

HB1320: Bay Restoration Fund - Disbursement and Use of Fund
House Environment and Transportation Committee
March 6, 2024

Position: Favorable

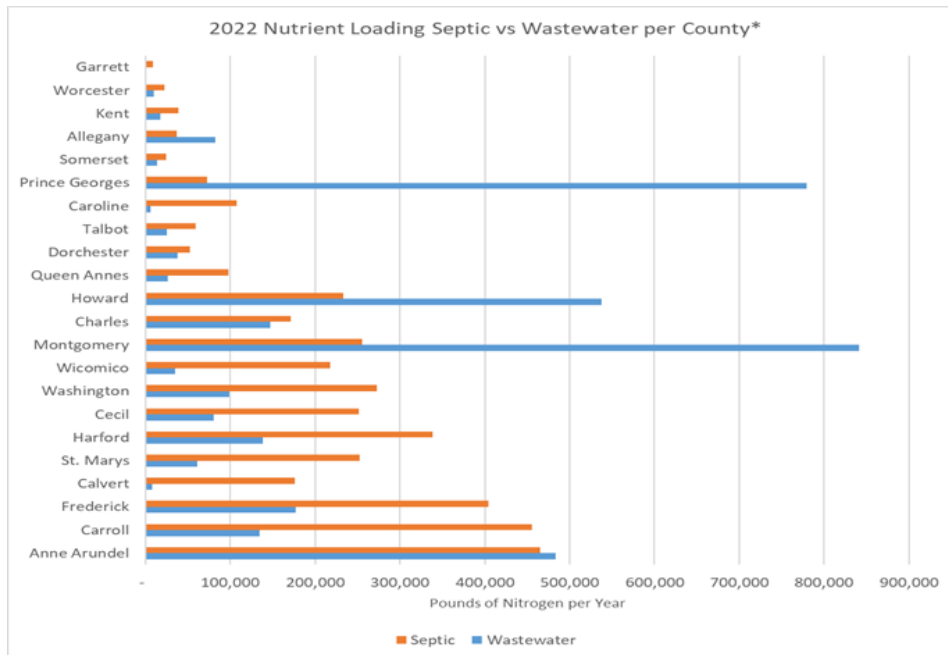
Dear Chair Korman and Members of the Committee,

Clean Water Action supports HB1320 to modify the uses and funding of the Bay Restoration Fund to better address failing septic systems and septic system pollution in Maryland.

The Bay Restoration Fund has been a fantastic tool to reduce pollution impairing the Chesapeake Bay, but as our understanding of our watersheds has changed, we need to address more upstream impairments. The BRF is funded through fees Marylanders pay – in most cases \$60 a year. For Marylanders on sewer, this money goes to the sewer side of the BRF. For Marylanders with septic systems or holding tanks, this money goes to the septic side of the BRF. The septic side of the BRF allocates 60% of its money to septic system repair and replacement, and 40% to cover crops.

This year, the Chesapeake Bay Program released the long-awaited Comprehensive Evaluation of System Response (CESR). This report reinforced what many groups focused on local water quality have been raising as an issue for almost a decade – that septic systems are an undermanaged source of nitrogen pollution and our existing approach to them has not resulted in the necessary pollution reductions for the Chesapeake Bay and for our local waterways. Nonpoint sources of pollution, like that from septic systems, rely on the behavior of millions of people throughout the watershed.

In seventeen out of twenty-four counties the nitrogen pollution from septic systems now exceeds nitrogen pollution from municipal wastewater treatment plants. In fourteen of Maryland's counties, the nitrogen pollution from septic systems is now double the nitrogen pollution from wastewater treatment plants. (Dataset does not include Baltimore City and County).



On a county basis, septic systems continue to be a significant portion of the nitrogen pollution. In Anne Arundel County, 16% of their nitrogen pollution in county waters is from septic systems.

One way to reduce nitrogen pollution from septic systems is to use Best Available Technology, a class of technologies that the Maryland Department of the Environment lists as reducing sufficient nitrogen. The Bay Restoration Fund provides homeowners with grants to replace their failing and non-conforming septic systems with nitrogen-reducing technology, but this money is quickly exhausted and current prioritization places greatest weight on systems within the Chesapeake Bay Critical Area, a 1000-foot buffer around tidal waters of the Chesapeake Bay. This means that our non-tidal counties receive the least benefit from the Bay Restoration Fund.

Cumulative Award by County for Septic BRF

	Capital Program Grant Award	HB12 Admin Grant Award
Allegany Co. Health Dept	\$1,076,016.85	\$235,000.00
Anne Arundel Co. Health Dept	\$37,745,195.56	\$675,000.00
Baltimore Co. Health Dept	\$6,455,656.41	\$629,000.00
Calvert Co. Health Dept	\$19,765,070.39	\$1,040,000.00
Caroline Co. Health Dept	\$5,102,163.46	\$720,000.00
Carroll Co. Health Dept	\$3,528,329.98	\$387,000.00
Cecil Co. Health Dept	\$10,925,958.50	\$499,000.00
Charles Co. Health Dept	\$5,756,137.75	\$569,000.00
Dorchester Co. Health Dept	\$9,571,842.75	\$840,000.00
Frederick Co. Health Dept	\$4,802,157.05	\$596,000.00
Garrett Co. Health Dept	\$1,469,231.28	\$350,000.00
Harford Co. Health Dept	\$5,880,489.27	\$580,000.00

Howard Co. Health Dept	\$2,290,678.25	\$369,000.00
Kent Co. Health Dept	\$7,738,204.59	\$770,000.00
Montgomery County Health Dept	\$3,010,656.50	\$120,000.00
Prince George's Co. Health Dept	\$846,303.16	\$175,000.00
Queen Anne's Co. Health Dept	\$17,344,804.14	\$591,000.00
Somerset Co. Health Dept	\$4,397,360.36	\$573,000.00
St. Mary's Co. Health Dept	\$16,133,129.94	\$1,018,000.00
Talbot Co. Health Dept	\$11,664,295.88	\$836,000.00
Washington Co. Health Dept	\$4,524,981.30	\$359,000.00
Wicomico Co. Health Dept	\$9,255,802.00	\$467,000.00
Worcester Co. Health Dept	\$4,702,907.21	\$231,000.00

* Cumulative since program began

County has Critical Area

To benefit non-tidal counties and target septic system repairs and replacement for nitrogen reductions, HB1320 adds a new prioritization category for systems within a 1000-foot buffer around nitrogen-impaired waterways. Ultimately, we would like non-tidal counties to be able to access more funding to address their failing septic systems that are polluting impaired waterways.

The problem is exacerbated by the fact that since the creation of the Fund in 2004, 40% of the revenue from the septic portion of the Bay Restoration has gone to the cover crop program. The cover crop program has provided great benefit to the state and is one of the few conservation practices that directly benefits farmers who lease their land. Unfortunately, cover crops are not a permanent practice – the Bay Restoration Fund must pay farmers to plant them annually. Since 2004, over \$140 million from the septic portion of the Bay Restoration Fund has gone to plant cover crops.

HB1320 proposes to cap the portion going to cover crops at current levels so new revenues in the septic side of the Bay Restoration Fund can fund septic system repairs and replacement. The septic side of the Bay Restoration Fund needs more funding so more homeowners with failing and non-conforming septic systems can access funding. Failing septic systems damage the environment, public health, and a family's economic wellbeing.

It is also important to note that septic systems are effectively tiny wastewater treatment plants. For homes not on sewer the long-term viability of their septic system is critical for the health of the family, surrounding neighbors, and value of the home. We are especially concerned for homeowners who do not have enough cash reserves or equity in their home to immediately fix a failing septic system once it is discovered, leading to situations where systems are failing and polluting nearby water with untreated sewage. Currently, the Bay Restoration Fund will replace the septic tank with a nitrogen-reducing septic tank but has limited ability to fund drainfields. Drainfields are oftentimes the most expensive part of a septic system, especially for older homes who were built before modern septic system regulations like a reserve drainfield, more stringent percolation tests, better setbacks from waterways, and other characteristics that will make drainfield repair or replacement more expensive.

Currently, the Maryland Department of the Environment uses the income requirements that the Maryland Department of Human Resources uses for energy assistance. This means that a family of four must make less than \$48,564 to qualify for a grant to fix a drainfield. Complicated drainfields, like those needed for small lots, with soils that do not drain appropriately, or have some other limiting condition, may cost more than \$25,000.

Income Eligibility Limits
Effective July 1, 2022 to June 30, 2023

Household Size	Maximum Gross Monthly Income Standards	Maximum Gross Yearly Income Standards
1	\$1,982	\$23,784
2	\$2,670	\$32,040
3	\$3,359	\$40,308
4	\$4,047	\$48,564
5	\$4,735	\$56,820
6	\$5,424	\$65,088
7	\$6,112	\$73,344
8	\$6,800	\$81,600
Each Additional Person, Add	\$688	\$8,256

* See web link for updates: <http://dhr.maryland.gov/office-of-home-energy-programs/how-do-you-apply/>

HB1320 would require MDE to make drainfield assistance more available to more homeowners.

We appreciate our continued conversations with the Maryland Department of the Environment and Maryland Department of Agriculture about this bill and look forward to continue working with them, Delegate Stein, and the Committee to better tackle the urgent and significant needs for more funding for septic system repair and replacement.

Thank you,

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