

SENATE BILL 320

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2004 Regular Session
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By: **The President (By Request - Administration) and Senators Colburn,
Haines, Hooper, Jacobs, Kittleman, Schrader, and Stoltzfus**

Introduced and read first time: February 2, 2004

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 5, 2004

CHAPTER _____

1 AN ACT concerning

2 **Water Pollution - The Chesapeake Bay Watershed and Atlantic Coastal Bays**
3 **Restoration Fund**

4 FOR the purpose of establishing the Chesapeake ~~Bay Watershed~~ and Atlantic Coastal
5 Bays Restoration Fund in the Department of the Environment; declaring certain
6 legislative intent related to the Fund; authorizing the Maryland Water Quality
7 Financing Administration of the Department to award certain grants from the
8 Fund; providing for the money in the Fund to be used for grants ~~and loans~~ to
9 upgrade the nutrient removal technology at certain wastewater facilities to
10 achieve enhanced nutrient removal and for certain other uses, in accordance
11 with certain criteria; establishing ~~an environmental surcharge~~ certain Bay
12 restoration fees to be paid by users of wastewater facilities, onsite sewage
13 disposal systems, and sewage holding tanks, and providing for certain
14 exemptions; providing for the collection of the fees by certain collection
15 authorities; authorizing the Comptroller to adopt certain regulations; providing
16 for the management of the Fund, including the establishment from certain fee
17 revenue of a separate account within the Fund to be used for certain purposes;
18 providing for the payment of certain administrative costs; establishing a certain
19 advisory committee, and providing for certain terms, membership, and duties of
20 the committee; requiring certain reports the committee to report to certain
21 persons by certain dates; requiring the Department to adopt certain regulations;
22 ~~authorizing the Department to adopt certain regulations relating to a certain~~
23 ~~surcharge~~; providing for the payment of certain bond revenue to the Fund;
24 defining certain terms; providing for the staggering of the terms of certain
25 members of the Advisory Committee; ~~providing for the staggering of the terms of~~
26 ~~certain members of the Advisory Committee~~; and generally relating to the

1 establishment and management of the Chesapeake ~~Bay Watershed~~ and Atlantic
2 Coastal Bays Restoration Fund.

3 BY repealing and reenacting, with amendments,
4 Article - Environment
5 Section 9-1601, 9-1604, 9-1611, 9-1616, and 9-1617
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 2003 Supplement)

8 BY adding to
9 Article - Environment
10 Section 9-1605.2
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2003 Supplement)

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

15 **Article - Environment**

16 9-1601.

17 (a) Unless the context clearly requires otherwise, in this subtitle the following
18 words have the meanings indicated.

19 (b) "Administration" means the Maryland Water Quality Financing
20 Administration.

21 (C) "BAY RESTORATION FUND" MEANS THE CHESAPEAKE AND ATLANTIC
22 COASTAL BAYS RESTORATION FUND ESTABLISHED UNDER § 9-1605.2 OF THIS
23 SUBTITLE.

24 (D) "BIOLOGICAL NUTRIENT REMOVAL" MEANS A BIOLOGICAL NUTRIENT
25 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN IN WASTEWATER
26 EFFLUENT TO NOT MORE THAN 8 MILLIGRAMS PER LITER, AS CALCULATED ON AN
27 ANNUALLY AVERAGED BASIS.

28 [(c)] ~~(D)~~ (E) "Board" means the Board of Public Works.

29 [(d)] ~~(E)~~ (F) "Bond" means a bond, note, or other evidence of obligation of the
30 Administration issued under this subtitle, including a bond or revenue anticipation
31 note, notes in the nature of commercial paper, and refunding bonds.

32 [(e)] ~~(F)~~ (G) "Bond resolution" means the resolution or resolutions of the
33 Director, including the trust agreement, if any, authorizing the issuance of and
34 providing for the terms and conditions applicable to bonds.

1 [(f)] ~~(G)~~ (H) "Borrower" means a local government or a person as defined in
2 § 1-101(h) of this article who has received a loan.

3 [(g)] ~~(H)~~ (I) "Director" means the Director of the Administration.

4 [(h)] ~~(I)~~ (J) "Drinking Water Loan Fund" means the Maryland Drinking
5 Water Revolving Loan Fund.

6 ~~(I)~~ (K) "ELIGIBLE COSTS" MEANS ~~THOSE THE COSTS IDENTIFIED IN §~~
7 ~~9-1605.2(E)~~ UNDER § 9-1605.2(I) OF THIS SUBTITLE.

8 ~~(K)~~ (L) "ENHANCED NUTRIENT REMOVAL" MEANS:

9 (1) AN ENHANCED NUTRIENT REMOVAL TECHNOLOGY THAT IS
10 CAPABLE OF REDUCING THE NITROGEN AND PHOSPHORUS CONCENTRATIONS IN
11 WASTEWATER EFFLUENT TO CONCENTRATIONS OF NOT MORE THAN 4.3 MILLIGRAMS
12 PER LITER TOTAL NITROGEN AND NOT MORE THAN 0.3 MILLIGRAMS PER LITER
13 TOTAL PHOSPHORUS, AS CALCULATED ON AN ANNUALLY AVERAGED BASIS; OR

14 (2) IF THE DEPARTMENT HAS DETERMINED THAT THE
15 CONCENTRATIONS UNDER ITEM (1) OF THIS SUBSECTION ARE NOT PRACTICABLE
16 FOR A WASTEWATER FACILITY, THE LOWEST AVERAGE ANNUAL WASTEWATER
17 EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS THAT THE
18 DEPARTMENT DETERMINES ARE PRACTICABLE FOR THAT FACILITY.

19 ~~(L)~~ (M) "EQUIVALENT DWELLING UNIT" MEANS A MEASURE OF
20 WASTEWATER EFFLUENT WHERE ONE UNIT IS EQUIVALENT TO:

21 (1) ~~AN AVERAGE OF 250 GALLONS OF WASTEWATER EFFLUENT PER DAY.~~
22 ~~THIS AVERAGE SHALL BE DETERMINED BY THE LOCAL GOVERNMENT OR BILLING~~
23 ~~AUTHORITY FOR A WASTEWATER FACILITY FOR THE CALENDAR QUARTER OR~~
24 ~~BILLING CYCLE OF THE WASTEWATER FACILITY; OR~~

25 ~~(2)~~ (2) IF A LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A
26 WASTEWATER FACILITY HAS ESTABLISHED A DEFINITION FOR "EQUIVALENT
27 DWELLING UNIT" ON OR BEFORE JANUARY 1, 2004, THE TOTAL AVERAGE DAILY FLOW
28 OF WASTEWATER EFFLUENT THAT THE LOCAL GOVERNMENT OR BILLING
29 AUTHORITY FOR A WASTEWATER FACILITY DETERMINES HAS ESTABLISHED TO BE
30 EQUIVALENT TO THE AVERAGE DAILY FLOW OF WASTEWATER EFFLUENT
31 DISCHARGED BY A RESIDENTIAL DWELLING, AND WHICH MAY NOT EXCEED 250
32 GALLONS; OR

33 (2) IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS NOT
34 ESTABLISHED A DEFINITION FOR "EQUIVALENT DWELLING UNIT" ON OR BEFORE
35 JANUARY 1, 2004, OR IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS
36 ESTABLISHED A DEFINITION THAT EXCEEDS 250 GALLONS OF WASTEWATER
37 EFFLUENT PER DAY, AN AVERAGE DAILY FLOW OF 250 GALLONS OF WASTEWATER
38 EFFLUENT.

1 [(i)] ~~(M)~~ (N) "Facility" means a wastewater facility or all or a portion of a
2 water supply system as defined in § 9-201(u) of this article.

3 [(j)] ~~(N)~~ (O) "Federal Safe Drinking Water Act" means Title XIV of the
4 Public Health Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300f, et seq., and the
5 rules and regulations promulgated thereunder.

6 [(k)] ~~(O)~~ (P) "Federal Water Pollution Control Act" means the Water
7 Pollution Control Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and
8 rules and regulations promulgated thereunder.

9 [(l)] ~~(P)~~ (Q) "Fund" means a fund established by this subtitle, including the
10 Water Quality Fund, the Drinking Water Loan Fund, AND THE ~~WATERSHED BAY~~
11 RESTORATION FUND.

12 ~~(Q)~~ (R) "GRANT" MEANS A GRANT FROM THE ADMINISTRATION TO A
13 GRANTEE.

14 ~~(R)~~ (S) "GRANT AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN
15 THE ADMINISTRATION AND A GRANTEE WITH RESPECT TO A GRANT.

16 ~~(S)~~ (T) "GRANTEE" MEANS THE GRANT RECIPIENT.

17 [(m)] ~~(T)~~ (U) "Lender" has the meaning stated in § 9-1606.1 of this subtitle.

18 [(n)] ~~(U)~~ (V) "Linked deposit" has the meaning stated in § 9-1606.1 of this
19 subtitle.

20 [(o)] ~~(V)~~ (W) "Linked deposit loan" has the meaning stated in § 9-1606.1 of
21 this subtitle.

22 [(p)] ~~(W)~~ (X) "Linked deposit program" has the meaning stated in § 9-1606.1
23 of this subtitle.

24 ~~[(q)]~~ ~~(X)~~ "~~Local government~~" ~~means a county, municipal corporation, sanitary~~
25 ~~district, or other State or local public entity which has authority to own or operate a~~
26 ~~facility, and includes any combination of 2 or more of the foregoing, acting jointly to~~
27 ~~construct or operate a facility.~~

28 [(r)] (Y) "Loan" means a loan from the Administration to a borrower for the
29 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is
30 from the Water Quality Fund, or water supply system, if the loan is from the
31 Drinking Water Loan Fund.

32 [(s)] (Z) "Loan agreement" means a written agreement between the
33 Administration and a borrower with respect to a loan.

34 [(t)] (AA) "Loan obligation" means a bond, note, or other evidence of obligation,
35 including a mortgage, deed of trust, lien, or other security instrument, issued or

1 executed by a borrower to evidence its indebtedness under a loan agreement with
2 respect to a loan.

3 ~~(BB)~~ (1) "LOCAL GOVERNMENT" MEANS A COUNTY, MUNICIPAL
4 CORPORATION, SANITARY DISTRICT, OR OTHER STATE OR LOCAL PUBLIC ENTITY
5 WHICH HAS AUTHORITY TO OWN OR OPERATE A FACILITY.

6 (2) "LOCAL GOVERNMENT" INCLUDES ANY COMBINATION OF TWO OR
7 MORE OF THE PUBLIC ENTITIES UNDER PARAGRAPH (1) OF THIS SUBSECTION WHEN
8 ACTING JOINTLY TO CONSTRUCT OR OPERATE A FACILITY.

9 (CC) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
10 ASSOCIATION, THE STATE, A COUNTY, MUNICIPAL CORPORATION, COMMISSION, OR
11 OTHER POLITICAL SUBDIVISION OF THE STATE, AND ANY OF THEIR UNITS, OR THE
12 FEDERAL GOVERNMENT.

13 ~~(BB)~~ (DD) (1) "RESIDENTIAL DWELLING" MEANS A ROOM OR GROUP OF
14 ROOMS OCCUPIED AS LIVING QUARTERS BY AN INDIVIDUAL, A SINGLE FAMILY, OR
15 OTHER DISCRETE GROUP OF PERSONS WITH FACILITIES THAT ARE USED OR
16 INTENDED TO BE USED FOR LIVING, SLEEPING, COOKING, SANITATION, AND EATING,
17 INCLUDING AN APARTMENT UNIT, CONDOMINIUM UNIT, COOPERATIVE UNIT, TOWN
18 HOUSE UNIT, MOBILE HOME, OR HOUSE.

19 (2) "RESIDENTIAL DWELLING" DOES NOT INCLUDE A HOSPITAL, HOTEL,
20 MOTEL, INN, BOARDING HOUSE, ~~CONVENT, MONASTERY,~~ CLUB, DORMITORY, SCHOOL,
21 COLLEGE, OR SIMILAR SEASONAL, INSTITUTIONAL, OR TRANSIENT FACILITY.

22 (EE) "SINGLE SITE" MEANS A DISCRETE GROUPING OF BUILDINGS OR
23 STRUCTURES THAT ARE LOCATED ON CONTIGUOUS OR ADJACENT PROPERTY AND
24 OWNED BY THE SAME USER.

25 ~~(CC)~~ (FF) (1) "USER" MEANS ANY PERSON DISCHARGING WASTEWATER TO A
26 WASTEWATER FACILITY THAT HAS A STATE DISCHARGE PERMIT OR NATIONAL
27 POLLUTION DISCHARGE ELIMINATION SYSTEM DISCHARGE PERMIT.

28 (2) "USER" DOES NOT INCLUDE A PERSON WHOSE SOLE DISCHARGE IS
29 STORMWATER UNDER A STORMWATER PERMIT.

30 [(u)] ~~(DD)~~ (GG) "Wastewater Facility" means any equipment, plant, treatment
31 works, structure, machinery, apparatus, interest in land, or any combination of these,
32 which is acquired, used, constructed, or operated for the storage, collection,
33 treatment, neutralization, stabilization, reduction, recycling, reclamation, separation,
34 or disposal of wastewater, or for the final disposal of residues resulting from the
35 treatment of wastewater, including: treatment or disposal plants; outfall sewers,
36 interceptor sewers, and collector sewers; pumping and ventilating stations, facilities,
37 and works; programs and projects for controlling nonpoint sources of water pollution
38 and for estuarine conservation and management; and other real or personal property
39 and appurtenances incident to their development, use, or operation.

1 [(v)] ~~(EE)~~ (HH) "Water Quality Fund" means the Maryland Water Quality
2 Revolving Loan Fund.

3 [(w)] ~~(FF)~~ (II) "Water supply system" has the meaning stated in § 9-201(u) of
4 this title.

5 ~~(GG) "WATERSHED RESTORATION FUND" MEANS THE CHESAPEAKE BAY~~
6 ~~WATERSHED RESTORATION FUND.~~

7 9-1604.

8 In addition to the powers set forth elsewhere in this subtitle, but subject to such
9 rules or program directives as the Secretary may from time to time prescribe, the
10 Administration may:

11 (1) Adopt and alter an official seal;

12 (2) Sue and be sued, plead, and be impleaded;

13 (3) Adopt bylaws, rules, and regulations to carry out the provisions of
14 this subtitle;

15 (4) Maintain an office at such place as the Secretary may designate;

16 (5) Employ consultants, accountants, attorneys, financial experts, and
17 other personnel and agents as may be necessary in its judgment, and fix their
18 compensation;

19 (6) Establish regulations, criteria, or guidelines with respect to loans,
20 loan agreements, loan obligations, GRANTS, GRANT AGREEMENTS, AND GRANT
21 OBLIGATIONS;

22 (7) Receive and accept from any source, private or public, contributions,
23 grants, or gifts of money or property;

24 (8) Enter into contracts of any kind, and execute all instruments
25 necessary or convenient with respect to carrying out the powers in this subtitle to
26 accomplish the purposes of the Administration;

27 (9) Make loans, enter into loan agreements, and accept and enforce loan
28 obligations;

29 (10) AWARD GRANTS, ENTER INTO GRANT AGREEMENTS, AND ACCEPT
30 AND ENFORCE GRANT OBLIGATIONS;

31 [(10)] (11) Subject to the prior approval of the Board and the Secretary,
32 issue bonds under this subtitle; and

33 [(11)] (12) Do all acts and things necessary or convenient to carry out the
34 powers granted by this subtitle.

1 9-1605.2.

2 (A) (1) THERE IS A CHESAPEAKE BAY WATERSHED AND ATLANTIC COASTAL
3 BAYS RESTORATION FUND.

4 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE BAY
5 RESTORATION FUND BE:

6 (I) USED, IN PART, TO PROVIDE THE FUNDING NECESSARY TO
7 UPGRADE ANY OF THE WASTEWATER TREATMENT FACILITIES THAT ARE LOCATED IN
8 THE STATE OR USED BY CITIZENS OF THE STATE IN ORDER TO ACHIEVE ENHANCED
9 NUTRIENT REMOVAL WHERE IT IS COST-EFFECTIVE TO DO SO; AND

10 (II) AVAILABLE FOR TREATMENT FACILITIES DISCHARGING INTO
11 THE ATLANTIC COASTAL BAYS OR OTHER WATERS OF THE STATE, BUT THAT
12 PRIORITY BE GIVEN TO TREATMENT FACILITIES DISCHARGING INTO THE
13 CHESAPEAKE BAY.

14 (3) THE WATERSHED BAY RESTORATION FUND SHALL BE MAINTAINED
15 AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE
16 PROVISIONS OF THIS SUBTITLE SECTION AND ANY RULES OR PROGRAM DIRECTIVES
17 AS THE SECRETARY OR THE BOARD MAY PRESCRIBE.

18 (3) (4) ~~FOR THE PURPOSES OF THIS SUBTITLE,~~ THERE IS
19 ESTABLISHED AN ENVIRONMENTAL SURCHARGE A BAY RESTORATION FEE TO BE
20 PAID BY ANY USER OF A WASTEWATER FACILITY, AN ONSITE SEWAGE DISPOSAL
21 SYSTEM, OR A HOLDING TANK THAT:

22 (I) IS LOCATED IN THE STATE AS FOLLOWS; OR

23 (II) SERVES A MARYLAND USER AND IS ELIGIBLE FOR FUNDING
24 UNDER THIS SUBTITLE.

25 (B) (1) THE BAY RESTORATION FEE IS:

26 (I) FOR EACH RESIDENTIAL DWELLING THAT RECEIVES AN
27 INDIVIDUAL SEWER BILL, THE ENVIRONMENTAL SURCHARGE SHALL BE \$2.50 PER
28 MONTH;

29 (II) BEGINNING JULY 1, 2005, FOR EACH USER OF AN ONSITE
30 SEWAGE DISPOSAL SYSTEM, \$2.50 PER MONTH;

31 (III) BEGINNING JULY 1, 2005, FOR EACH USER OF A SEWAGE
32 HOLDING TANK, \$2.50 PER MONTH; AND

33 (IV) FOR A BUILDING OR GROUP OF BUILDINGS UNDER SINGLE
34 OWNERSHIP OR MANAGEMENT THAT CONTAINS MULTIPLE RESIDENTIAL
35 DWELLINGS THAT DO NOT RECEIVE AN INDIVIDUAL SEWER BILL OR FOR A
36 NONRESIDENTIAL USER WITH AN AVERAGE OF 8,000 EQUIVALENT DWELLING UNITS
37 OR LESS, THE ENVIRONMENTAL SURCHARGE SHALL BE:

1 1. FOR EACH EQUIVALENT DWELLING UNIT NOT EXCEEDING
2 ~~2,000~~ 3,000 EQUIVALENT DWELLING UNITS, \$2.50 PER MONTH ~~FOR EACH EQUIVALENT~~
3 ~~DWELLING UNIT; AND~~

4 2. FOR EACH EQUIVALENT DWELLING UNIT ~~OVER~~
5 ~~EXCEEDING 2,000~~ 3,000 EQUIVALENT DWELLING UNITS AND NOT EXCEEDING ~~8,000~~
6 5,000 EQUIVALENT DWELLING UNITS, \$1.25 PER MONTH ~~FOR EACH EQUIVALENT~~
7 ~~DWELLING UNIT; AND~~

8 ~~(III) FOR A UNIT WITH MORE THAN 8,000 EQUIVALENT DWELLING~~
9 ~~UNITS, THERE WILL BE NO SURCHARGE OTHER THAN THE SURCHARGE IN~~
10 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

11 3. FOR EACH EQUIVALENT DWELLING UNIT EXCEEDING
12 5,000 EQUIVALENT DWELLING UNITS, ZERO.

13 (2) (I) FOR A RESIDENTIAL DWELLING THAT RECEIVES AN
14 INDIVIDUAL SEWER BILL, A BUILDING OR GROUP OF BUILDINGS UNDER SINGLE
15 OWNERSHIP OR MANAGEMENT THAT CONTAINS MULTIPLE RESIDENTIAL
16 DWELLINGS THAT DO NOT RECEIVE AN INDIVIDUAL SEWER BILL, AND A
17 NONRESIDENTIAL USER, THE RESTORATION FEE SHALL BE:

18 1. STATED IN A SEPARATE LINE ON THE SEWER BILL THAT IS
19 LABELED "BAY RESTORATION FEE"; AND

20 2. COLLECTED FOR EACH CALENDAR QUARTER, UNLESS A
21 LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A WASTEWATER FACILITY
22 ESTABLISHED SOME OTHER BILLING PERIOD ON OR BEFORE JANUARY 1, 2004.

23 (II) FOR USERS OF AN ONSITE SEWAGE DISPOSAL SYSTEM AND FOR
24 USERS OF A SEWAGE HOLDING TANK, THE RESTORATION FEE SHALL BE COLLECTED
25 BY THE METHOD AND FREQUENCY DETERMINED APPROPRIATE BY THE
26 DEPARTMENT.

27 (3) THE TOTAL FEE IMPOSED UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION MAY NOT EXCEED \$120,000 ANNUALLY FOR A SINGLE SITE.

29 (4) (I) FOR PURPOSES OF MEASURING AVERAGE DAILY WASTEWATER
30 FLOW, THE LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A WASTEWATER
31 FACILITY SHALL USE EXISTING MEASURING METHODS, WHICH MAY INCLUDE WATER
32 USAGE OR OTHER ESTIMATION METHODS.

33 (II) THE AVERAGING PERIOD IS:

34 1. THE BILLING PERIOD ESTABLISHED BY THE LOCAL
35 GOVERNMENT OR BILLING AUTHORITY; OR

36 2. IF A BILLING PERIOD IS NOT ESTABLISHED BY THE LOCAL
37 GOVERNMENT OR BILLING AUTHORITY, A QUARTER OF A CALENDAR YEAR.

1 ~~(IV)~~ (C) A NONRESIDENTIAL USER OF A WASTEWATER FACILITY IS
2 EXEMPT FROM PAYING THE SURCHARGE RESTORATION FEE IF:

3 ~~±~~ (1) (I) 1. THE USER'S WASTEWATER FACILITY'S
4 AVERAGE ANNUAL EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS, AS
5 REPORTED IN THE FACILITY'S STATE DISCHARGE MONITORING REPORTS FOR THE
6 PREVIOUS CALENDAR YEAR, HAVE NOT EXCEEDED 3 MILLIGRAMS PER LITER TOTAL
7 NITROGEN AND 0.3 MILLIGRAMS PER LITER TOTAL PHOSPHORUS; AND
8 DEMONSTRATE THAT THE FACILITY IS ACHIEVING ENHANCED NUTRIENT REMOVAL,
9 AS DEFINED UNDER § 9-1601(L) OF THIS SUBTITLE; OR

10 2. THE DEPARTMENT HAS DETERMINED THAT THE
11 WASTEWATER FACILITY IS NOT REQUIRED TO MONITOR FOR NITROGEN OR
12 PHOSPHORUS IN ITS DISCHARGE PERMIT; AND

13 ~~2.~~ (II) THE OWNER OF THE THE USER'S WASTEWATER
14 FACILITY HAS NOT RECEIVED A STATE OR FEDERAL GRANT FOR BIOLOGICAL
15 NUTRIENT REMOVAL OR ENHANCED NUTRIENT REMOVAL FOR THAT FACILITY.;

16 (2) (I) THE USER'S WASTEWATER FACILITY DISCHARGES TO
17 GROUNDWATER AND THE ANNUAL AVERAGE NUTRIENT CONCENTRATIONS IN THE
18 WASTEWATER PRIOR TO DISCHARGE TO GROUNDWATER HAVE NOT EXCEEDED 3
19 MILLIGRAMS PER LITER TOTAL NITROGEN AND 0.3 MILLIGRAMS PER LITER TOTAL
20 PHOSPHORUS, AS DEMONSTRATED BY ANALYSIS OF THE GROUNDWATER FROM
21 MONITORING WELLS LOCATED ON THE PROPERTY AND AS REPORTED IN DISCHARGE
22 MONITORING REPORTS FOR THE PREVIOUS CALENDAR YEAR; AND

23 (II) THE USER'S WASTEWATER FACILITY HAS NOT RECEIVED A
24 FEDERAL OR STATE GRANT FOR THAT FACILITY; OR

25 (3) THE DEPARTMENT DETERMINES THAT:

26 (I) THE USER'S WASTEWATER FACILITY DISCHARGES
27 NONCONTACT COOLING WATER, WATER FROM DEWATERING OPERATIONS, OR
28 RECLAIMED WASTEWATER FROM A FACILITY WHOSE USERS PAY IN TO THE FUND;
29 AND

30 (II) THE DISCHARGE DOES NOT RESULT IN A NET INCREASE IN
31 LOADING OF NUTRIENTS COMPARED TO THE INTAKE WATER.

32 ~~(V)~~ (D) (1) SUBJECT TO THE APPROVAL OF THE
33 ADMINISTRATION, A LOCAL GOVERNMENT OR A BILLING AUTHORITY FOR A
34 WASTEWATER FACILITY MAY ESTABLISH A PROGRAM TO EXEMPT FROM THE
35 REQUIREMENTS OF THIS SECTION A RESIDENTIAL DWELLING ABLE TO
36 DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE
37 SURCHARGE RESTORATION FEE.

38 ~~(VI)~~ 1. THE SURCHARGE MAY BE ADJUSTED FOR FISCAL YEAR
39 2008 AND SUBSEQUENT YEARS IN ACCORDANCE WITH REGULATIONS ADOPTED
40 UNDER SUBSECTION (G) OF THIS TITLE.

1 ~~2. ANY ADJUSTMENT TO THE AMOUNT OF THE SURCHARGE~~
2 ~~SHALL BE MADE SUBJECT TO AND IN COMPLIANCE WITH THE REQUIREMENTS OF~~
3 ~~ANY APPLICABLE BOND RESOLUTION.~~

4 ~~(VII) 1. (2) (I) THE SURCHARGE EXCEPT AS PROVIDED IN~~
5 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BAY RESTORATION FEE SHALL BE~~
6 ~~COLLECTED BY THE WASTEWATER FACILITY OR THE BILLING AUTHORITY FOR THE~~
7 ~~WASTEWATER FACILITY, AS APPROPRIATE, ON BEHALF OF THE STATE.~~

8 ~~(II) FOR A WASTEWATER FACILITY WITHOUT A BILLING~~
9 ~~AUTHORITY, THE COMPTROLLER MAY COLLECT THE RESTORATION FEE FROM THE~~
10 ~~FACILITY OWNER.~~

11 ~~(3) A LOCAL GOVERNMENT, BILLING AUTHORITY FOR A WASTEWATER~~
12 ~~FACILITY, OR ANY OTHER AUTHORIZED COLLECTING AGENCY:~~

13 ~~(I) MAY USE ALL OF ITS EXISTING PROCEDURES AND AUTHORITY~~
14 ~~FOR COLLECTING A WATER AND SEWER BILL, AN ONSITE SEWAGE DISPOSAL SYSTEM~~
15 ~~BILL, OR A HOLDING TANK BILL IN ORDER TO ENFORCE THE COLLECTION OF THE~~
16 ~~BAY RESTORATION FEE; AND~~

17 ~~(II) SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT~~
18 ~~OF FUNDS COLLECTED UNDER THIS SECTION.~~

19 ~~2. THE BILLING AUTHORITY FOR THE WASTEWATER~~
20 ~~FACILITY SHALL ADD THE FULL AMOUNT OF THE SURCHARGE TO EACH CUSTOMER'S~~
21 ~~BILL AND SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS~~
22 ~~COLLECTED UNDER THIS SUBTITLE.~~

23 ~~3. A. THE ADMINISTRATION SHALL DETERMINE THE~~
24 ~~METHOD OF COLLECTION OF THE SURCHARGE FROM THE WASTEWATER FACILITY.~~

25 ~~B. THE COLLECTIONS SHALL ACCRUE TO THE FUND.~~

26 ~~(VIII) FOR A WASTEWATER FACILITY WITHOUT A BILLING~~
27 ~~AUTHORITY, THE ADMINISTRATION MAY COLLECT THE SURCHARGE FROM THE~~
28 ~~FACILITY OWNER.~~

29 ~~(E) (1) THE WASTEWATER FACILITY, THE BILLING AUTHORITY FOR THE~~
30 ~~FACILITY, OR ANY OTHER AUTHORIZED COLLECTING AGENCY SHALL COMPLETE AND~~
31 ~~SUBMIT, UNDER OATH, A RETURN AND REMIT THE RESTORATION FEES COLLECTED~~
32 ~~TO THE COMPTROLLER:~~

33 ~~(I) ON OR BEFORE THE 20TH DAY OF THE MONTH THAT FOLLOWS~~
34 ~~THE CALENDAR QUARTER IN WHICH THE RESTORATION FEE WAS COLLECTED; AND~~

35 ~~(II) FOR OTHER PERIODS AND ON OTHER DATES THAT THE~~
36 ~~COMPTROLLER MAY SPECIFY BY REGULATION, INCLUDING PERIODS IN WHICH NO~~
37 ~~RESTORATION FEE HAS BEEN COLLECTED.~~

1 (2) EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS
2 SUBSECTION, THE PROVISIONS OF TITLE 13 OF THE TAX - GENERAL ARTICLE THAT
3 ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE
4 ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE RESTORATION FEE
5 UNDER THIS SECTION.

6 (3) THE COMPTROLLER:

7 (I) SHALL ADMINISTER THE RESTORATION FEE; AND

8 (II) MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER,
9 COLLECT, AND ENFORCE THE RESTORATION FEE.

10 (4) (I) FROM THE RESTORATION FEE REVENUE, THE COMPTROLLER
11 SHALL DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS
12 NECESSARY TO ADMINISTER THE FEE, WHICH MAY NOT EXCEED 0.5% OF THE FEES
13 COLLECTED BY THE COMPTROLLER.

14 (II) AFTER MAKING THE DISTRIBUTION REQUIRED UNDER
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DEPOSIT THE
16 RESTORATION FEE IN THE BAY RESTORATION FUND.

17 (5) THE STATE CENTRAL COLLECTION UNIT MAY COLLECT DELINQUENT
18 ACCOUNTS UNDER THIS SECTION IN ACCORDANCE WITH § 3-302 OF THE STATE
19 FINANCE AND PROCUREMENT ARTICLE.

20 ~~(B)~~ (F) (1) (I) THE ~~WATERSHED~~ BAY RESTORATION FUND IS A SPECIAL,
21 CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE
22 FINANCE AND PROCUREMENT ARTICLE AND SHALL BE AVAILABLE IN PERPETUITY
23 FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH
24 THE PROVISIONS OF THIS SECTION.

25 (II) MONEY IN THE FUND MAY NOT REVERT OR BE TRANSFERRED
26 TO THE GENERAL FUND OF THE STATE.

27 (2) THE ~~WATERSHED~~ BAY RESTORATION FUND SHALL BE AVAILABLE
28 FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH
29 THE PROVISIONS OF THIS ~~SUBTITLE~~, SECTION FOR:

30 (I) ELIGIBLE COSTS OF PROJECTS RELATING TO PLANNING,
31 DESIGN, CONSTRUCTION, AND UPGRADES OF WASTEWATER FACILITIES TO ACHIEVE
32 ENHANCED NUTRIENT REMOVAL AS REQUIRED BY THE CONDITIONS OF A GRANT
33 AGREEMENT AND A DISCHARGE PERMIT; AND

34 (II) ALL PROJECTS IDENTIFIED IN SUBSECTION (I) OF THIS
35 SECTION.

36 (3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
37 RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE
38 ~~WATERSHED~~ BAY RESTORATION FUND, THE TREASURER SHALL SEPARATELY HOLD,

1 AND THE COMPTROLLER SHALL ACCOUNT FOR, THE ~~WATERSHED~~ BAY RESTORATION
2 FUND.

3 (4) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
4 RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE ~~WATERSHED~~ BAY
5 RESTORATION FUND, THE ~~WATERSHED~~ BAY RESTORATION FUND SHALL BE
6 INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

7 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT
8 OF THE ~~WATERSHED~~ BAY RESTORATION FUND.

9 (6) THE ~~WATERSHED~~ BAY RESTORATION FUND SHALL BE SUBJECT TO
10 AUDIT ~~ONCE EVERY 2 YEARS~~ BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED
11 ~~FOR IN~~ UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

12 (7) THE ADMINISTRATION SHALL OPERATE THE ~~WATERSHED~~ BAY
13 RESTORATION FUND IN ACCORDANCE WITH §§ 9-1616 THROUGH 9-1621 OF THIS
14 SUBTITLE.

15 ~~(8) THE DEPARTMENT SHALL DETERMINE THE PRIORITY RANKING OF~~
16 ~~PROJECTS.~~

17 ~~(E)~~ (G) THERE SHALL BE DEPOSITED IN THE ~~WATERSHED~~ BAY
18 RESTORATION FUND:

19 (1) FUNDS RECEIVED FROM THE ~~ENVIRONMENTAL SURCHARGE~~
20 RESTORATION FEE;

21 (2) NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

22 (3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF
23 MONEY IN THE ~~WATERSHED~~ BAY RESTORATION FUND; AND

24 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES,
25 PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE ~~WATERSHED~~ BAY
26 RESTORATION FUND HAS BEEN ESTABLISHED.

27 ~~(D)~~ (H) (1) WITH REGARD TO THE FUNDS COLLECTED UNDER SUBSECTION
28 (B)(1)(II) OF THIS SECTION, BEGINNING IN FISCAL YEAR 2006, THE COMPTROLLER
29 SHALL:

30 (I) ESTABLISH A SEPARATE ACCOUNT WITHIN THE BAY
31 RESTORATION FUND; AND

32 (II) 1. DEPOSIT 70% OF THE FUNDS IN THAT ACCOUNT, TO BE
33 USED FOR PROJECTS THAT WILL ENHANCE THE REMOVAL OF NITROGEN FROM
34 ONSITE SEWAGE DISPOSAL SYSTEMS OR FOR OTHER COST-EFFECTIVE METHODS TO
35 REDUCE THE DISCHARGE OF NITROGEN FROM ONSITE SEWAGE DISPOSAL SYSTEMS,
36 WITH PRIORITY GIVEN TO THE UPGRADING OF FAILING SYSTEMS LOCATED IN THE
37 CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND

1 2. TRANSFER 30% OF THE FUNDS TO THE MARYLAND
2 AGRICULTURE WATER QUALITY COST SHARE PROGRAM IN THE DEPARTMENT OF
3 AGRICULTURE IN ORDER TO FUND COVER CROP ACTIVITIES.

4 (2) ~~THE ADMINISTRATION COMPTROLLER~~ MAY ESTABLISH ANY OTHER
5 ACCOUNTS AND SUBACCOUNTS WITHIN THE ~~WATERSHED BAY~~ RESTORATION FUND
6 AS NECESSARY TO:

7 (1) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;

8 (2) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;

9 (3) MEET THE REQUIREMENTS OF ANY FEDERAL OR STATE LAW OR
10 OF ANY GRANT OR AWARD TO THE ~~WATERSHED BAY~~ RESTORATION FUND; AND

11 (4) (IV) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY
12 THE SECRETARY OR THE BOARD.

13 (1) (1) IN THIS SUBSECTION, "ELIGIBLE COSTS" MEANS THE
14 ADDITIONAL COSTS THAT WOULD BE ATTRIBUTABLE TO UPGRADING A
15 WASTEWATER FACILITY FROM BIOLOGICAL NUTRIENT REMOVAL TO ENHANCED
16 NUTRIENT REMOVAL, AS DETERMINED BY THE DEPARTMENT.

17 (2) FUNDS IN THE ~~WATERSHED BAY~~ RESTORATION FUND ~~MAY~~ SHALL BE
18 USED ONLY:

19 (I) TO AWARD GRANTS FOR UP TO 100% OF ELIGIBLE COSTS OF
20 PROJECTS RELATING TO PLANNING, DESIGN, CONSTRUCTION, AND UPGRADE OF A
21 WASTEWATER FACILITY ~~WITH A DESIGN CAPACITY OF 500,000 GALLONS OR MORE~~
22 ~~PER DAY FOR FLOWS UP TO THE DESIGN CAPACITY OF THE WASTEWATER FACILITY,~~
23 AS APPROVED BY THE DEPARTMENT, TO ACHIEVE ENHANCED NUTRIENT REMOVAL
24 AS REQUIRED BY THE CONDITIONS OF A GRANT AGREEMENT AND A DISCHARGE
25 PERMIT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION;

26 (II) 1. IN FISCAL YEARS 2005 THROUGH 2009, INCLUSIVE, FOR A
27 PORTION OF THE COSTS OF PROJECTS RELATING TO COMBINED SEWER OVERFLOWS
28 ABATEMENT, REHABILITATION OF EXISTING SEWERS, AND UPGRADING
29 CONVEYANCE SYSTEMS, INCLUDING PUMPING STATIONS, TO BE DISTRIBUTED TO
30 WASTEWATER FACILITIES BASED ON THE AVERAGE ANNUAL FLOW OF THE
31 WASTEWATER FACILITY AND THE EXTENT OF THE UPGRADES NEEDED, NOT TO
32 EXCEED AN ANNUAL TOTAL OF \$7,000,000; AND

33 2. IN FISCAL YEARS 2010 AND THEREAFTER, FOR A PORTION
34 OF THE OPERATION AND MAINTENANCE COSTS RELATED TO THE ENHANCED
35 NUTRIENT REMOVAL TECHNOLOGY, WHICH MAY NOT EXCEED 10% OF THE TOTAL
36 ENVIRONMENTAL SURCHARGE RESTORATION FEE COLLECTED UNDER THIS
37 SECTION BY THE ADMINISTRATION COMPTROLLER ANNUALLY;

38 (III) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF
39 PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE

1 PROCEEDS OF THE SALE OF THE BONDS WILL BE DEPOSITED IN THE ~~WATERSHED~~
2 BAY RESTORATION FUND;

3 (IV) TO EARN INTEREST ON ~~WATERSHED~~ BAY RESTORATION FUND
4 ACCOUNTS;

5 (V) FOR THE REASONABLE COSTS OF ADMINISTERING THE
6 ~~WATERSHED BAY~~ RESTORATION FUND, WHICH MAY NOT EXCEED 1.5% OF THE TOTAL
7 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEES~~ COLLECTED BY THE
8 ~~ADMINISTRATION~~ COMPTROLLER ANNUALLY;

9 (VI) IN FISCAL YEARS 2005 THROUGH 2007, INCLUSIVE, FOR THE
10 REASONABLE ADMINISTRATIVE COSTS INCURRED BY A LOCAL GOVERNMENT OR A
11 BILLING AUTHORITY FOR A WASTEWATER FACILITY COLLECTING THE
12 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEES, THE ADMINISTRATIVE COSTS~~
13 ~~MAY BE RETAINED BY THE BILLING AUTHORITY~~ IN AN AMOUNT NOT TO EXCEED ~~3%~~
14 5% OF THE TOTAL ENVIRONMENTAL SURCHARGE RESTORATION FEES COLLECTED
15 ~~BY THE~~ THAT LOCAL GOVERNMENT OR BILLING AUTHORITY;

16 (VII) FOR FUTURE UPGRADES OF WASTEWATER FACILITIES ~~WITH A~~
17 ~~DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY TO ACHIEVE~~
18 ADDITIONAL NUTRIENT REMOVAL OR WATER QUALITY IMPROVEMENT, IN
19 ACCORDANCE WITH ~~PARAGRAPH (4)~~ PARAGRAPHS (6) AND (7) OF THIS SUBSECTION;
20 ~~AND~~

21 (VIII) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS; ~~AND~~

22 (IX) SUBJECT TO THE CONDITIONS UNDER SUBSECTION (H) OF THIS
23 SECTION, PROJECTS RELATED TO THE REMOVAL OF NITROGEN FROM ONSITE
24 SEWAGE DISPOSAL SYSTEMS AND COVER CROP ACTIVITIES.

25 (3) THE GRANT AGREEMENT AND STATE DISCHARGE PERMIT, IF
26 APPLICABLE, SHALL REQUIRE AN OWNER OF A WASTEWATER FACILITY TO OPERATE
27 THE ENHANCED NUTRIENT REMOVAL FACILITY IN A MANNER THAT OPTIMIZES THE
28 NUTRIENT REMOVAL CAPABILITY OF THE FACILITY IN ORDER TO ACHIEVE
29 ENHANCED NUTRIENT REMOVAL PERFORMANCE LEVELS.

30 (4) (I) ALL WASTEWATER FACILITIES SERVING MARYLAND USERS
31 THAT HAVE CONTRIBUTED TO THE BAY RESTORATION FUND ARE ELIGIBLE FOR
32 GRANTS UNDER THIS SECTION, INCLUDING THE BLUE PLAINS WASTEWATER
33 TREATMENT PLANT IN THE DISTRICT OF COLUMBIA.

34 (II) GRANTS ISSUED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION
35 FOR UPGRADES TO THE BLUE PLAINS WASTEWATER TREATMENT PLANT MAY BE
36 AWARDED ONLY IF EACH PARTY TO THE BLUE PLAINS INTERMUNICIPAL
37 AGREEMENT OF 1985 CONTRIBUTES A PROPORTIONAL SHARE OF THE UPGRADE
38 COSTS IN ACCORDANCE WITH THE BLUE PLAINS INTERMUNICIPAL AGREEMENT OF
39 1985, AS REVISED AND UPDATED.

1 ~~(4)~~ ~~(4)~~ (5) PRIORITY FOR FUNDING AN UPGRADE OF A WASTEWATER
 2 FACILITY SHALL BE COMMENCED ONLY ON COMPLETION OF GIVEN TO ENHANCED
 3 NUTRIENT REMOVAL UPGRADES AT WASTEWATER FACILITIES WITH A DESIGN
 4 CAPACITY OF 500,000 GALLONS OR MORE PER DAY.

5 ~~(H)~~ (6) (I) THE ELIGIBILITY AND PRIORITY RANKING OF A
 6 PROJECT SHALL BE DETERMINED BY THE DEPARTMENT BASED ON CRITERIA
 7 ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT, IN ACCORDANCE
 8 WITH SUBSECTION ~~(G)~~ (K) OF THIS SECTION.

9 (II) THE CRITERIA ADOPTED BY THE DEPARTMENT SHALL
 10 INCLUDE, AS APPROPRIATE, CONSIDERATION OF:

11 1. THE COST-EFFECTIVENESS IN PROVIDING WATER
 12 QUALITY BENEFIT;

13 2. THE WATER QUALITY BENEFIT TO A BODY OF WATER
 14 IDENTIFIED BY THE DEPARTMENT AS IMPAIRED UNDER SECTION 303(D) OF THE
 15 CLEAN WATER ACT;

16 3. THE READINESS OF A WASTEWATER FACILITY TO
 17 PROCEED TO CONSTRUCTION; AND

18 4. THE NITROGEN AND PHOSPHORUS LOADS DISCHARGED
 19 BY A WASTEWATER FACILITY.

20 (7) A WASTEWATER FACILITY THAT HAS NOT BEEN OFFERED OR HAS
 21 NOT RECEIVED FUNDS FROM THE DEPARTMENT UNDER THIS SECTION OR FROM ANY
 22 OTHER FUND IN THE DEPARTMENT MAY NOT BE REQUIRED TO UPGRADE TO
 23 ENHANCED NUTRIENT REMOVAL LEVELS, EXCEPT AS OTHERWISE REQUIRED UNDER
 24 FEDERAL OR STATE LAW.

25 ~~(F)~~ (J) (1) THERE IS A ~~WATERSHED BAY~~ RESTORATION FUND ADVISORY
 26 COMMITTEE.

27 (2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

28 (I) THE SECRETARIES OF THE ENVIRONMENT, AGRICULTURE,
 29 PLANNING, NATURAL RESOURCES, AND BUDGET AND MANAGEMENT, OR THEIR
 30 DESIGNEES;

31 (II) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT
 32 OF THE SENATE;

33 (III) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY
 34 THE SPEAKER OF THE HOUSE OF DELEGATES;

35 (IV) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING PUBLICLY OWNED
 36 WASTEWATER FACILITIES, APPOINTED BY THE GOVERNOR;

1 (V) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING ENVIRONMENTAL
2 ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

3 (VI) ONE ~~PERSON~~ INDIVIDUAL EACH FROM THE MARYLAND
4 ASSOCIATION OF COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE, APPOINTED
5 BY THE GOVERNOR;

6 (VII) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING THE BUSINESS
7 COMMUNITY, APPOINTED BY THE GOVERNOR; ~~AND~~

8 (VIII) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING LOCAL HEALTH
9 DEPARTMENTS ~~WITH WHO HAVE~~ EXPERTISE IN ~~ON-SITE~~ ONSITE SEWAGE DISPOSAL
10 SYSTEMS, APPOINTED BY THE GOVERNOR; ~~AND~~

11 (IX) ONE INDIVIDUAL REPRESENTING A UNIVERSITY OR RESEARCH
12 INSTITUTE WHO HAS EXPERTISE IN NUTRIENT POLLUTION, APPOINTED BY THE
13 GOVERNOR.

14 (3) THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE
15 COMMITTEE FROM THE DESIGNATED MEMBERS OF THE COMMITTEE.

16 (4) THE COMMITTEE MAY CONSULT WITH ANY STAKEHOLDER GROUP AS
17 IT DEEMS NECESSARY.

18 (5) (I) THE TERM OF A MEMBER IS 4 YEARS.

19 (II) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS
20 APPOINTED.

21 (III) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR
22 ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE
23 COMMITTEE ON OCTOBER 1, 2004.

24 (IV) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
25 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

26 (V) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
27 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
28 AND QUALIFIES.

29 (6) THE COMMITTEE SHALL:

30 (I) PERFORM AN ANALYSIS OF THE COST OF NUTRIENT REMOVAL
31 FROM WASTEWATER FACILITIES;

32 (II) IDENTIFY ADDITIONAL SOURCES FOR FUNDING THE
33 ~~WATERSHED BAY RESTORATION FUND, INCLUDING A MEANS OF ESTABLISHING A~~
34 ~~SIMILAR IMPACT FEE FOR ON-SITE SEWAGE DISPOSAL SYSTEM OWNERS;~~

1 (III) MAKE RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS
2 OF THE ~~WATERSHED BAY~~ RESTORATION FUND IN REDUCING NUTRIENT LOADINGS
3 TO THE WATERS OF THE STATE;

4 (IV) MAKE RECOMMENDATIONS REGARDING THE APPROPRIATE
5 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEE~~ TO BE ASSESSED IN FISCAL YEAR
6 2008 AND SUBSEQUENT YEARS AS NECESSARY TO MEET THE FINANCING NEEDS OF
7 THE ~~WATERSHED BAY~~ RESTORATION FUND;

8 (V) ADVISE THE SECRETARY CONCERNING THE ADOPTION OF
9 REGULATIONS AS DESCRIBED IN SUBSECTION ~~(G)~~ (K) OF THIS SECTION; AND

10 (VI) BEGINNING JANUARY 1, 2006, AND EVERY ~~2 YEARS~~ YEAR
11 THEREAFTER, REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
12 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS FINDINGS AND
13 RECOMMENDATIONS.

14 (7) MEMBERS OF THE COMMITTEE:

15 (I) MAY NOT RECEIVE COMPENSATION; BUT

16 (II) ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER
17 THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

18 (8) THE DEPARTMENT OF THE ENVIRONMENT, DEPARTMENT OF
19 AGRICULTURE, DEPARTMENT OF PLANNING, DEPARTMENT OF NATURAL
20 RESOURCES, AND DEPARTMENT OF BUDGET AND MANAGEMENT SHALL PROVIDE
21 STAFF SUPPORT FOR THE COMMITTEE.

22 ~~(G)~~ ~~(H)~~ (K) THE DEPARTMENT SHALL ADOPT ~~ANY~~ REGULATIONS THAT ARE
23 NECESSARY OR APPROPRIATE TO CARRY OUT THE PROVISIONS OF THIS ~~SUBTITLE~~
24 SECTION.

25 ~~(2)~~ ~~THE DEPARTMENT, IN CONSULTATION WITH THE WATERSHED FUND~~
26 ~~ADVISORY COMMITTEE, MAY ADOPT REGULATIONS THAT ESTABLISH THE AMOUNT,~~
27 ~~METHOD OF CALCULATION, AND TYPES OF ENVIRONMENTAL SURCHARGES TO BE~~
28 ~~DEPOSITED IN THE WATERSHED RESTORATION FUND FOR FISCAL YEAR 2008 AND~~
29 ~~SUBSEQUENT YEARS.~~

30 9-1611.

31 (a) Bonds may be secured by a trust agreement by and between the
32 Administration and a corporate trustee, which may be any trust company or bank
33 having trust powers, within or without the State. Such trust agreement may pledge or
34 assign all or any part of the revenues or corpus of the Water Quality [Fund or] FUND,
35 Drinking Water Loan Fund, OR ~~WATERSHED BAY~~ RESTORATION FUND, or any
36 account [therein] WITHIN THESE FUNDS, and may pledge or assign or grant a lien on
37 or security interest in any loan agreement or loan obligation. Any such trust
38 agreement or resolution authorizing the issuance of bonds may contain such
39 provisions for the protection and enforcement of the rights and remedies of the

1 bondholders as may be deemed reasonable and proper, including covenants setting
2 forth the duties of the Administration in relation to the making, administration and
3 enforcement of loans and the custody, safeguarding and application of moneys. Such
4 trust agreement may set forth the rights and remedies of the bondholders and of the
5 trustee and may restrict the individual right of action by bondholders. In addition to
6 the foregoing, such trust agreement may contain such other provisions as the Director
7 may deem reasonable and proper for the security of the bondholders, including,
8 without limitation, covenants pertaining to the issuance of additional parity bonds
9 upon conditions stated therein consistent with the requirements of this subtitle.

10 (b) The proceeds of the sale of bonds shall be disbursed in such manner and
11 under such restrictions, if any, as may be provided in such trust agreement.

12 (c) (1) The revenues and moneys designated as security for bonds shall be
13 set aside at such regular intervals as may be provided in the bond resolution in a
14 special account in the Water Quality Fund, if the net sale proceeds will be deposited in
15 the Water Quality Fund, [or] the Drinking Water Loan Fund, if the net sale proceeds
16 will be deposited in the Drinking Water Loan Fund, OR THE ~~WATERSHED BAY~~
17 RESTORATION FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE
18 ~~WATERSHED BAY~~ RESTORATION FUND, which is pledged to, and charged with, the
19 payment of:

20 (i) The interest upon such bonds as such interest falls due;

21 (ii) The principal of such bonds as it falls due;

22 (iii) The necessary charges of the trustee, bond registrar, and paying
23 agents; and

24 (iv) The redemption price or purchase price of bonds retired by call
25 or purchase as provided in the bond resolution or trust agreement.

26 (2) Any amounts set aside in such special account which are not needed
27 to provide for the payment of the items included under paragraph (1) of this
28 subsection may be used for any other lawful purpose, to the extent provided in the
29 bond resolution. Such pledge shall be valid and binding from the time when the
30 pledge is made. Such revenues or other moneys so pledged and thereafter received by
31 the Administration shall immediately be subject to the lien of such pledge without
32 any physical delivery thereof or further act, and the lien of any such pledge shall be
33 valid and binding as against all parties having any claims of any kind in tort,
34 contract, or otherwise against the Administration or the Water Quality Fund, [or] the
35 Drinking Water Loan Fund, OR THE ~~WATERSHED BAY~~ RESTORATION FUND,
36 irrespective of whether such parties have notice thereof. Neither the bond resolution
37 nor any trust agreement by which a pledge is created need be filed or recorded except
38 in the records of the Administration, any public general or public local law to the
39 contrary notwithstanding.

40 (d) Any net earnings of the Administration, beyond that necessary for the
41 retirement of bonds or to implement the public purposes or programs of the

1 Administration, shall not inure to the benefit of any person, other than the State of
2 Maryland for use to accomplish the purposes of this subtitle.

3 9-1616.

4 The Administration shall not be required to give any bond as security for costs,
5 supersedeas, or any other security in any suit or action brought by or against it, or in
6 proceedings to which it may be a party, in any court of this State, and the
7 Administration shall have the remedies of appeal of whatever kind to all courts
8 without bonds, supersedeas, or security of any kind. No builder's, materialman's,
9 contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to
10 or become a lien upon the Water Quality [Fund or] FUND, the Drinking Water Loan
11 Fund, OR THE ~~WATERSHED~~ BAY RESTORATION FUND or any property, real or
12 personal, belonging to the Administration and no assignment of wages shall be
13 binding upon or recognized by the Administration.

14 9-1617.

15 The Administration shall make provision for a system of financial accounting,
16 controls, audits, and reports in accordance with generally accepted principles of
17 governmental accounting. All accounting systems and records, auditing procedures
18 and standards, and financial reporting for the Water Quality Fund, THE DRINKING
19 WATER LOAN FUND, AND THE ~~WATERSHED~~ BAY RESTORATION FUND shall conform to
20 the requirements of Title VI of the Federal Water Pollution Control Act, THE
21 FEDERAL SAFE DRINKING WATER ACT, AND THE CHESAPEAKE ~~BAY WATERSHED~~ AND
22 ATLANTIC COASTAL BAYS RESTORATION FUND ACT, AS APPLICABLE and, to the
23 extent not inconsistent therewith, generally accepted principles of governmental
24 accounting. As soon as practical after the closing of the fiscal year, an audit shall be
25 made of the financial books, records, and accounts of the Administration. The audit
26 shall be made by independent certified public accountants, selected by the
27 Administration, and licensed to practice in the State as auditors. The auditors may
28 not have a personal interest either directly or indirectly in the fiscal affairs of the
29 Administration. They shall be experienced and qualified in the accounting and
30 auditing of public bodies. The report of audit shall be prepared in accordance with
31 generally accepted auditing principles and point out any irregularities found to exist.
32 The auditors shall report to the Secretary the results of their examination, including
33 their unqualified opinion on the presentation of the financial positions of the Water
34 Quality [Fund and] FUND, the Drinking Water Loan Fund, AND THE ~~WATERSHED~~
35 BAY RESTORATION FUND, and the results of the Administration's financial
36 operations. If they are unable to express an unqualified opinion they shall state and
37 explain in detail the reasons for their qualifications, disclaimer, or opinion including
38 recommendations necessary to make possible future unqualified opinions.

39 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members
40 of the ~~Chesapeake Bay Watershed~~ Restoration Fund Advisory Committee, appointed
41 by the Governor, shall expire as follows:

42 (1) four members in 2005;

1 (2) four members in 2006; and

2 (3) ~~four~~ three members in 2007.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Bay Restoration
4 Fund Advisory Committee shall study and, subject to § 2-1246 of the State
5 Government Article, report on or before January 15, 2005, to the Senate Education,
6 Health, and Environmental Affairs Committee and the House Environmental Matters
7 Committee regarding methods evaluated and recommended for the collection of the
8 Bay restoration fee from users of onsite sewage disposal systems and users of sewage
9 holding tanks, in accordance with § 9-1605.2 of the Environment Article, as enacted
10 by Section 1 of this Act.

11 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December
12 31, 2006, the Bay Restoration Fund Advisory Committee, in conjunction with the
13 Maryland Association of Counties and the Maryland Municipal League, shall, subject
14 to § 2-1246 of the State Government Article, jointly report to the Senate Education,
15 Health, and Environmental Affairs Committee and the House Environmental Matters
16 Committee regarding the extent of administrative costs incurred by local
17 governments in the collection of the Bay restoration fee and the reasonableness of the
18 reimbursement authorized under § 9-1605.2(i)(2)(vi) of the Environment Article, as
19 enacted under Section 1 of this Act.

20 SECTION 3- 5. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect ~~July~~ October 1, 2004.