HOUSE BILL 905

M4, M3 4lr0713
CF SB 725

By: **Delegates S. Robinson, Bobo, Carr, Gutierrez, Hubbard, Hucker, A. Kelly, Lee, A. Miller, Mizeur, Pena–Melnyk, Simmons, and Stein**
Introduced and read first time: February 5, 2014
Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Chesapeake Bay – Nutrient Management – Poultry Fair Share Act

FOR the purpose of establishing a certain chicken manure pollution fee payable to the Comptroller by a certain poultry integrator in a certain manner; requiring the Comptroller to transfer revenue from a certain fee to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture for certain cover crop activities; authorizing the Comptroller to distribute a certain amount in an administrative account for certain purposes; repealing certain provisions of law requiring the Comptroller to disburse certain funds from the Bay Restoration Fund to be used for certain cover crop activities; defining certain terms; and generally relating to nutrient management in the Chesapeake Bay.

BY adding to
Article – Agriculture
Section 8–704.3
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.2(h), (i)(2)(ii)3. and (ix), and (j)(6)(vi)
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1605.2(j)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

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

Article – Agriculture

8–704.3.

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

(2) "FEE" MEANS THE CHICKEN MANURE POLLUTION FEE ESTABLISHED UNDER THIS SECTION.

(3) "POULTRY INTEGRATOR" MEANS AN ENTITY THAT CONTRACTS WITH A FARMER TO RAISE POULTRY FOR THE ENTITY ON PROPERTY OWNED OR LEASED BY THE FARMER.

(B) (1) BEGINNING OCTOBER 1, 2014, THERE IS A CHICKEN MANURE POLLUTION FEE TO BE PAID TO THE COMPTROLLER BY A POULTRY INTEGRATOR IN A MANNER DETERMINED BY THE COMPTROLLER.

(2) THE FEE IS 5 CENTS FOR EACH CHICKEN A POULTRY INTEGRATOR PROVIDES TO A FARMER IN THE STATE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMPTROLLER SHALL TRANSFER THE REVENUE FROM THE FEE TO THE MARYLAND AGRICULTURE WATER QUALITY COST SHARE PROGRAM IN THE DEPARTMENT TO FUND COVER CROP ACTIVITIES ON AGRICULTURAL LANDS UPON WHICH CHICKEN MANURE HAS BEEN APPLIED AS FERTILIZER.

(2) THE COMPTROLLER MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT AN AMOUNT THAT IS NECESSARY TO ADMINISTER THE FEE.

(D) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER, COLLECT, AND ENFORCE THE FEE.

Article – Environment

9–1605.2.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1, from users of an onsite sewage disposal system or holding tank that receive a water bill, (i)2, and (i)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**]** **DEPOSIT** the funds in the separate account to be used for:

[1.**] (I)** Subject to paragraph (3) 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.**] 1.** The costs attributable to upgrading an onsite sewage disposal system to the best available technology for the removal of nitrogen;

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

[C.**] 3.** The cost of repairing or replacing a failing onsite sewage disposal system with a system that uses the best available technology for nitrogen removal;

[D.**] 4.** The cost, up to the sum of the costs authorized under item **[**B**] 2** of this item for each individual system, of replacing multiple onsite 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.**] 5.** The cost, up to the sum of the costs authorized under item **[**C**] 3** of this item for each individual system, of connecting a property using an onsite sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal level treatment; and

[2.**] (II)** The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

[A.**] 1.** Implement an education, outreach, and upgrade program to advise owners of onsite 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.**] 2.** Review and approve the design and construction of onsite sewage disposal system or holding tank upgrades;

[C.**] 3.** Issue grants or loans as provided under item 1 of this item; and

[D.**] 4.** Provide technical support for owners of upgraded onsite sewage disposal systems or holding tanks to operate and maintain the upgraded systems**[**; 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) (i) Funding for the costs identified in paragraph **[**(2)(i)1**] (2)(I)** of this subsection shall be provided in the following order of priority:

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

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

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

B. Second, for other wastewater treatment systems.

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

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

2. It can be demonstrated that:

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

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

3. 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.

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

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

2. It can be demonstrated that:

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

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

3. The project is consistent with the county's comprehensive plan and water and sewer master plan;

4. The onsite 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; and

5. The local government has adopted a policy or procedure that will guarantee that any future connection to an existing municipal wastewater facility that is funded under paragraph **[**(2)(i)1E**]** **(2)(I)5** of this subsection will meet all of the requirements under this subparagraph.

(4) 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.

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

(ii) 3. 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:

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

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

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

D. With respect to a local government that has enacted and implemented a system of charges under § 4–204 of this article 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;

(ix) Subject to the **[**allocation of funds and the**]** conditions under subsection (h) of this section, for projects related to the removal of nitrogen from onsite sewage disposal systems **[**and cover crop activities**]**.

(j) (1) There is a Bay Restoration Fund Advisory Committee.

(6) The Committee shall:

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection **[**(h)(2)(i)2**]** **(H)(2)(II)1** of this section;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014.