

SENATE BILL 533

M4, M3
SB 725/14 – EHE

5lr2036
CF 5lr0398

By: **Senators Madaleno, Lee, Manno, Montgomery, Pinsky, and Raskin**

Introduced and read first time: February 6, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Bay Tax Equity Act**

3 FOR the purpose of establishing a certain chicken manure pollution fee payable to the
4 Comptroller by a certain poultry integrator in a certain manner; prohibiting a
5 poultry integrator from recovering certain costs from certain farmers that raise
6 chickens for certain purposes; requiring the Comptroller to transfer revenue from a
7 certain fee to the Maryland Agriculture Water Quality Cost Share Program in the
8 Department of Agriculture for certain cover crop activities; authorizing the
9 Comptroller to distribute a certain amount in an administrative account for certain
10 purposes; repealing certain provisions of law requiring the Comptroller to disburse
11 certain funds from the Bay Restoration Fund to be used for certain cover crop
12 activities; making conforming changes; defining certain terms; and generally
13 relating to nutrient management in the Chesapeake Bay.

14 BY adding to
15 Article – Agriculture
16 Section 8–704.3
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2014 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Environment
21 Section 9–1605.2(h), (i)(2)(ii)3. and (ix), and (j)(6)(vi)
22 Annotated Code of Maryland
23 (2014 Replacement Volume)

24 BY repealing and reenacting, without amendments,
25 Article – Environment
26 Section 9–1605.2(j)(1)
27 Annotated Code of Maryland
28 (2014 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Agriculture**

4 **8-704.3.**

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

7 (2) “FEE” MEANS THE CHICKEN MANURE POLLUTION FEE
8 ESTABLISHED UNDER THIS SECTION.

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

12 (B) (1) BEGINNING OCTOBER 1, 2015, THERE IS A CHICKEN MANURE
13 POLLUTION FEE TO BE PAID TO THE COMPTROLLER BY A POULTRY INTEGRATOR IN
14 A MANNER DETERMINED BY THE COMPTROLLER.

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

17 (3) A POULTRY INTEGRATOR MAY NOT RECOVER THE COST OF ANY
18 AMOUNT PAID UNDER THIS SUBSECTION FROM A FARMER THAT RAISES CHICKENS
19 FOR THE POULTRY INTEGRATOR.

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

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

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

29 **Article – Environment**

30 9-1605.2.

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

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

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

9 (2) The Comptroller shall[:

10 (i) Deposit 60% of] **DEPOSIT** the funds in the separate account to be
11 used for:

12 [1.] **(1)** Subject to paragraphs (3), (4), (5), and (6) of this
13 subsection, with priority first given to failing systems and holding tanks located in the
14 Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the
15 Department determines are a threat to public health or water quality, grants or loans for
16 up to 100% of:

17 [A.] **1.** The costs attributable to upgrading an on-site
18 sewage disposal system to the best available technology for the removal of nitrogen;

19 [B.] **2.** The cost difference between a conventional on-site
20 sewage disposal system and a system that utilizes the best available technology for the
21 removal of nitrogen;

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

25 [D.] **4.** The cost, up to the sum of the costs authorized
26 under item [B] **2** of this item for each individual system, of replacing multiple on-site
27 sewage disposal systems located in the same community with a new community sewerage
28 system that is owned by a local government and that meets enhanced nutrient removal
29 standards; or

30 [E.] **5.** The cost, up to the sum of the costs authorized
31 under item [C] **3** of this item for each individual system, of connecting a property using an
32 on-site sewage disposal system to an existing municipal wastewater facility that is
33 achieving enhanced nutrient removal or biological nutrient removal level treatment,
34 including payment of the principal, but not interest, of debt issued by a local government
35 for such connection costs;

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

3 **[A.] 1.** Implement an education, outreach, and upgrade
4 program to advise owners of on-site sewage disposal systems and holding tanks on the
5 proper maintenance of the systems and tanks and the availability of grants and loans under
6 item **[1] (I)** of this **[item] PARAGRAPH**;

7 **[B.] 2.** Review and approve the design and construction of
8 on-site sewage disposal system or holding tank upgrades;

9 **[C.] 3.** Issue grants or loans as provided under item **[1] (I)**
10 of this **[item] PARAGRAPH**; and

11 **[D.] 4.** Provide technical support for owners of upgraded
12 on-site sewage disposal systems or holding tanks to operate and maintain the upgraded
13 systems; and

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

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

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

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

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

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

31 2. Second, for other wastewater treatment systems.

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

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

3 (ii) It can be demonstrated that:

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

7 2. The individual replacement of the on-site sewage disposal
8 system is not feasible; and

9 (iii) The new community sewerage system will only serve lots that
10 have received a certificate of occupancy, or equivalent certificate, on or before October 1,
11 2008.

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

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

16 (ii) It can be demonstrated that:

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

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

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

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

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

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

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

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

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

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

13 (6) The Comptroller, in consultation with the Administration, may
14 establish any other accounts and subaccounts within the Bay Restoration Fund as
15 necessary to:

16 (i) Effectuate the purposes of this subtitle;

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

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

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

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

23 (ii) 3. In fiscal years 2018 and thereafter, after payment of
24 outstanding bonds and the allocation of funds to other required uses of the Bay Restoration
25 Fund for funding in the following order of priority:

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

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

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

1 D. With respect to a local government that has enacted and
2 implemented a system of charges under § 4–204 of this article to fully fund the
3 implementation of a stormwater management program, for grants to the local government
4 for a portion of the costs of the most cost–effective and efficient stormwater control
5 measures, as determined and approved by the Department, from the restoration fees
6 collected annually by the Comptroller from users of wastewater facilities under this section;

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

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

11 (6) The Committee shall:

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2015.