

Letter of Support

Uploaded by: Lori Graf

Position: FAV

February 2, 2022

The Honorable Paul G. Pinsky
Senate Education, Health & Environmental Affairs Committee
Miller Senate Office Building,
2 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: Support Environmental Health Specialists and On-Site Sewage Disposal Systems – Transfer of Responsibilities and Standards, Regulations, Applications, and Plans

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 113 Environmental Health Specialists and On-Site Sewage Disposal Systems**. MBIA **Supports** the Act in its current version.

This bill would standardize the application process for and encourage the efficient completion of approval plans for the installation of on-site sewage disposal systems. MBIA respectfully supports this measure. The promotion of consistent standards of application and regulation makes staying in compliance with the law much simpler and reduces the potential for unintentional errors and corrections. The creation of a statewide standard is a large part of maintaining consistency of process across local jurisdictions. Additionally, the inclusion of the Board of Environmental Health Specialists as a member of the list of regulatory bodies makes sure that regulation will be focused not just on engineering and waste water but also on the tremendous task of maintaining the high public health standards that citizens expect in the State of Maryland. MBIA supports the renewed focus on creating and maintaining safe public health systems.

As far as the timeframes in the bill, COMAR regulations 26.04.02 already require that if a permit is going to be denied it has to be denied within 30 days. Therefore, we believe we should get approvals in a specific timeframe as well. Lastly, should any work group or task force be created, the Building Industry should be included. We have a lot of expertise in the area and can be a valuable resource.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Health & Environmental Affairs Committee

SB 113_eranson_fwa.pdf

Uploaded by: Emily Ranson

Position: FWA

SB113: Environment – Environmental Health Specialists and On–Site Sewage Disposal Systems – Transfer of Responsibilities and Standards, Regulations, Applications, and Plans
Senate Education, Health, and Environmental Affairs Committee
February 2, 2022

Position: Favorable with Amendments

Dear Chairman Pinsky and Members of the Committee,

Clean Water Action, Shore Rivers, and the Chesapeake Bay Foundation support SB113 to amend some of the processes around septic permitting in the state, but have some concerns and suggested amendments which are being introduced by the bill sponsor.

Moving the Board of Environmental Health Specialists

From our standpoints, we are generally ambivalent to the concept of moving the Board of Environmental Health specialists to the Maryland Department of the Environment from the Maryland Department of Health. We are not confident that a move would improve the current problems. We understand that MDE is already chronically understaffed and that they have the existing authority to exercise more oversight over the environmental specialists.

Furthermore, the Environmental Health Specialists were previously under MDE and were moved to MDH. Our understanding is that administrative support for the specialists has improved while under MDH.

Tracking Database

We enthusiastically support the concept of a database to track septic permits as they make their way through the process and think this could be a good building block for ultimately having a more uniform and user friendly database for septic systems. Current septic records vary widely across counties, as some have moved to digital records while others are still on paper. Many other states have statewide, uniform septic databases which would be good models for Maryland. For example, [Florida has a replicable database that should be explored](#).

Our understanding is that one of the problems that applicants are having with permitting septic systems is that once the permitting process has initiated, it is a black box of information - they may or may not know where the system is in the process, creating uncertainty.

Amendment: **CREATE A WORKGROUP CONSISTING OF ENVIRONMENTAL HEALTH PROFESSIONALS, ON-SITE WASTEWATER PROFESSIONALS, MEMBERS OF THE**

ENVIRONMENTAL COMMUNITY, AND THE MARYLAND DEPARTMENTS OF HEALTH AND ENVIRONMENT TO DETERMINE THE SCOPE OF THE DATABASE.

Incentives

We are unsure what incentives could exist to encourage the timely completion of review and approval for septic system permits. From our understanding of the problems, the main reasons for the delay are a.) inadequate design and/or b.) understaffed departments that have difficulty competing with the private sector for staff.

It is our understanding that the sponsor is including an amendment to provide more funding for the departments so they can increase review capacity.

Amendment: **Delete Page 3 Lines 12-14.**

Time Frame for Approval

We are very concerned about creating strict timelines for approving septic systems. Our concern is that this will create pressure for substandard permits to be approved.

COMAR regs 26.04.02 already require that if a permit is going to be denied it has to be denied within 30 days.

Permitting a septic system is an iterative process, with sometimes significant back-and-forth on comments and changes needed. We understand the intent of this time frame in order to provide greater consistency for permitting, but would suggest that if a change is needed here to use a system like requiring updates and reasons for delays instead of placing a time limit on approving a system.

Amendment: **Delete Page 3 Line 17-19.**

Conclusion

We appreciate Senator Hester working with us and our concerns and support her proposed amendments to find the path forward for a database, removing the incentive language and adding \$5 million for more staffing, and deleting the two month time frame for permitting approvals. We appreciate the opportunity to work further with Senator Hester and the Committee to improve the management of septic systems moving forward and urge a favorable report with these amendments on SB113.

Thank you,

Emily Ranson
Clean Water Action
eranson@cleanwater.org

Elle Bassett, Miles-Wye Riverkeeper
ShoreRivers
ebassett@shorerivers.org

Robin Jessica Clark, Esq.
Chesapeake Bay Foundation
rclark@cbf.org

SB0113-663525-01.pdf

Uploaded by: Katie Fry Hester

Position: FWA



SB0113/663525/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

31 JAN 22
09:04:38

BY: Senator Hester
(To be offered in the Education, Health, and Environmental
Affairs Committee)

AMENDMENTS TO SENATE BILL 113

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “**Transfer of Responsibilities and**”; strike beginning with “transferring” in line 5 down through “Environment;” in line 8; strike beginning with “requiring” in line 10 down through “months;” in line 12; in line 14, after the first “the” insert “Maryland Department of Health, in consultation with the”; and in the same line, after “Environment” insert a comma.

On pages 1 and 2, strike in their entirety the lines beginning with line 21 on page 1 through line 9 on page 2, inclusive.

On page 2, in line 12, strike “and 11–103”; after line 14, insert:

“BY adding to

Article – Health Occupations

Section 21–103

Annotated Code of Maryland

(2021 Replacement Volume)”;

strike in their entirety lines 15 through 27, inclusive; in line 28, strike “2.” and substitute “1.”; in the same line, strike “AND”; in the same line, strike “FURTHER”; and in the same line, after “ENACTED” insert “BY THE GENERAL ASSEMBLY OF MARYLAND”.

AMENDMENT NO. 2

(Over)

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through line 6 on page 3, inclusive.

On page 3, strike beginning with “**(1)**” in line 17 down through “**(2)**” in line 20; in line 20, after “**IF**” insert “**AN APPROVING AUTHORITY DENIES**”; and in line 21, strike “**IS DENIED**”.

On pages 3 through 5, strike in their entirety the lines beginning with line 23 on page 3 through line 1 on page 5, inclusive.

On page 5, after line 1, insert:

“Article – Health Occupations”;

in line 2, strike “**11-103.**” and substitute “**21-103.**”; and in line 3, after “**DEPARTMENT**” insert “**, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT,**”.

On pages 5 through 10, strike in their entirety the lines beginning with line 13 on page 5 through line 18 on page 10, inclusive.

On page 10, in line 19, strike “**3.**” and substitute “**2.**”; in line 22, strike “**26.04.03.02**” and substitute “**26.03.03.03**”; strike in their entirety lines 23 through 32, inclusive; and in line 33, strike “**6.**” and substitute “**3.**”.

Septics SB113 Testimony.docx (2).pdf

Uploaded by: Katie Fry Hester

Position: FWA

KATIE FRY HESTER
Legislative District 9
Carroll and Howard Counties

Education, Health, and
Environmental Affairs Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



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KatieFry.Hester@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB0113 - Environmental Health Specialists and On-Site Sewage Disposal Systems – Transfer of Responsibilities and Standards, Regulations, Applications, and Plans

February 2, 2022

Chairman Pinsky, Vice-Chair Kagan, and members of the Education, Health, and Environmental Affairs Committee:

Thank you for your consideration of Senate Bill 113, which will improve the efficiency and consistency of the manner by which our county health departments and environmental health staff are able to manage and approve or deny septic system permits. Septic system installations are an extremely complicated and costly part of the construction process for Maryland homeowners and small businesses - often reaching north of \$10,000 according to MDE. A major contributor to this cost is the wide degree of variation between even neighboring counties such as Howard and Frederick in interpreting and applying state regulation. In some cases, my constituents are waiting 8, 12, or 18 months before septic system permits are finally approved, and months between communications or updates from environmental health staff.

Over the course of the 2021 interim, MDE established a working group which engaged across the state through 6 listening sessions with industry practitioners, government employees and key stakeholders from the building industry and agri-tourism industry. They found that:

- the time it takes for approval varies dramatically from 1-18 months, often without adequate and consistent communication between our local health departments and permit applicants,
- there is significant confusion between the regulatory authorities of MDH and MDE, resulting in the two agencies pointing fingers at one another instead of solving the problem at hand,
- the state has not adequately supported our local environmental health specialists in terms of hiring staff, paying competitive salaries, and upgrading the necessary IT systems for the job, and
- that certain COMAR regulations are unclear, resulting in varying and haphazard interpretations.

The solution to improving this industry is multifold. Last year we passed Delegate Stein's bill to increase licensing requirements for septic system inspectors, and this year I am cross-filing his legislation to establish an industry board. However, in addition to this, we need to improve the public sector's customer service. In order to meet this goal, SB113 will do the following:

- Require MDE to establish an online tracking system for septic permits which will improve the efficiency and increase oversight from the state
- Hold monthly meetings to ensure consistent interpretation and application of state regulations
- Standardize permits and clarify confusing parts of comar related to septic systems
- Increase modestly the operational budget for staffing and equipment required by these environmental professionals to do an adequate job.

I am currently working with MACo, the environmental community, and subject matter experts on amendments that will resolve their opposition and will provide those to the committee as quickly as they're available.

- The first is already available on your Floor system and removes provisions that shift Environmental Health Specialists from MDH to MDE, as well as a provision that establishes rigid timelines for approval or denial of systems,
- The second invests funding to invest in high-quality staff, clarifies provisions related to the online tracking database, and directs additional COMAR clarifications.

Members of the committee, as we move toward an economic recovery from COVID-19 and attempt to build more affordable housing, this is incredibly important for parts of our state that are zoned for well and septic. Given the surplus in our state budget and the number of unfilled positions across the state, now is the time to invest in good government that works for the people of Maryland. By voting for this bill, you are voting to improve customer service and retain qualified environmental health staff, to protect the environment from faulty septic systems and help small businesses or first time home owners. For these reasons, I respectfully request a **favorable with amendment report on SB113**.

Sincerely,



Senator Katie Fry Hester
Carroll and Howard Counties

SB 113 SWA_Final.pdf

Uploaded by: Kenneth Welch

Position: FWA

An Affiliate of
the Maryland Association
of Counties, Inc.



Reply to:

DATE: February 2, 2022
TO: Members, Education, Health and Environmental Affairs
FROM: Maryland Conference of Local Environmental Health Directors
RE: SB 113 Environmental Health Specialists and On-Site Sewage Disposal Systems-
Transfer of Responsibilities and Standards, Regulations, Applications, and Plans

The Maryland Conference of Local Environmental Health Directors (the Conference) **Supports with Amendments SB 113.**

Through a collaboration with MACo and Senator Hester's Office, the Conference has provided input and we believe that our suggested amendments have been accepted. While we do not have complete agreement on all matters or confirmation of those changes, we trust the below amendments will ultimately be made as promised.

- Remove clause that would shift the Board of Environmental Health Specialists and staff from the Maryland Department of Health to the Maryland Department of the Environment and subsequent references to this shift since the responsibility of the Board is not to oversee on-site sewage disposal systems and is better supported under the Maryland Department of Health;
- Remove 9-1114 B(1) that would require the approval or denial of septic applications within two months and any subsequent references to this timer as building submittal and approval procedures varies from county to county and will potentially lead to ill-informed and rushed determinations, which will jeopardize efforts to protect public health and the environment;
- Any database created by the Maryland Department of the Environment for the purposes tracking septic applications shall be single data entry for local health departments; and
- There shall be an appropriation in the operating budget of \$5,000,000 to address pay disparities and staffing shortages for Environmental Health Specialist employees within the Maryland Department of Health to assist with recruitment and retention of qualified staff.

Accordingly, we request the Committee **SUPPORT SB 113 WITH AMENDMENTS.**

Thank you for the opportunity to share our views on this matter. If you have further questions concerning this written testimony, please contact:

Kenneth Welch, President
Conference of Local Environmental Health Directors
240-777-3840
Kenneth.welch@montgomerycountymd.gov

SB 113 Matt Geckle FWA 2-2-22.pdf

Uploaded by: Mathew Geckle

Position: FWA



BACK RIVER PRE-CAST, LLC
PO BOX 329
GLYNDON, MD 21071
410-833-3394

**Sb 113 Environmental Health Specialist and On-Site Sewage Disposal
Systems – Transfer of Responsibilities and Standards, Regulation,
Applications and Plans**

Education Health Environmental Affairs

February 2, 2022

**Mathew Geckle
Back River Precast**

Position: Favorable with Amendments

As an On-site Waste Water professional I appreciate Sen. Hester efforts to improve this industry both in timeliness and effectiveness. I want to focus on two sections of the legislation: the Data base and the time frames.

We particularly support the requirement for a database to log in septic system process and would support adding a workgroup to determine the best way to get Maryland into this century with a comprehensive data base on septic systems like other states have. We would not have to reinvent the wheel but learn from places like Florida.

We agree with others that the time frame to approve or deny a septic permit with in 2 months posses many problems. Much of the backlog is due to serous staffing shortages and also poor design of the lore complicated systems. Giving this kind of time frame could result in weak permits and poorly designed systems. That is not the outcome we want.

We appreciate the opportunity we have had to work with Sen. Hester and will continue to do so on this issue.

Matthew Geckle
Vice-President

SB0113-EHE_MACo_OPP.pdf

Uploaded by: Dominic Butchko

Position: UNF



Senate Bill 113

Environmental Health Specialists and On-Site Sewage Disposal Systems – Transfer of Responsibilities and Standards, Regulations, Applications, and Plans

MACo Position: **OPPOSE**

To: Education, Health, & Environmental
Affairs Committee

Date: February 2, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** SB 113. As drafted, this bill would impose inadvisable changes to the septic approval process - including unreasonable deadlines on environmental health staff to complete septic applications - which may result in the unintended consequences of potential risk to public health and safety.

Through contact with the bill sponsor, counties remain open to a productive outcome requiring bill amendments and/or state resources to offset these concerns.

Counties recognize that timely processing of approvals is crucial for local commercial and residential activity in affected areas. This need for expedience must also be weighed with due considerations for safety and public health. Counties agree with the intent of SB 113 to seek a faster approval window for septic systems in an effort not to hamper economic development. While counties recognize unwarranted delays in any process is a serious concern, the current proposal to address septic approvals is flawed.

As such, MACo and local environmental health professionals have dedicated considerable time to discussing alternative solutions to address septic approval delays with both the bill sponsor and her staff. The sponsor and these county actors agree the septic review process is nuanced, particularly when balancing local regulations and actors outside of local Environmental Health Departments. Each case is individualized depending on scope, size, location, etc. Often, delays in the approval process are a result of poor design quality, delays in getting information to the local departments, lack of communication between landowners and developers, and/or poor communication or delays from the Maryland Department of Environment.

In recognizing the complexity of this issue, and these local concerns, MACo understands the bill sponsor may be prepared to introduce several productive sponsor amendments. These amendments include: removing language transferring the Board of Environmental Health Specialists from Maryland Department of Health to MDE; removing language requiring septic application approvals within two months of submission; adding language requiring any MDE-developed database for local health departments to be single data entry; and finally, requiring an appropriation of \$5,000,000 beginning in the next fiscal year to address critical staffing shortages and retention issues around environmental health employees within the Maryland Department of Health budget.

Counties praise and thank the Senator for her foresight in taking up this issue and her openness to evaluating alternative solutions. While MACo would urge an **UNFAVORABLE** report on SB 113 as introduced, the anticipated sponsor amendments would pose a more collaborative approach to these concerns and eliminate this opposition. Counties look forward to working with the Committee should it support this realigned approach.

SB0113 LOI.pdf

Uploaded by: Tyler Abbott

Position: INFO



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 2, 2022

The Honorable Paul Pinsky, Chair
Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, 2W
Annapolis, Maryland 21401

**Re: Senate Bill 113 – Environmental Health Specialist and On-Site Sewage Disposal Systems-
Transfer of Responsibilities and Standards, Regulations, Applications, and Plans**

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB113, *Environmental Health Specialist and On-Site Sewage Disposal Systems - Transfer of Responsibilities and Standards, Regulations, Applications, and Plans*, and would like to offer a letter of information regarding the bill.

SB 113 proposes to transfer Title 21 of the Health Occupations Article to Title 11 of the Environment Article, transferring the Board of Environmental Health Specialists (Board) from the Maryland Department of Health to MDE. The legislation adds requirements to the Department for creating a statewide online tracking system for permits and installations of septic systems, development of standardized permit forms and a two month timeline for permit decisions. In addition the bill imposes a requirement on the Department to host monthly informational meetings for local government employees who work or work with Environmental Health Specialists (EHS).

The Department currently has adequate and sufficient staff and resources to conduct its mission effectively and efficiently. Any additional legislatively-mandated program or regulation, such as this, will likely hamper our efficiency, force us to divert resources away from current core competencies and likely disrupt customer service and/or diminish services. The legislation as proposed does not provide any funding or positions to manage the Board or implement the new requirements mandated in this bill.

The definition to practice as an EHS includes individuals employed in a host of positions related to control of a variety of public health issues. Wastewater disposal is a subset of categories an EHS addresses, including: manufacture, preparation, handling, distribution or sale of food; water supply and treatment; insect and rodent control; recreational sanitation; solid waste management and disposal; product safety; and vector control. These are specialized subject areas, the majority of which are outside the expertise and statutory jurisdiction of MDE.

The legislation requires a two month time period for processing applications for the installation of an on-site sewage disposal system. The decision authority for an on-site sewage disposal application is not a condition of the Board; instead the Secretary of the Department or his designee has this authority.

Thank you for your consideration. We will continue to monitor SB 113 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: Senator Katie Fry Hester
Lee Currey, MDE, Director, Water and Science Administration