

SENATE BILL 210

Unofficial Copy
M3

2000 Regular Session
0lr0192
CF 0lr0193

By: **The President (Administration) and Senators Blount, Frosh, Hollinger,
Pinsky, and Van Hollen**

Introduced and read first time: January 24, 2000

Assigned to: Economic and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Water Resources Protection Act**

3 FOR the purpose of requiring counties to describe in their county water and sewer
4 plans, by a certain date, certain areas of special concern in which nitrogen
5 removal technology is required under certain circumstances; requiring the
6 Department of the Environment to adopt rules and regulations that require that
7 nitrogen removal technology be installed on individual sewage disposal systems
8 under certain circumstances; requiring the Department to propose certain
9 regulations regarding on-site sewage disposal systems; providing for a tax
10 credit for the cost of purchasing and installing nitrogen removal technology
11 under certain circumstances; requiring certain reports by certain dates;
12 specifying that this Act does not affect or should not be construed as affecting
13 certain existing requirements applicable to subdivisions; defining certain terms;
14 and generally relating to sewerage systems.

15 BY repealing and reenacting, with amendments,
16 Article - Environment
17 Section 9-501, 9-505, and 9-510
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1999 Supplement)

20 BY adding to
21 Article - Tax - General
22 Section 10-704.10
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 1999 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Tax - General
27 Section 10-706
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 1999 Supplement)

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

3 **Article - Environment**

4 9-501.

5 (a) In this subtitle the following words have the meanings indicated.

6 (B) "AREAS OF SPECIAL CONCERN" MEANS THE FOLLOWING:

7 (1) AREAS OF FAILING ON-SITE SEWAGE DISPOSAL SYSTEMS;

8 (2) DRINKING WATER SUPPLY AREAS, INCLUDING:

9 (I) WELLHEAD PROTECTION AREAS;

10 (II) RESERVOIR PROTECTION AREAS; AND

11 (III) AQUIFER RECHARGE AREAS;

12 (3) CHESAPEAKE BAY CRITICAL AREAS, AS DEFINED IN § 8-1807 OF THE
13 NATURAL RESOURCES ARTICLE;

14 (4) SOILS WITH HIGH NITROGEN EXPORT POTENTIAL;

15 (5) KARST OR CARBONATE GEOLOGIC AREAS;

16 (6) COASTAL BAYS WATERSHEDS;

17 (7) AREAS OF GROUNDWATER AND SURFACE WATER WITH
18 DOCUMENTED CONTAMINATION FROM NITROGEN; AND

19 (8) ANY OTHER AREAS IDENTIFIED AND DOCUMENTED SCIENTIFICALLY
20 BY LOCAL OFFICIALS AS REQUIRING THE USE OF NITROGEN REMOVAL
21 TECHNOLOGY.

22 [(b)] (C) "Community sewerage system" means a publicly or privately owned
23 sewerage system that serves at least 2 lots.

24 [(c)] (D) "Community water supply system" means a water supply system that
25 serves at least 2 lots.

26 [(d)] (E) (1) "County plan" means a comprehensive plan for adequately
27 providing throughout the county, including all towns, municipal corporations, and
28 sanitary districts in the county, the following facilities and services by public or
29 private ownership:

30 (i) Water supply systems;

31 (ii) Sewerage systems;

- 1 (iii) Solid waste disposal systems;
- 2 (iv) Solid waste acceptance facilities; and
- 3 (v) Systematic collection and disposal of solid waste, including
4 litter.
- 5 (2) "County plan" includes a revised or amended county plan.
- 6 [(e)] (F) "Individual sewerage system" means a sewerage system that serves
7 only 1 lot.
- 8 [(f)] (G) "Individual water supply system" means a water supply system that
9 supplies water to only 1 lot.
- 10 [(g)] (H) "Litter" means any:
- 11 (1) Waste material;
- 12 (2) Refuse;
- 13 (3) Garbage;
- 14 (4) Trash;
- 15 (5) Debris;
- 16 (6) Dead animal; or
- 17 (7) Other discarded material.
- 18 [(h)] (I) "Lot" means a parcel of land, including a part of a subdivision, that:
- 19 (1) Is used or is intended to be used as a building site; and
- 20 (2) Is not intended to be further subdivided.
- 21 [(i)] (J) "Multiuse sewerage system" means a sewerage system that:
- 22 (1) Serves only 1 lot;
- 23 (2) Serves a number of individuals;
- 24 (3) Has a treatment capacity of more than 5,000 gallons a day; and
- 25 (4) Is not publicly owned or operated.
- 26 [(j)] (K) "Multiuse water supply system" means an individual water supply
27 system that:
- 28 (1) Has the capacity to supply more than 5,000 gallons of water a day;
29 and

1 (2) Serves a number of individuals.

2 [(k)] (L) (1) "Proposed county plan" means a county plan that:

3 (i) Has been adopted by the county governing body; and

4 (ii) Has not been approved by the Department.

5 (2) "Proposed county plan" includes any proposed amendment or revision
6 of the county plan.

7 (M) "NITROGEN REMOVAL TECHNOLOGY" MEANS A SYSTEM APPROVED BY
8 THE DEPARTMENT CAPABLE OF RELIABLY ACHIEVING A NITROGEN REMOVAL
9 EFFICIENCY OF 60% OR GREATER.

10 (N) "ON-SITE SEWAGE DISPOSAL SYSTEMS" MEANS AN INDIVIDUAL
11 SEWERAGE SYSTEM, MULTIUSE SEWERAGE SYSTEM, OR A SHARED FACILITY
12 PROVIDING SEWERAGE SERVICE.

13 [(l)] (O) "Sewage" means any human or animal excretion, street wash,
14 domestic waste, or industrial waste.

15 [(m)] (P) (1) "Sewerage system" means:

16 (i) The channels used or intended to be used to collect and dispose
17 of sewage; and

18 (ii) Any structure and appurtenance used or intended to be used to
19 collect or prepare sewage for discharge into the waters of this State.

20 (2) "Sewerage system" includes any sewer of any size.

21 (3) "Sewerage system" does not include the plumbing system inside any
22 building served by the sewerage system.

23 (Q) "SHARED FACILITY" MEANS A WATER OR SEWERAGE SYSTEM WHICH
24 SERVES MORE THAN ONE LOT OF LAND, OR MORE THAN ONE USER ON A SINGLE LOT
25 OF LAND, WITH WATER OR SEWERAGE SYSTEMS LOCATED ON THE INDIVIDUAL LOTS
26 OR ON PARCELS OWNED IN COMMON BY THE USERS OR THE CONTROLLING
27 AUTHORITY.

28 [(n)] (R) "Solid waste acceptance facility" means any sanitary landfill,
29 incinerator, transfer station, or plant whose primary purpose is to dispose of, treat, or
30 process solid waste.

31 [(o)] (S) (1) "Solid waste disposal system" means any publicly or privately
32 owned system that:

33 (i) Provides a scheduled or systematic collection of solid waste;

1 (ii) Transports the solid waste to a solid waste acceptance facility;

2 and

3 (iii) Treats or otherwise disposes of the solid waste at the solid waste
4 acceptance facility.

5 (2) "Solid waste disposal system" includes each solid waste acceptance
6 facility that is used in connection with the solid waste disposal system.

7 [(p)] (T) (1) "Subdivision" means any division of a tract or parcel of land into
8 at least 2 lots, for the purpose of sale or building development.

9 (2) "Subdivision" includes any change in street lines or lot lines.

10 (3) "Subdivision" does not include any division of land into parcels of
11 more than 3 acres, if the division:

12 (i) Is for agricultural purposes; and

13 (ii) Does not involve any new street or easement of access.

14 [(q)] (U) (1) "Water supply system" means a publicly or privately owned or
15 operated:

16 (i) Source and the surrounding area from which water is supplied
17 for drinking or domestic purposes; and

18 (ii) Structure, channel, or appurtenance used or intended to be used
19 to prepare water for use or to deliver water to a consumer.

20 (2) "Water supply system" does not include the plumbing system inside
21 any building that is served by the water supply system.

22 9-505.

23 (a) In addition to the other requirements of this subtitle, each county plan
24 shall:

25 (1) Provide for the orderly expansion and extension of the following
26 systems in a manner consistent with all county and local comprehensive plans
27 prepared under § 3.05 of Article 66B, § 5(X) of Article 25A, § 13 of Article 25B, and §
28 7-108 of Article 28 of the Code:

29 (i) Community water supply systems and multiuse water supply
30 systems;

31 (ii) Community sewerage systems and multiuse sewerage systems;
32 and

33 (iii) Solid waste disposal systems and solid waste acceptance
34 facilities;

1 (8) Set procedures for identifying and acquiring, on a time schedule that
2 conforms to the time requirement in paragraph (7) of this subsection, any
3 rights-of-way or easements that are necessary for any:

4 (i) Community water supply system;

5 (ii) Multiuse water supply system;

6 (iii) Community sewerage system;

7 (iv) Solid waste disposal system; or

8 (v) Solid waste acceptance facility;

9 (9) Taking into account all relevant planning, zoning, population,
10 engineering, and economic information and all State, regional, municipal, and local
11 plans, describe, with all practical precision, any parts of the county in which it is not
12 reasonably foreseeable to have service in the next 10 years by any:

13 (i) Community water supply system;

14 (ii) Multiuse water supply system;

15 (iii) Community sewerage system;

16 (iv) Multiuse sewerage system;

17 (v) Solid waste disposal system; and

18 (vi) Solid waste acceptance facility;

19 (10) Set a time schedule and a proposed method for financing the
20 construction and operation of each planned:

21 (i) Community water supply system;

22 (ii) Multiuse water supply system;

23 (iii) Community sewerage system;

24 (iv) Solid waste disposal system; and

25 (v) Solid waste acceptance facility;

26 (11) Set forth the estimated cost of constructing and operating each
27 planned:

28 (i) Community water supply system;

29 (ii) Multiuse water supply system;

30 (iii) Community sewerage system;

- 1 (iv) Solid waste disposal system; and
- 2 (v) Solid waste acceptance facility;
- 3 (12) Indicate:
- 4 (i) Any source of supply from the waters of this State;
- 5 (ii) The approximate amount of water to be withdrawn from the
6 waters of this State; [and]
- 7 (iii) The quantity and quality of waste to be discharged into the
8 waters of this State; AND
- 9 (IV) BEGINNING ON OR BEFORE OCTOBER 1, 2004, AREAS OF
10 SPECIAL CONCERN IN WHICH NITROGEN REMOVAL TECHNOLOGY IS REQUIRED FOR:
- 11 1. INSTALLATION OF A NEW INDIVIDUAL SEWERAGE
12 SYSTEM;
- 13 2. INSTALLATION OF A NEW MULTIUSE SEWERAGE SYSTEM
14 OR A NEW SHARED FACILITY PROVIDING SEWERAGE SERVICE; AND
- 15 3. REPAIR, REPLACEMENT, OR CHANGE IN USE OF EXISTING
16 ON-SITE SEWAGE DISPOSAL SYSTEMS;
- 17 (13) Describe, in accordance with the provisions of this subtitle, each area
18 in the county where:
- 19 (i) A community water supply system must be provided;
- 20 (ii) A multiuse water supply system may be installed and used;
- 21 (iii) An individual water supply system may be installed and used
22 for an interim period until a planned community water supply system is available;
- 23 (iv) An individual water supply system may be installed and used
24 indefinitely;
- 25 (v) A community sewerage system must be provided;
- 26 (vi) A multiuse sewerage system may be installed and used;
- 27 (vii) Except as provided in § 9-517 of this subtitle, an individual
28 sewerage system may be installed and used for an interim period until a planned
29 community sewerage system is available;
- 30 (viii) An individual sewerage system may be installed and used
31 indefinitely;
- 32 (ix) A community solid waste disposal system must be provided; or

1 (x) A community solid waste acceptance facility must be provided
2 for use by residents of the described area during an interim period until a planned
3 community solid waste disposal system is available;

4 (14) Except as provided in § 9-515 of this subtitle, provide for amendment
5 or revision of the county plan at least once every 2 years in accordance with a
6 schedule adopted by the Department;

7 (15) Designate an appropriate agency of the county to be responsible for
8 creating a workable plan:

9 (i) To keep the environment of the county free of solid waste,
10 including litter; and

11 (ii) To prevent scenic pollution of both public and private property
12 in the county;

13 (16) By July 1, 1987, treat each publicly owned community sewerage
14 system as a separate entity for fiscal purposes within the local operating agency;

15 (17) Document compliance with and report on actions taken and plans to
16 enforce §§ 12-605 and 12-606 of the Business Occupations and Professions Article;

17 (18) For a county with a population greater than 150,000 according to the
18 latest Office of Planning projections, include a recycling plan by July 1, 1990 that:

19 (i) Provides for a reduction through recycling of at least 20 percent
20 of the county's solid waste stream by weight or submits adequate justification,
21 including economic and other specific factors, as to why the 20 percent reduction
22 cannot be met;

23 (ii) Provides for recycling of the solid waste stream to the extent
24 practical and economically feasible, but in no event may less than a 10 percent
25 reduction be submitted; and

26 (iii) Requires full implementation of the recycling plan by January
27 1, 1994; and

28 (19) For a county with a population less than 150,000 according to the
29 latest Office of Planning projections, include a recycling plan by July 1, 1990 that:

30 (i) Provides for a reduction through recycling of at least 15 percent
31 of the county's solid waste stream or submit adequate justification, including
32 economic and other specific factors, as to why the 15 percent reduction cannot be met;

33 (ii) Provides for recycling of the solid waste stream to the extent
34 practical and economically feasible, but in no event may less than a 5 percent
35 reduction be submitted; and

1 (iii) Require full implementation of the recycling plan by January 1,
2 1994.

3 (b) A plan created under subsection (a)(15) of this section may include the use
4 of prisoners from the State correctional system or from county jails or detention
5 centers.

6 (c) The recycling reductions of 20 percent and 15 percent provided in
7 subsection (a)(18) and (19) of this section are not intended to be the maximum
8 percentage that a county can achieve. A county that can practically and economically
9 achieve a higher rate of recycling is encouraged to submit a recycling plan for a higher
10 percentage.

11 (d) If a county with a population less than 150,000 increases to a population of
12 above 150,000, the county shall have 2 years to revise the recycling plan to be
13 consistent with the recycling goals under subsection (a)(18) of this section.

14 (e) (1) The governing bodies of 2 or more counties may adopt a regional
15 recycling plan to comply with subsection (a)(18) or (19) of this section.

16 (2) A regional recycling plan which otherwise satisfies the requirements
17 of this subtitle for each of the participating counties shall constitute the county
18 recycling plan for each county which participates in the plan.

19 9-510.

20 (a) In addition to the powers set forth elsewhere in this subtitle, the
21 Department may:

22 (1) Conduct surveys and research to carry out the provisions of this
23 subtitle; and

24 (2) Specify the location for any sewage treatment facility discharge point
25 that is included in any county plan.

26 (b) In addition to the duties set forth elsewhere in this subtitle, the
27 Department shall adopt rules and regulations:

28 (1) To carry out the provisions of this subtitle;

29 (2) To control, limit, or prohibit the installation and use of:

30 (i) Water supply systems; and

31 (ii) Sewerage systems;

32 (3) To require that, before installation of individual water supply
33 systems or individual sewerage systems, consideration be given to:

34 (i) Present and future population density;

- 1 (ii) Size of parcels;
- 2 (iii) Contour of the land;
- 3 (iv) Porosity and absorbency of the soil;
- 4 (v) Ground water conditions;
- 5 (vi) Availability of water from unpolluted aquifers;
- 6 (vii) Type of construction of community water supply systems;
- 7 (viii) Type of construction of community sewerage systems;
- 8 (ix) Size of the proposed development; [and]
- 9 (X) CONDITIONS WHICH MAY REQUIRE THAT NITROGEN REMOVAL
10 TECHNOLOGY BE INSTALLED ON ON-SITE SEWERAGE DISPOSAL SYSTEMS; AND

11 [(x)] (XI) Any other pertinent factors;

12 (4) To require that, giving consideration to the factors in item (3) of this
13 subsection, areas be served by community facilities if the Department finds them to
14 be reasonably necessary:

15 (i) By installation of the community water supply system,
16 community sewerage system, or solid waste disposal system; and

17 (ii) By connection of all premises to or service to all premises by the
18 community water supply system, community sewerage system, or solid waste disposal
19 system;

20 (5) To require that community water supply systems, community
21 sewerage systems, and solid waste disposal systems be constructed to allow the
22 connection of those systems to a larger system, if that larger system becomes
23 available;

24 (6) To allow a person to install an individual water supply system or an
25 individual sewerage system in any area where a community water supply system or a
26 community sewerage system is not available or required to be installed in the area if:

27 (i) The Department finds that the individual system is adequate
28 and safe for use before a community system is scheduled to be available in the area;
29 and

30 (ii) The individual system is constructed in the most economical
31 and convenient way to permit connection to a community system in the area, and the
32 person guarantees the connection to a community system:

33 1. When the county governing body where the area is located
34 sets a time; and

1 CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION MAY
2 APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE
3 EARLIER OF:

4 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

5 (II) THE EXPIRATION OF THE THIRD SUCCEEDING TAXABLE YEAR.

6 10-706.

7 (a) Except as otherwise provided in this section, a credit allowed under this
8 subtitle is allowed against the State income tax only.

9 (b) A credit under § 10-701 of this subtitle is allowed against the total county
10 and State income taxes.

11 (c) (1) A credit allowed under § 10-704(a)(1), § 10-704.10, or § 10-709(b)(1)
12 of this subtitle is allowed against the State income tax only.

13 (2) A credit allowed under § 10-704(a)(2) or § 10-709(b)(2) of this
14 subtitle is allowed against the county income tax only.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of the
16 Environment, within 12 months of the effective date of this Act, shall propose
17 regulations regarding the inspection, operation, and maintenance of on-site sewage
18 disposal systems consistent with this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall
20 affect or be construed as affecting existing requirements of the Environment Article
21 applicable to subdivisions.

22 SECTION 4. AND BE IT FURTHER ENACTED, That no designation of areas of
23 special concern shall take effect prior to October 1, 2002.

24 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of the
25 Environment shall report, on or before October 1, 2001 and on or before October 1,
26 2003, to the Governor and, subject to § 2-1246 of the State Government Article, to the
27 General Assembly on progress towards the implementation of this Act.

28 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2000.