.30	238,028.39
900	Charles	26,961,272.86	12,316,133.44	39,312,100.93	39,315,684.14	1,452	154	161,832.68	156,565.94
1000	Dorchester	6,798,577.09	7,374,735.46	14,281,055.07	14,357,800.83	437	105	297,277.19	255,549.20
1100	Frederick	44,698,517.70	19,900,125.60	64,601,065.35	64,612,907.18	813	215	1,832,297.24	150,099.37
1200	Garrett	3,738,382.52	5,492,994.95	9,231,764.79	9,233,355.43	284	50	89,649.51	89,649.51
1300	Harford	43,104,075.67	22,957,226.00	66,060,610.88	66,089,251.08	541	159	586,170.88	581,473.32
1400	Howard	66,894,669.09	11,359,101.14	78,265,993.40	78,271,635.99	293	91	72,895.39	68,879.29
1500	Kent	5,042,683.57	3,221,083.80	8,293,564.44	8,221,047.73	482	34	105,446.23	86,314.38
1600	Montgomery	11,879,277.67	10,582,650.26	22,490,180.82	22,473,855.08	515	87	1,737,293.30	955,581.83
1700	Prince George's	421,782,684.35	19,670,944.18	442,316,517.52	452,600,634.44	396	151	3,734,187.08	3,733,894.56
1800	Queen Anne's	8,324,426.11	7,635,146.49	15,994,149.32	15,994,004.22	393	104	414,068.09	409,054.65
1900	St. Mary's	12,820,722.24	18,209,799.28	31,031,494.66	31,035,915.54	399	85	76,696.62	74,317.59
2000	Somerset	3,652,426.82	3,516,593.26	7,190,997.69	7,194,973.65	180	8	400,621.66	302,683.49
2100	Talbot	8,973,369.72	5,889,449.68	14,873,145.51	14,936,945.61	629	31	100,789.59	71,822.32
2200	Washington	29,295,558.68	13,249,798.41	42,575,288.77	42,567,199.45	659	30	241,085.63	217,940.09
2300	Wicomico	14,108,868.48	18,511,384.20	32,690,857.40	32,695,570.67	709	117	408,064.66	403,356.27
2400	Worcester	20,712,748.05	5,614,283.20	26,358,915.07	26,356,864.92	485	108	818,232.08	448,392.11
	Undesignated	41,992.39	43,169.07	86,274.85	95,733.66	92	132	2,293.75	1,613.85
	Total	$ 1,282,301,193.40	$ 318,144,566.41	$ 1,602,255,882.33	$ 1,625,933,518.06	14,002	2,576	$ 13,315,744.78	$ 9,856,477.35

Note - Some facilities may cross county lines in the performance of services. For example, the Washington Suburban Sanitary Commission is headquartered in Prince George's County and, as such, revenue collected by them is reported under Prince George's County. However, the Commission performs services in more than one county.

Comptroller of Maryland
Revenue Administration Division
Bay Restoration Fee - By County
Tax Year 2020 Through June 30, 2020

		Sewer	Septic	Liability	Collection	Returns w/$	Zero $ Returns	Expenses Claimed	Expenses Paid
100	Allegany	$ 485,439.08	$ 47,598.49	$ 533,037.57	$ 533,037.99	9	-	$ 1,219.36	$ 1,219.36
200	Anne Arundel	2,649,046.69	287,489.45	2,936,536.14	2,933,023.55	13	-	8,397.93	8,927.63
300	Baltimore County	465,013.97	89,906.92	554,920.89	582,334.28	8	2	125.00	27,525.14
400	Baltimore City	3,618,535.16	30,000.00	3,648,535.16	3,648,547.52	3	1	-	-
500	Calvert	122,685.51	168,189.83	290,875.34	290,876.67	7	1	7,693.91	7,879.80
600	Caroline	69,047.12	40,826.21	109,872.71	112,104.77	8	-	694.00	694.00
700	Carroll	300,934.75	317,287.61	618,222.36	614,375.23	12	1	11,863.31	4,873.60
800	Cecil	311,235.48	75,289.71	386,525.19	386,302.97	21	1	6,883.38	5,252.26
900	Charles	698,687.46	59,144.03	757,831.49	757,833.11	20	2	4,123.35	3,945.68
1000	Dorchester	136,403.91	119,599.73	256,003.10	256,005.94	7	2	11,006.02	6,309.20
1100	Frederick	1,048,282.16	86,286.88	1,134,582.04	1,134,239.99	12	2	52,467.89	3,400.67
1200	Garrett	68,200.88	43,102.38	111,303.45	111,303.45	4	-	1,344.05	1,344.05
1300	Harford	879,166.61	153,659.63	1,032,847.71	1,032,849.42	8	1	4,470.62	4,470.62
1400	Howard	1,564,400.00	76,257.23	1,640,657.23	1,639,420.47	4	-	384.81	523.89
1500	Kent	69,545.47	59,204.81	128,750.28	128,753.08	8	-	3,843.25	1,573.00
1600	Montgomery	270,417.97	27,397.92	297,808.39	296,790.14	7	1	29,570.87	12,129.20
1700	Prince George's	9,083,696.14	210,070.10	9,293,766.24	9,293,786.97	6	-	458,718.91	458,718.95
1800	Queen Anne's	192,846.35	41,766.96	234,613.31	234,613.04	6	2	8,688.86	8,355.43
1900	St. Mary's	53,957.76	326,644.37	380,602.13	380,602.13	3	1	868.04	868.04
2000	Somerset	88,175.73	32,410.84	120,585.83	120,585.97	3	-	3,238.22	3,249.15
2100	Talbot	210,513.54	22,028.60	232,541.77	233,542.14	8	-	940.63	1,304.25
2200	Washington	705,540.44	120,734.25	826,274.69	817,013.95	11	-	5,334.74	4,395.48
2300	Wicomico	264,057.62	233,834.13	497,893.21	497,897.97	10	1	2,739.36	2,740.70
2400	Worcester	282,275.47	13,668.05	295,943.52	296,087.82	5	-	5,657.42	3,402.20
	Undesignated	1,875.00	1,522.07	3,397.07	3,397.07	4	4	50.00	36.00
	Total	$ 23,639,980.27	$ 2,683,920.20	$ 26,323,926.82	$ 26,335,325.64	207	22	$ 630,323.93	$ 573,138.30

Note - Some facilities may cross county lines in the performance of services. For example, the Washington Suburban Sanitary Commission is headquartered in Prince George's County and, as such, revenue collected by them is reported under Prince George's County. However, the Commission performs services in more than one county.

Comptroller of Maryland
Revenue Administration Division
Bay Restoration Fee - By County
First Quarter of Tax Year 2020 Through June 30, 2020

		Sewer	Septic	Liability	Collection	Returns w/$	Zero $ Returns	Expenses Claimed	Expenses Paid
100	Allegany	$ 485,439.08	$ 47,598.49	$ 533,037.57	$ 533,037.99	9	-	$ 1,219.36	$ 1,219.36
200	Anne Arundel	2,649,046.69	287,489.45	2,936,536.14	2,933,023.55	13	-	8,397.93	8,927.63
300	Baltimore County	465,013.97	89,906.92	554,920.89	554,920.89	7	2	125.00	27,525.14
400	Baltimore City	3,618,535.16	30,000.00	3,648,535.16	3,648,547.52	3	1	-	-
500	Calvert	122,685.51	168,189.83	290,875.34	290,876.67	7	1	7,693.91	7,879.80
600	Caroline	69,047.12	40,826.21	109,872.71	112,104.77	8	-	694.00	694.00
700	Carroll	300,934.75	317,287.61	618,222.36	614,375.23	12	1	11,863.31	4,873.60
800	Cecil	311,235.48	75,289.71	386,525.19	386,302.97	21	1	6,883.38	5,252.26
900	Charles	698,687.46	59,144.03	757,831.49	757,833.11	22	-	4,123.35	3,945.68
1000	Dorchester	136,403.91	119,599.73	256,003.10	256,005.94	7	2	11,006.02	6,309.20
1100	Frederick	1,048,282.16	86,286.88	1,134,582.04	1,134,239.99	12	2	52,467.89	3,400.67
1200	Garrett	68,200.88	43,102.38	111,303.45	111,303.45	4	-	1,344.05	1,344.05
1300	Harford	879,166.61	153,659.63	1,032,847.71	1,032,849.42	8	1	4,470.62	4,470.62
1400	Howard	1,564,400.00	76,257.23	1,640,657.23	1,639,420.47	4	-	384.81	523.89
1500	Kent	69,545.47	59,204.81	128,750.28	128,753.08	8	-	3,843.25	1,573.00
1600	Montgomery	270,417.97	27,397.92	297,808.39	296,790.14	7	1	29,570.87	12,129.20
1700	Prince George's	9,083,696.14	210,070.10	9,293,766.24	9,293,786.97	6	-	458,718.91	458,718.95
1800	Queen Anne's	192,846.35	41,766.96	234,613.31	234,613.04	6	2	8,688.86	8,355.43
1900	St. Mary's	53,957.76	326,644.37	380,602.13	380,602.13	3	1	868.04	868.04
2000	Somerset	88,175.73	32,410.84	120,585.83	120,585.97	3	-	3,238.22	3,249.15
2100	Talbot	210,513.54	22,028.60	232,541.77	232,542.14	7	-	940.63	1,304.25
2200	Washington	705,540.44	120,734.25	826,274.69	817,013.95	11	-	5,334.74	4,395.48
2300	Wicomico	264,057.62	233,834.13	497,893.21	497,897.97	10	1	2,739.36	2,740.70
2400	Worcester	282,275.47	13,668.05	295,943.52	296,087.82	5	-	5,657.42	3,402.20
	Undesignated	1,875.00	1,522.07	3,397.07	3,397.07	4	4	50.00	36.00
	Total	$ 23,639,980.27	$ 2,683,920.20	$ 26,323,926.82	$ 26,306,912.25	207	20	$ 630,323.93	$ 573,138.30

Note - Some facilities may cross county lines in the performance of services. For example, the Washington Suburban Sanitary Commission is headquartered in Prince George's County and, as such, revenue collected by them is reported under Prince George's County. However, the Commission performs services in more than one county.

Comptroller of Maryland
Distribution of Bay Restoration Fee
through June 30, 2020

	MD Dept of Environment		
Line 1:			
4/05 - 6/05:			
Total Fiscal Year 2005	$ 7,022,667.18	Total Fiscal Year 2006	$ 57,686,674.75
Total Fiscal Year 2007	$ 69,141,379.76	Total Fiscal Year 2008	$ 54,695,910.00
Total Fiscal Year 2009	$ 53,339,463.89	Total Fiscal Year 2010	$ 54,398,088.37
Total Fiscal Year 2011	$ 55,461,809.59	Total Fiscal Year 2012	$ 55,971,051.91
Total Fiscal Year 2013	$ 102,145,356.32	Total Fiscal Year 2014	$ 110,688,785.91
Total Fiscal Year 2015	$ 109,796,411.58	Total Fiscal Year 2016	$ 124,301,135.01
Total Fiscal Year 2017	$ 115,989,051.47	Total Fiscal Year 2018	$ 115,308,016.48
Total Fiscal Year 2019	$ 107,545,498.54	Total Fiscal Year 2020	$ 85,820,588.83

August 2019	$ -	
September	-	
October	30,410,825.94	
November	-	
December	6,320,876.54	*Distribution_ due to Balto City 2nd & 3rd Qtrs returns
January 2020	39,675,212.34	
February	-	
March	-	
April	**9,413,674.01**	***(includes 7.50 prior period adjustment)***
May	-	
June		
July 2020 accrual	-	
Total FY 2020	$ 85,820,588.83	
Program Grand Total	$ 1,279,311,889.59	

Line 2:	MD Dept of Environment	MD Dept of Agriculture	Total Line 2
4/05 - 6/05			
Total Fiscal Year 2005	$ 156,580.00	$ 104,386.66	$ 260,966.66
60% MDE 40% MDA			
Total Fiscal Year 2006	$ 4,782,770.15	$ 3,188,513.44	$ 7,971,283.59
60% MDE 40% MDA			
Total Fiscal Year 2007	$ 8,094,089.27	$ 5,396,059.51	$ 13,490,148.78
60% MDE 40% MDA			
Total Fiscal Year 2008	$ 8,489,069.61	$ 5,659,379.72	$ 14,148,449.33
60% MDE 40% MDA			
Total Fiscal Year 2009	$ 9,484,117.74	$ 6,322,745.15	$ 15,806,862.89
60% MDE 40% MDA			
Total Fiscal Year 2010	$ 3,118,419.66	$ 10,803,096.68	$ 13,921,516.34
22.4% MDE 77.6% MDA			

Total Fiscal Year 2011	$ 8,173,632.20	$ 5,449,088.14	$ 13,622,720.34
60% MDE 40% MDA			
Total Fiscal Year 2012	$ 8,271,087.10	$ 5,514,058.08	$ 13,785,145.18
60% MDE 40% MDA			
Total Fiscal Year 2013	$ 15,992,799.08	$ 10,661,866.06	$ 26,654,665.14
60% MDE 40% MDA			
Total Fiscal Year 2014	$ 16,801,348.71	$ 11,200,899.10	$ 28,002,247.81
60% MDE 40% MDA			
Total Fiscal Year 2015	$ 17,456,798.39	$ 11,637,865.59	$ 29,094,663.98
60% MDE 40% MDA			
Total Fiscal Year 2016	$ 17,311,866.76	$ 11,541,244.49	$ 28,853,111.25
60% MDE 40% MDA			
Total Fiscal Year 2017	$ 17,113,840.66	$ 11,409,227.10	$ 28,523,067.76
60% MDE 40% MDA			
Total Fiscal Year 2018	$ 17,811,270.90	$ 11,874,180.60	$ 29,685,451.50
60% MDE 40% MDA			
Total Fiscal Year 2019	$ 16,883,720.52	$ 11,255,813.67	$ 28,139,534.19
60% MDE 40% MDA			
Total Fiscal Year 2020	$ 15,072,355.82	$ 10,048,237.72	$ 25,120,593.54
60% MDE 40% MDA			

Fiscal Year 2020	60%	40%	Total	
August 2019	$ -	$ -	$ -	
September	-	-	$ -	
October	10,797,486.59	7,198,324.90	$ 17,995,811.49	
November	-	-	-	
December	-	-	-	
January 2020	3,546,472.36	2,364,314.90	5,910,787.26	
February	-	-	-	
March	-	-	-	
April	728,396.87	485,597.92	1,213,994.79	
May	-	-		
June	-	-		
July 2020 accrual	-	-	-	
Total FY 2020	**$ 15,072,355.82**	**$ 10,048,237.72**	**$ 25,120,593.54**	(to date)

Program Grand Total	**$ 185,013,766.57**	**$ 132,066,661.71**	**$ 317,080,428.28**

Administrative cost recovery by Comptroller

FY 2005	$ 44,941.58	FY 2014	120,303.41
FY 2006	52,122.42	FY 2015	152,674.27
FY 2007	57,482.53	FY 2016	158,749.94
FY 2008	57,777.62	FY 2017	158,735.88
FY 2009	46,721.16	FY 2018	168,013.19
FY 2010	112,654.00	FY 2019	188,999.78
FY 2011	59,098.66	FY 2020	153,431.86
FY 2012	94,566.86		
FY 2013	102,423.14		
		Program Grand Total	$ 1,575,264.44

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Chapter 44

(House Bill 78)

AN ACT concerning

Bay Restoration Fund – Authorized Uses

FOR the purpose of altering the criteria for determining the use of funds in the Bay Restoration Fund for certain purposes in certain fiscal years; specifying that certain grants to certain local governments may be used for stormwater management measures that include ~~volume or quality control~~ stormwater measures relating to water quality, climate resiliency, or flood control; and generally relating to the authorized uses of the Bay Restoration Fund.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.2(i)(2)
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

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

Article – Environment

9–1605.2.

(i) (2) Funds in the Bay Restoration Fund shall be used only:

(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;

(ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total cost of projects, as approved by the Department, relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;

(iii) In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

(iv) In fiscal years 2018 and thereafter, after payment of outstanding bonds and the allocation of funds to other required uses of the Bay Restoration Fund for funding in the following order of priority:

1. For funding the eligible costs to upgrade a wastewater facility to enhanced nutrient removal at wastewater facilities with a design capacity of 500,000 gallons or more per day;

2. For funding the eligible costs of the most cost–effective enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less than 500,000 gallons per day; and

3. As determined by the Department and based on water quality**, CLIMATE RESILIENCY, FLOOD CONTROL,** and public health benefits, for the following:

A. For costs identified under item (ii) of this paragraph;

B. For costs identified under subsection (h)(2)(i)1 of this section; and

C. With respect to a local government that has enacted and implemented a system of charges to fully fund the implementation of a stormwater management program, for grants to the local government for a portion of the costs of the most cost–effective and efficient stormwater control measures, **INCLUDING** ~~**VOLUME OR QUALITY CONTROL,**~~ **STORMWATER MEASURES RELATING TO WATER QUALITY, CLIMATE RESILIENCY, OR FLOOD CONTROL,** as determined and approved by the Department, from the restoration fees collected annually by the Comptroller from users of wastewater facilities under this section;

(v) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;

(vi) To earn interest on Bay Restoration Fund accounts;

(vii) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;

(viii) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;

(ix) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;

(x) For costs associated with the issuance of bonds;

(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on–site sewage disposal systems and cover crop activities;

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4–202.1(k)(3) of this article; and

(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for costs associated with the purchase of cost–effective nitrogen, phosphorus, or sediment load reductions in support of the State's efforts to restore the health of the Chesapeake Bay, not to exceed $4,000,000 in fiscal year 2018, $6,000,000 in fiscal year 2019, and $10,000,000 per year in fiscal years 2020 and 2021.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.

Chapter 97

(House Bill 177)

AN ACT concerning

Environment – Water Infrastructure Assets – Authorization of Emergency Actions ~~and Establishment of Emergency Reserve~~

FOR the purpose of authorizing the Department of the Environment to take certain emergency actions to protect life, property, or the environment against risks arising from dams, reservoirs, and similar waterway constructions that are in imminent danger of failure; authorizing the Department or its agents to enter certain property without prior notice to the owner of the property under certain circumstances; requiring the Department to remain in charge and control of a certain water infrastructure asset until a certain occurrence; authorizing the Department to obtain certain resources for emergency actions taken under this Act through certain means; requiring the Department to charge a certain asset owner for certain costs incurred by the Department, regardless of the asset owner's ability to pay; providing for the reimbursement of certain costs incurred by the Department; authorizing the establishment and enforcement of a lien on a certain water infrastructure asset in a certain manner and under certain circumstances; providing for the priority of the lien; prohibiting a certain legal action from being brought against the State, the Department, or their respective agents or employees on certain grounds; ~~establishing a separate account in the Bay Restoration Fund designated as the Water Infrastructure Emergency Reserve; requiring the Comptroller to deposit a certain portion of Bay Restoration Fund revenues into the Water Infrastructure Emergency Reserve; requiring funds in the Water Infrastructure Emergency Reserve to be used for certain purposes;~~ defining certain terms; providing for the construction of certain provisions of this Act; making ~~certain~~ clarifying, conforming, and stylistic ~~and technical~~ changes; and generally relating to emergency actions related to water infrastructure assets ~~and the establishment of the Water Infrastructure Emergency Reserve~~.

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–509
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Environment~~
~~Section 9–1605.2(a), (h), and (i)(2)~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2019 Supplement)~~

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

Article – Environment

5–509.

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

(2) "ASSET OWNER" MEANS THE OWNER OR PERSON HAVING CONTROL OF A WATER INFRASTRUCTURE ASSET.

(3) "ASSOCIATION" MEANS:

(I) A HOMEOWNERS ASSOCIATION, AS DEFINED IN § 11B–101 OF THE REAL PROPERTY ARTICLE;

(II) A COUNCIL OF UNIT OWNERS, AS DEFINED IN § 11–101 OF THE REAL PROPERTY ARTICLE; OR

(III) ANY OTHER ENTITY OWNING OR CONTROLLING A WATER INFRASTRUCTURE ASSET, THE OWNERS OR MEMBERS OF WHICH ARE OWNERS OF PROPERTY ADJACENT TO OR BENEFITED BY THE WATER INFRASTRUCTURE ASSET.

(4) "ASSOCIATION MEMBER" MEANS AN OWNER OR A MEMBER OF AN ASSOCIATION.

(5) "WATER INFRASTRUCTURE ASSET" MEANS A RESERVOIR, A DAM, OR ANY OTHER WATERWAY CONSTRUCTION.

(B) (1) On complaint or the Department's own initiative, the Department may investigate or examine any **[**reservoir, dam, or similar waterway construction**]** **WATER INFRASTRUCTURE ASSET**.

(2) If the Department determines that the **[**reservoir, dam, or similar waterway construction**]** **WATER INFRASTRUCTURE ASSET** is unsafe, needs repair, or should be removed because the **[**reservoir, dam, or similar waterway construction**]** **WATER INFRASTRUCTURE ASSET** is unsafe and not repairable, the Department shall notify the **ASSET** owner in writing to repair or remove the **[**object**]** **WATER INFRASTRUCTURE ASSET**, as the situation warrants.

(3) The repair or removal work shall be completed within a reasonable time, which time shall be prescribed in the Department's notice.

[(b)**] (C)** If the work is not completed in the time prescribed in the notice:

(1) The Department may have the work completed at the expense of the **ASSET** owner;

(2) **[**Unless the owner demonstrates an inability to pay, as determined by the Department, the**] THE** Department shall charge the **ASSET** owner for the **[**expense**] COSTS** to complete the work; and

(3) If repayment is not made within 30 days after written demand, the Department may bring an action in the proper court to recover the **[**expense**] COSTS** to complete the work.

(D) (1) THE DEPARTMENT MAY TAKE EMERGENCY ACTIONS NECESSARY TO PROTECT LIFE, PROPERTY, OR THE ENVIRONMENT IF:

(I) 1. THE DEPARTMENT DETERMINES THAT A WATER INFRASTRUCTURE ASSET IS IN IMMINENT DANGER OF FAILURE; AND

2. THE ASSET OWNER HAS BEEN ISSUED A NOTICE BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION AND HAS NOT COMPLETED THE WORK IN ACCORDANCE WITH THE TIME PRESCRIBED IN THE NOTICE; OR

(II) THE DEPARTMENT DETERMINES THAT:

1. A WATER INFRASTRUCTURE ASSET IS FAILING; AND

2. THE ASSET OWNER IS NOT TAKING ADEQUATE ACTIONS TO PROTECT LIFE, PROPERTY, OR THE ENVIRONMENT.

(2) EMERGENCY ACTIONS TAKEN BY THE DEPARTMENT UNDER THIS SUBSECTION MAY INCLUDE:

(I) TAKING CONTROL OF THE WATER INFRASTRUCTURE ASSET;

(II) LOWERING THE LEVEL OF WATER IMPOUNDED BY THE WATER INFRASTRUCTURE ASSET BY RELEASING THE IMPOUNDED WATER OR BY OTHER MEANS;

(III) COMPLETELY RELEASING ALL WATER IMPOUNDED BY THE WATER INFRASTRUCTURE ASSET;

(IV) PERFORMING ANY NECESSARY REMEDIAL OR PROTECTIVE WORK AT THE SITE OF THE WATER INFRASTRUCTURE ASSET, INCLUDING BREACHING THE WATER INFRASTRUCTURE ASSET; AND

(V) TAKING ANY OTHER STEPS THE DEPARTMENT DEEMS NECESSARY TO SAFEGUARD LIFE, PROPERTY, OR THE ENVIRONMENT.

(3) THE DEPARTMENT OR ITS AGENTS MAY ENTER ANY PROPERTY, WITHOUT PRIOR NOTICE TO THE OWNER OF THE PROPERTY, IF THE ENTRY IS NECESSARY TO CARRY OUT EMERGENCY ACTIONS UNDER THIS SUBSECTION.

(4) IF THE DEPARTMENT TAKES CONTROL OF A WATER INFRASTRUCTURE ASSET UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, THE DEPARTMENT SHALL REMAIN IN CHARGE AND CONTROL OF THE WATER INFRASTRUCTURE ASSET UNTIL THE DEPARTMENT HAS DETERMINED THAT THE WATER INFRASTRUCTURE ASSET HAS BEEN RENDERED SAFE OR THE CIRCUMSTANCES REQUIRING THE EMERGENCY ACTIONS HAVE CEASED.

(5) THE DEPARTMENT MAY OBTAIN EQUIPMENT, PERSONNEL, AND OTHER RESOURCES FOR EMERGENCY ACTIONS TAKEN UNDER THIS SUBSECTION THROUGH ANY APPROPRIATE MEANS, INCLUDING EMERGENCY PROCUREMENTS UNDER § 13–108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~**(E) (1) COSTS INCURRED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE PAID OUT OF THE WATER INFRASTRUCTURE EMERGENCY RESERVE.**~~

~~**(2) THE DEPARTMENT SHALL REMIT TO THE WATER INFRASTRUCTURE EMERGENCY RESERVE ALL REIMBURSEMENTS OF COSTS RECEIVED BY THE DEPARTMENT.**~~

~~**(F)**~~ **(E) (1) COSTS INCURRED BY THE DEPARTMENT UNDER THIS SECTION SHALL:**

(I) CONSTITUTE A DEBT OWED TO THE STATE; AND

(II) BE REIMBURSED TO THE DEPARTMENT BY THE ASSET OWNER.

(2) IF ANY SUCH COST REMAINS UNREIMBURSED 30 DAYS AFTER THE DEPARTMENT MAKES A DEMAND FOR REIMBURSEMENT FROM THE ASSET OWNER, THE WATER INFRASTRUCTURE ASSET SHALL BE SUBJECT TO THE ESTABLISHMENT OF A LIEN IN ACCORDANCE WITH THIS SECTION FOR THE PAYMENT OF THE UNREIMBURSED AMOUNT.

~~(G)~~ (F) (1) WITH RESPECT TO COSTS INCURRED BY THE DEPARTMENT UNDER THIS SECTION RELATING TO A WATER INFRASTRUCTURE ASSET FOR WHICH AN ASSOCIATION IS THE ASSET OWNER, IF ANY SUCH COST REMAINS UNREIMBURSED 30 DAYS AFTER THE DEPARTMENT MAKES A DEMAND FOR REIMBURSEMENT FROM THE ASSOCIATION, SUCH COSTS SHALL BE A DEBT TO THE STATE OWED, AND SHALL BE REIMBURSED TO THE DEPARTMENT, BY THE ASSOCIATION MEMBERS, JOINTLY AND SEVERALLY, NOTWITHSTANDING ANY PROVISION OF LAW THAT WOULD OTHERWISE RELIEVE THE ASSOCIATION MEMBERS OF SUCH LIABILITY.

(2) IF ANY SUCH COST REMAINS UNREIMBURSED 30 DAYS AFTER THE DEPARTMENT MAKES A DEMAND FOR REIMBURSEMENT FROM THE ASSOCIATION MEMBERS, THE LOTS, CONDOMINIUM UNITS, OR OTHER PROPERTY OWNED BY THE ASSOCIATION MEMBERS THAT IS ADJACENT TO OR BENEFITED BY THE WATER INFRASTRUCTURE ASSET SHALL BE SUBJECT TO THE ESTABLISHMENT OF A LIEN IN ACCORDANCE WITH THIS SECTION FOR THE PAYMENT OF THE UNREIMBURSED AMOUNT.

~~(H)~~ (G) (1) ANY LIEN ARISING UNDER ~~SUBSECTION (F) OR (G)~~ SUBSECTIONS (E) AND (F) OF THIS SECTION SHALL, TO THE EXTENT NOT OTHERWISE EXPRESSLY PROHIBITED BY LAW, HAVE PRIORITY OVER ALL OTHER LIENS AND ENCUMBRANCES PERFECTED AFTER JULY 1, 2020, ON THE WATER INFRASTRUCTURE ASSET, OR THE LOTS, CONDOMINIUM UNITS, OR OTHER PROPERTY OWNED BY THE ASSOCIATION MEMBERS THAT IS ADJACENT TO OR BENEFITED BY THE WATER INFRASTRUCTURE ASSET.

(2) THE ESTABLISHMENT AND ENFORCEMENT OF LIENS ARISING UNDER ~~SUBSECTION (F) OR (G)~~ SUBSECTIONS (E) AND (F) OF THIS SECTION SHALL BE GOVERNED BY THE RULES SET FORTH IN TITLE 12, CHAPTER 300 OF THE MARYLAND RULES.

~~(I)~~ (H) NO ACTION MAY BE BROUGHT AGAINST THE STATE, THE DEPARTMENT, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES FOR THE RECOVERY OF DAMAGES CAUSED BY THE PARTIAL OR TOTAL FAILURE OF ANY WATER INFRASTRUCTURE ASSET, OR THE CONTROL OR OPERATION OF ANY WATER INFRASTRUCTURE ASSET, ON THE GROUND THAT THE STATE, THE DEPARTMENT, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES ARE LIABLE BY VIRTUE OF ANY OF THE FOLLOWING:

(1) THE APPROVAL OR PERMITTING OF THE WATER INFRASTRUCTURE ASSET;

(2) THE ISSUANCE OR ENFORCEMENT OF ORDERS RELATIVE TO MAINTENANCE OR OPERATION OF THE WATER INFRASTRUCTURE ASSET;

(3) CONTROL OR REGULATION OF THE WATER INFRASTRUCTURE ASSET;

(4) ACTIONS TAKEN TO PROTECT AGAINST FAILURE DURING AN EMERGENCY, INCLUDING ANY ACTIONS TAKEN UNDER THIS SUBSECTION;

(5) THE USE OF DESIGN AND CONSTRUCTION CRITERIA PREPARED, APPROVED, OR PROMULGATED BY THE DEPARTMENT; OR

(6) THE FAILURE TO ISSUE OR ENFORCE ORDERS, TO CONTROL OR REGULATE WATER INFRASTRUCTURE ASSETS, TO TAKE MEASURES TO PROTECT AGAINST ANY FAILURE THEREOF, OR TO TAKE ANY EMERGENCY ACTIONS CONTEMPLATED BY THIS SUBSECTION.

~~(J)~~ (I) NOTHING IN THIS SECTION, AND NO ACT OR OMISSION OF THE DEPARTMENT UNDER THIS SECTION, SHALL BE CONSTRUED TO RELIEVE AN ASSET OWNER OF:

(1) THE LEGAL DUTIES, OBLIGATIONS, OR LIABILITIES INCIDENT TO THE OWNERSHIP OR OPERATION OF A WATER INFRASTRUCTURE ASSET; OR

(2) ANY LIABILITY FOR ACTS OR OMISSIONS OF THE ASSET OWNER THAT CAUSE INJURY OR DEATH TO ANY PERSON, DAMAGE TO ANY PROPERTY OR THE ENVIRONMENT, OR VIOLATION OF ANY LAW, REGULATION, OR PERMIT, EVEN IF ACTS OR OMISSIONS OF THE DEPARTMENT UNDER THIS SECTION COULD BE DEEMED AN INTERVENING CAUSE OF SUCH INJURY, DEATH, DAMAGE, OR VIOLATION.

[(c)**]** **~~(K)~~ (J)** This section does not apply to farm ponds used for agricultural purposes.

~~9–1605.2.~~

~~(a) (1) There is a Bay Restoration Fund.~~

~~(2) It is the intent of the General Assembly that the Bay Restoration Fund be:~~

~~(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so;~~ **[**~~and~~**]**

~~(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay; AND~~

~~(III) USED, IN PART, TO ESTABLISH AN EMERGENCY RESERVE ACCOUNT TO PROVIDE A SOURCE OF FUNDS FOR PREVENTING AND RESPONDING TO EMERGENCIES RELATED TO DAMS, RESERVOIRS, AND SIMILAR WATERWAY CONSTRUCTIONS IN THE STATE.~~

~~(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.~~

~~(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an on–site sewage disposal system, or a holding tank that:~~

~~(i) Is located in the State; or~~

~~(ii) Serves a Maryland user and is eligible for funding under this subtitle.~~

~~(h)~~ **~~(1) (I) THE COMPTROLLER SHALL:~~**

~~1. ESTABLISH A SEPARATE ACCOUNT WITHIN THE BAY RESTORATION FUND, WHICH SHALL BE DESIGNATED AS THE WATER INFRASTRUCTURE EMERGENCY RESERVE; AND~~

~~2. SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, DEPOSIT THE FIRST 1% OF ALL FUNDS COLLECTED UNDER SUBSECTION (B) OF THIS SECTION INTO THE WATER INFRASTRUCTURE EMERGENCY RESERVE, UP TO THE MAXIMUM BALANCE ESTABLISHED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

~~(II) 1. THE INITIAL MAXIMUM BALANCE OF THE WATER INFRASTRUCTURE EMERGENCY RESERVE SHALL BE $10,000,000.~~

~~2. THE SECRETARY MAY NOTIFY THE COMPTROLLER AS TO THE AMOUNT OF FUNDS THE SECRETARY HAS DETERMINED, IN CONSULTATION WITH THE BAY RESTORATION FUND ADVISORY COMMITTEE, THAT IS NEEDED IN THE WATER INFRASTRUCTURE EMERGENCY RESERVE, WHICH AMOUNT SHALL BECOME THE NEW MAXIMUM BALANCE OF THE WATER INFRASTRUCTURE EMERGENCY RESERVE ON THE DELIVERY OF SUCH NOTICE TO THE COMPTROLLER.~~

~~(III) IF AT ANY TIME THE BALANCE IN THE WATER INFRASTRUCTURE EMERGENCY RESERVE EXCEEDS THE MAXIMUM BALANCE ESTABLISHED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPTROLLER SHALL TRANSFER THE EXCESS FUNDS TO THE BAY RESTORATION FUND.~~

~~(IV) THE COMPTROLLER:~~

~~1. SHALL, BEFORE DEPOSITING ANY FUNDS COLLECTED UNDER SUBSECTION (B) OF THIS SECTION INTO THE WATER INFRASTRUCTURE EMERGENCY RESERVE, FIRST SET ASIDE ANY FUNDS THAT ARE REQUIRED TO BE SET ASIDE BY THE TERMS AND CONDITIONS GOVERNING ANY BONDS ISSUED BY THE ADMINISTRATION; AND~~

~~2. MAY NOT DEPOSIT FUNDS INTO THE WATER INFRASTRUCTURE EMERGENCY RESERVE TO THE EXTENT THAT DOING SO WOULD REASONABLY BE EXPECTED TO CAUSE AN EVENT OF DEFAULT UNDER ANY BONDS ISSUED BY THE ADMINISTRATION.~~

~~(V) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, FUNDS IN THE WATER INFRASTRUCTURE EMERGENCY RESERVE SHALL BE USED ONLY FOR:~~

~~1. COSTS INCURRED BY THE DEPARTMENT UNDER § 5–509 OF THIS ARTICLE;~~

~~2. COSTS ASSOCIATED WITH DETERMINING THE MAXIMUM BALANCE OF THE WATER INFRASTRUCTURE EMERGENCY RESERVE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, INCLUDING THE COST OF ACTUARIAL AND OTHER APPROPRIATE CONSULTANTS; AND~~

~~3. THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION, TO AVOID AN EVENT OF DEFAULT UNDER ANY BONDS ISSUED BY THE ADMINISTRATION, IF NO OTHER FUNDS ARE AVAILABLE IN THE BAY RESTORATION FUND.~~

~~[(1)] (2) [With] AFTER DEPOSITING THE FUNDS REQUIRED TO BE DEPOSITED INTO THE WATER INFRASTRUCTURE EMERGENCY RESERVE UNDER PARAGRAPH (1)(I)2 OF THIS SUBSECTION, WITH regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:~~

~~(i) Establish a separate account within the Bay Restoration Fund; and~~

~~(ii) Disburse the funds as provided under paragraph **[**(2)**] (3)** of this subsection.~~

~~[~~(2)**~~]~~ (3)** ~~The Comptroller shall:~~

~~(i) Deposit 60% of the funds in the separate account to be used for:~~

~~1. Subject to paragraphs **[**(3),**]** (4), (5), **(6),** and **[**(6)**] (7)** of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:~~

~~A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;~~

~~B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;~~

~~C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;~~

~~D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or~~

~~E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;~~

~~2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:~~

~~A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;~~

~~B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;~~

~~C. Issue grants or loans as provided under item 1 of this item; and~~

~~D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;~~

~~3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;~~

~~4. Subject to paragraph~~ **[**(7)**]** ~~**(8)** of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50% of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;~~

~~5. Subject to paragraph~~ **[**(8)**]** ~~**(9)** of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and~~

~~6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph~~ **[**(8)(iii)2**]** ~~**(9)(III)2** of this subsection; and~~

~~(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.~~

[(3)**]** ~~**(4)** Funding for the costs identified in paragraph~~ **[**(2)(i)1**]** ~~**(3)(I)1** of this subsection shall be provided in the following order of priority:~~

~~(i) For owners of all levels of income, the costs identified in paragraph~~ **[**(2)(i)1A**]** ~~**(3)(I)1A** and B of this subsection; and~~

~~(ii) For low–income owners, as defined by the Department, the costs identified in paragraph~~ **[**(2)(i)1C**]** ~~**(3)(I)1C** of this subsection:~~

~~1. First, for best available technologies for nitrogen removal; and~~

~~2. Second, for other wastewater treatment systems.~~

~~[(4)] (5) Funding for the costs identified in paragraph [(2)(i)1D] (3)(I)1D of this subsection may be provided if:~~

~~(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;~~

~~(ii) It can be demonstrated that:~~

~~1. The replacement of the on–site sewage disposal system with a new community sewerage system is more cost–effective for nitrogen removal than upgrading each individual on–site sewage disposal system; or~~

~~2. The individual replacement of the on–site sewage disposal system is not feasible; and~~

~~(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, on or before October 1, 2008.~~

~~[(5)] (6) Funding for the costs identified in paragraph [(2)(i)1E] (3)(I)1E of this subsection may be provided only if all of the following conditions are met:~~

~~(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;~~

~~(ii) It can be demonstrated that:~~

~~1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or~~

~~2. The individual replacement of the on–site sewage disposal system is not feasible;~~

~~(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;~~

~~(iv) 1. The on–site sewage disposal system was installed as of October 1, 2008, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or~~

~~2. The on–site sewage disposal system was installed as of October 1, 2008, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:~~

~~A. Identified in the county water and sewer plan; or~~

~~B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and~~

~~(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:~~

~~1. Denial of access for any future connections that are not included in the project's proposed service area; and~~

~~2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.~~

~~[(6)]~~ **(7)** ~~The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:~~

~~(i) Effectuate the purposes of this subtitle;~~

~~(ii) Comply with the provisions of any bond resolution;~~

~~(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and~~

~~(iv) Meet any rules or program directives established by the Secretary or the Board.~~

~~[(7)]~~ **(8)** ~~The Department or a local government shall determine:~~

~~(i) Whether an applicant is eligible for financial assistance under paragraph [(2)(i)4]~~ **(3)(I)4** ~~of this subsection; and~~

~~(ii) The amount of financial assistance to be provided for each applicant based on the average cost of an operation and maintenance contract of up to 5 years provided by vendors, as defined in § 9–1108.1 of this title, in the applicant's area.~~

~~[(8)]~~ **(9)** ~~(i) The amount of financial assistance under paragraph [(2)(i)5]~~ **(3)(I)5** ~~of this subsection shall be based on homeowner income, with priority given to low–income homeowners.~~

~~(ii) Financial assistance under paragraph [(2)(i)5] (3)(I)5 of this subsection may be provided through grants, rebates, or low– or no–interest loans.~~

~~(iii) Financial assistance under paragraph [(2)(i)5] (3)(I)5 of this subsection may be provided only if:~~

~~1. The homeowner verifies the pump out has occurred; and~~

~~2. The homeowner resides in a local jurisdiction that has developed and implemented a septic stewardship plan that:~~

~~A. Has been adopted by the local governing body of the jurisdiction, after consultation with the jurisdiction's local health department;~~

~~B. States specific goals consistent with the nitrogen load reduction identified in the local jurisdiction's watershed implementation plan;~~

~~C. Specifies public education and outreach measures that will be taken, including education and outreach on best management practices, legal requirements, and existing support and financial assistance;~~

~~D. Provides technical guidance for the siting, design, evaluation, and construction of an on–site sewage disposal system;~~

~~E. Requires an on–site sewage disposal system located on residential property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;~~

~~F. Requires an on–site sewage disposal system located on commercial property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;~~

~~G. Specifies certification and licensing procedures for a person that pumps out and inspects on–site sewage disposal systems;~~

~~H. Specifies enforcement mechanisms, compliance incentives, and penalties;~~

~~I. Outlines funding mechanisms to support the plan and expand education, demonstration projects, and inspections;~~

~~J. Specifies requirements for record keeping; and~~

~~K. Establishes a process for periodically evaluating and revising the plan.~~

~~(i) (2) Funds in the Bay Restoration Fund shall be used only:~~

~~(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;~~

~~(ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total cost of projects, as approved by the Department, relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;~~

~~(iii) In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;~~

~~(iv) In fiscal years 2018 and thereafter, after payment of outstanding bonds and the allocation of funds to other required uses of the Bay Restoration Fund for funding in the following order of priority:~~

~~1. For funding the eligible costs to upgrade a wastewater facility to enhanced nutrient removal at wastewater facilities with a design capacity of 500,000 gallons or more per day;~~

~~2. For funding the eligible costs of the most cost–effective enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less than 500,000 gallons per day; and~~

~~3. As determined by the Department and based on water quality and public health benefits, for the following:~~

~~A. For costs identified under item (ii) of this paragraph;~~

~~B. For costs identified under subsection [(h)(2)(i)1] (H)(3)(I)1 of this section; and~~

~~C. With respect to a local government that has enacted and implemented a system of charges to fully fund the implementation of a stormwater management program, for grants to the local government for a portion of the costs of the most cost–effective and efficient stormwater control measures, as determined and approved by the Department, from the restoration fees collected annually by the Comptroller from users of wastewater facilities under this section;~~

~~(v) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;~~

~~(vi) To earn interest on Bay Restoration Fund accounts;~~

~~(vii) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;~~

~~(viii) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;~~

~~(ix) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;~~

~~(x) For costs associated with the issuance of bonds;~~

~~(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on–site sewage disposal systems and cover crop activities;~~

~~(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4–202.1(k)(3) of this article; and~~

~~(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for costs associated with the purchase of cost–effective nitrogen, phosphorus, or sediment load reductions in support of the State's efforts to restore the health of the Chesapeake Bay, not to exceed $4,000,000 in fiscal year 2018, $6,000,000 in fiscal year 2019, and $10,000,000 per year in fiscal years 2020 and 2021.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.

Chapter 413

(House Bill 1035)

AN ACT concerning

Bay Restoration Fund – Use of Funds – Municipal Wastewater Facilities

FOR the purpose of expanding the authorized uses of the Bay Restoration Fund to include for certain costs associated with the connection of a property using an on–site sewage disposal system to an existing municipal wastewater facility that has signed a funding agreement with the Department of the Environment and is under construction to achieve enhanced nutrient removal or biological nutrient removal level treatment; specifying that these costs may be provided only if certain conditions are met; providing for the termination of this Act; and generally relating to the Bay Restoration Fund.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1605.2(h)(1)
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.2(h)(2) and (5)
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

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

Article – Environment

9–1605.2.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; ~~[~~or~~]~~

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving**, OR HAS SIGNED A FUNDING AGREEMENT WITH THE DEPARTMENT AND IS UNDER CONSTRUCTION TO ACHIEVE,** enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50% of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving**, OR HAS SIGNED A FUNDING AGREEMENT WITH THE DEPARTMENT AND IS UNDER CONSTRUCTION TO ACHIEVE,** enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on–site sewage disposal system was installed as of October 1, 2008, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or

2. The on–site sewage disposal system was installed as of October 1, 2008, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2020. It shall remain effective for a period of 4 years and, at the end of ~~September~~ June 30, 2024, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.