

# SENATE BILL 539

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CF HB 57

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By: **Senator Colburn**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Bay Restoration Fund – Authorized Uses**

3 FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration  
4 Fund to be used to pay the cost of connecting properties served by onsite sewage  
5 disposal systems to certain existing municipal wastewater facilities under  
6 certain circumstances; establishing certain conditions for certain funding of  
7 certain costs; and generally relating to authorized uses of the Bay Restoration  
8 Fund.

9 BY repealing and reenacting, without amendments,  
10 Article – Environment  
11 Section 9–1605.2(a) and (h)(1)  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Environment  
16 Section 9–1605.2(h)(2) and (3)  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2010 Supplement)

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

21 **Article – Environment**

22 9–1605.2.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

7 (ii) Available for treatment facilities discharging into the  
8 Atlantic Coastal Bays or other waters of the State, but that priority be given to  
9 treatment facilities discharging into the Chesapeake Bay.

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

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

15 (i) Is located in the State; or

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

18 (h) (1) With regard to the funds collected under subsection (b)(1)(i), from  
19 users of an onsite sewage disposal system or holding tank that receive a water bill, (ii),  
20 and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

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

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

25 (2) The Comptroller shall:

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

28 1. Subject to paragraph (3) of this subsection, with  
29 priority first given to failing systems and holding tanks located in the Chesapeake and  
30 Atlantic Coastal Bays Critical Area and then to failing systems that the Department  
31 determines are a threat to public health or water quality, grants or loans for up to  
32 100% of:

33 A. The costs attributable to upgrading an onsite sewage  
34 disposal system to the best available technology for the removal of nitrogen;

1                   B.     The cost difference between a conventional onsite  
2 sewage disposal system and a system that utilizes the best available technology for the  
3 removal of nitrogen;

4                   C.     The cost of repairing or replacing a failing onsite  
5 sewage disposal system with a system that uses the best available technology for  
6 nitrogen removal; [or]

7                   D.     The cost, up to the sum of the costs authorized under  
8 item 1B of this item for each individual system, of replacing multiple onsite sewage  
9 disposal systems located in the same community with a new community sewerage  
10 system that is owned by a local government and that meets enhanced nutrient  
11 removal standards; **OR**

12                   **E.     THE COST, UP TO THE SUM OF THE COSTS**  
13 **AUTHORIZED UNDER ITEM 1C OF THIS ITEM FOR EACH INDIVIDUAL SYSTEM, OF**  
14 **CONNECTING A PROPERTY USING AN ONSITE SEWAGE DISPOSAL SYSTEM TO AN**  
15 **EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS ACHIEVING ENHANCED**  
16 **NUTRIENT REMOVAL LEVEL TREATMENT.**

17                   2.     The reasonable costs of the Department, not to exceed  
18 8% of the funds deposited into the separate account, to:

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

23                   B.     Review and approve the design and construction of  
24 onsite sewage disposal system or holding tank upgrades;

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

27                   D.     Provide technical support for owners of upgraded  
28 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded  
29 systems; and

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

33                   (3)    (i)    Funding for the costs identified in paragraph (2)(i)1 of this  
34 subsection shall be provided in the following order of priority:

35                   1.     For owners of all levels of income, the costs identified  
36 in paragraph (2)(i)1A and B of this subsection; and

1                   2. For low-income owners, as defined by the  
2 Department, the costs identified in paragraph (2)(i)1C of this subsection:

3                   A. First, for best available technologies for nitrogen  
4 removal; and

5                   B. Second, for other wastewater treatment systems.

6                   (ii) Funding for the costs identified in paragraph (2)(i)1D of this  
7 subsection may be provided if:

8                   1. The environmental impact of the onsite sewage  
9 disposal system is documented by the local government and confirmed by the  
10 Department;

11                   2. It can be demonstrated that:

12                   A. The replacement of the onsite sewage disposal system  
13 with a new community sewerage system is more cost effective for nitrogen removal  
14 than upgrading each individual onsite sewage disposal system; or

15                   B. The individual replacement of the onsite sewage  
16 disposal system is not feasible; and

17                   3. The new community sewerage system will only serve  
18 lots that have received a certificate of occupancy, or equivalent certificate, on or before  
19 October 1, 2008.

20                   **(III) FUNDING FOR THE COSTS IDENTIFIED IN PARAGRAPH**  
21 **(2)(i)1E OF THIS SUBSECTION MAY BE PROVIDED ONLY IF ALL OF THE**  
22 **FOLLOWING CONDITIONS ARE MET:**

23                   **1. THE ENVIRONMENTAL IMPACT OF THE ONSITE**  
24 **SEWAGE DISPOSAL SYSTEM IS DOCUMENTED BY THE LOCAL GOVERNMENT AND**  
25 **CONFIRMED BY THE DEPARTMENT;**

26                   **2. IT CAN BE DEMONSTRATED THAT:**

27                   **A. THE REPLACEMENT OF THE ONSITE SEWAGE**  
28 **DISPOSAL SYSTEM WITH SERVICE TO AN EXISTING MUNICIPAL WASTEWATER**  
29 **FACILITY THAT IS ACHIEVING ENHANCED NUTRIENT REMOVAL LEVEL**  
30 **TREATMENT IS MORE COST-EFFECTIVE FOR NITROGEN REMOVAL THAN**  
31 **UPGRADING THE INDIVIDUAL ONSITE SEWAGE DISPOSAL SYSTEM; OR**

1                   **B. THE INDIVIDUAL REPLACEMENT OF THE ONSITE**  
2 **SEWAGE DISPOSAL SYSTEM IS NOT FEASIBLE;**

3                   **3. THE PROJECT IS CONSISTENT WITH THE**  
4 **COUNTY'S COMPREHENSIVE PLAN AND WATER AND SEWER MASTER PLAN;**

5                   **4. THE ONSITE SEWAGE DISPOSAL SYSTEM WAS**  
6 **INSTALLED AS OF OCTOBER 1, 2008, AND THE PROPERTY THE SYSTEM SERVES**  
7 **IS LOCATED IN A PRIORITY FUNDING AREA, IN ACCORDANCE WITH § 5-7B-02 OF**  
8 **THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

9                   **5. THE LOCAL GOVERNMENT HAS ADOPTED A**  
10 **POLICY OR PROCEDURE THAT WILL GUARANTEE THAT ANY FUTURE**  
11 **CONNECTION TO AN EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS**  
12 **FUNDED UNDER PARAGRAPH (2)(1)1E OF THIS SUBSECTION WILL MEET ALL OF**  
13 **THE REQUIREMENTS UNDER THIS SUBPARAGRAPH.**

14               SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2011.