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By: **Delegates Edwards, Aumann, Bartlett, Bates, Bozman, Cluster, Cryor, Dwyer, Elliott, Frank, Glassman, Hogan, Impallaria, Jennings, Kelly, Kohl, Krebs, Leopold, Mayer, McConkey, McDonough, McKee, Miller, Myers, O'Donnell, Proctor, Shank, Shewell, Smigiel, Sossi, Stocksdale, and Stull**

Introduced and read first time: January 25, 2006

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Bay Restoration Fund - Exemption**

3 FOR the purpose of repealing the requirement that users of onsite sewage disposal  
4 systems and holding tanks pay certain Bay restoration fees; repealing certain  
5 provisions of law relating to the identification of users of onsite sewage disposal  
6 systems and holding tanks; repealing certain provisions of law relating to the  
7 collection and accounting of certain fees from users of onsite sewage disposal  
8 systems or holding tanks; altering the uses of the Bay Restoration Fund;  
9 repealing certain provisions of law relating to certain education, outreach, and  
10 upgrade programs for owners of onsite sewage disposal systems and holding  
11 tanks; and generally relating to the Bay Restoration Fund.

12 BY repealing and reenacting, with amendments,  
13 Article - Environment  
14 Section 9-1601 and 9-1605.2  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 2005 Supplement)

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

19 **Article - Environment**

20 9-1601.

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

23 (b) "Administration" means the Maryland Water Quality Financing  
24 Administration.

1 (c) "Bay Restoration Fund" means the Bay Restoration Fund established  
2 under § 9-1605.2 of this subtitle.

3 (d) "Biological nutrient removal" means a biological nutrient removal  
4 technology capable of reducing the nitrogen in wastewater effluent to not more than 8  
5 milligrams per liter, as calculated on an annually averaged basis.

6 (e) "Board" means the Board of Public Works.

7 (f) "Bond" means a bond, note, or other evidence of obligation of the  
8 Administration issued under this subtitle, including a bond or revenue anticipation  
9 note, notes in the nature of commercial paper, and refunding bonds.

10 (g) "Bond resolution" means the resolution or resolutions of the Director,  
11 including the trust agreement, if any, authorizing the issuance of and providing for  
12 the terms and conditions applicable to bonds.

13 (h) "Borrower" means a local government or a person as defined in § 1-101(h)  
14 of this article who has received a loan.

15 (i) "Director" means the Director of the Administration.

16 (j) "Drinking Water Loan Fund" means the Maryland Drinking Water  
17 Revolving Loan Fund.

18 (k) "Eligible costs" means the costs identified under § 9-1605.2(i) of this  
19 subtitle.

20 (l) "Enhanced nutrient removal" means:

21 (1) An enhanced nutrient removal technology that is capable of reducing  
22 the nitrogen and phosphorus concentrations in wastewater effluent to concentrations  
23 of not more than 3 milligrams per liter total nitrogen and not more than 0.3  
24 milligrams per liter total phosphorus, as calculated on an annually averaged basis; or

25 (2) If the Department has determined that the concentrations under  
26 item (1) of this subsection are not practicable for a wastewater facility, the lowest  
27 average annual wastewater effluent nitrogen and phosphorus concentrations that the  
28 Department determines are practicable for that facility.

29 (m) "Equivalent dwelling unit" means a measure of wastewater effluent where  
30 one unit is equivalent to:

31 (1) If a local government or billing authority for a wastewater facility has  
32 established a definition for "equivalent dwelling unit" on or before January 1, 2004,  
33 the average daily flow of wastewater effluent that the local government or billing  
34 authority has established to be equivalent to the average daily flow of wastewater  
35 effluent discharged by a residential dwelling, which may not exceed 250 gallons; or

1           (2)     If a local government or billing authority has not established a  
2 definition for "equivalent dwelling unit" on or before January 1, 2004, or if a local  
3 government or billing authority has established a definition that exceeds 250 gallons  
4 of wastewater effluent per day, an average daily flow of 250 gallons of wastewater  
5 effluent.

6       (n)     "Facility" means a wastewater facility or all or a portion of a water supply  
7 system as defined in § 9-201(u) of this article.

8       (o)     "Federal Safe Drinking Water Act" means Title XIV of the Public Health  
9 Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300f, et seq., and the rules and  
10 regulations promulgated thereunder.

11       (p)     "Federal Water Pollution Control Act" means the Water Pollution Control  
12 Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and rules and  
13 regulations promulgated thereunder.

14       (q)     "Fund" means a fund established by this subtitle, including the Water  
15 Quality Fund, the Drinking Water Loan Fund, and the Bay Restoration Fund.

16       (r)     "Grant" means a grant from the Administration to a grantee.

17       (s)     "Grant agreement" means a written agreement between the  
18 Administration and a grantee with respect to a grant.

19       (t)     "Grantee" means the grant recipient.

20       (u)     "Lender" has the meaning stated in § 9-1606.1 of this subtitle.

21       (v)     "Linked deposit" has the meaning stated in § 9-1606.1 of this subtitle.

22       (w)     "Linked deposit loan" has the meaning stated in § 9-1606.1 of this subtitle.

23       (x)     "Linked deposit program" has the meaning stated in § 9-1606.1 of this  
24 subtitle.

25       (y)     "Loan" means a loan from the Administration to a borrower for the purpose  
26 of financing all or a portion of the cost of a wastewater facility, if the loan is from the  
27 Water Quality Fund, or water supply system, if the loan is from the Drinking Water  
28 Loan Fund.

29       (z)     "Loan agreement" means a written agreement between the Administration  
30 and a borrower with respect to a loan.

31       (aa)    "Loan obligation" means a bond, note, or other evidence of obligation,  
32 including a mortgage, deed of trust, lien, or other security instrument, issued or  
33 executed by a borrower to evidence its indebtedness under a loan agreement with  
34 respect to a loan.

1 (bb) (1) "Local government" means a county, municipal corporation, sanitary  
2 district, or other State or local public entity which has authority to own or operate a  
3 facility.

4 (2) "Local government" includes any combination of two or more of the  
5 public entities under paragraph (1) of this subsection when acting jointly to construct  
6 or operate a facility.

7 (cc) (1) "Person" means an individual, corporation, partnership, association,  
8 the State, any unit of the State, commission, special taxing district, or the federal  
9 government.

10 (2) "Person" does not include a county, municipal corporation, bi-county  
11 or multicounty agency under Article 28 or 29 of the Code, housing authority under  
12 Article 44A of the Code, school board, community college, or any other unit of a county  
13 or municipal corporation.

14 (dd) (1) "Residential dwelling" means a room or group of rooms occupied as  
15 living quarters by an individual, a single family, or other discrete group of persons  
16 with facilities that are used or intended to be used for living, sleeping, cooking,  
17 sanitation, and eating, including an apartment unit, condominium unit, cooperative  
18 unit, town house unit, mobile home, or house.

19 (2) "Residential dwelling" does not include a hospital, hotel, motel, inn,  
20 boarding house, club, dormitory, school, college, or similar seasonal, institutional, or  
21 transient facility.

22 (ee) "Single site" means a discrete grouping of buildings or structures that are  
23 located on contiguous or adjacent property and owned by the same user.

24 (ff) (1) "User" means any person discharging wastewater to[:

25 (i) A] A wastewater facility that has a State discharge permit or  
26 national pollutant discharge elimination system discharge permit[;

27 (ii) An onsite sewage disposal system; or

28 (iii) A sewage holding tank].

29 (2) "User" does not include a person whose sole discharge is stormwater  
30 under a stormwater permit.

31 (gg) "Wastewater facility" means any equipment, plant, treatment works,  
32 structure, machinery, apparatus, interest in land, or any combination of these, which  
33 is acquired, used, constructed, or operated for the storage, collection, treatment,  
34 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal  
35 of wastewater, or for the final disposal of residues resulting from the treatment of  
36 wastewater, including: treatment or disposal plants; outfall sewers, interceptor  
37 sewers, and collector sewers; pumping and ventilating stations, facilities, and works;  
38 programs and projects for controlling nonpoint sources of water pollution and for

1 estuarine conservation and management; and other real or personal property and  
2 appurtenances incident to their development, use, or operation.

3 (hh) "Water Quality Fund" means the Maryland Water Quality Revolving Loan  
4 Fund.

5 (ii) "Water supply system" has the meaning stated in § 9-201(u) of this title.

6 9-1605.2.

7 (a) (1) There is a Bay Restoration Fund.

8 (2) It is the intent of the General Assembly that the Bay Restoration  
9 Fund be:

10 (i) Used, in part, to provide the funding necessary to upgrade any  
11 of the wastewater treatment facilities that are located in the State or used by citizens  
12 of the State in order to achieve enhanced nutrient removal where it is cost-effective to  
13 do so; and

14 (ii) Available for treatment facilities discharging into the Atlantic  
15 Coastal Bays or other waters of the State, but that priority be given to treatment  
16 facilities discharging into the Chesapeake Bay.

17 (3) The Bay Restoration Fund shall be maintained and administered by  
18 the Administration in accordance with the provisions of this section and any rules or  
19 program directives as the Secretary or the Board may prescribe.

20 (4) There is established a Bay restoration fee to be paid by any user of a  
21 wastewater facility[, an onsite sewage disposal system, or a holding tank] that:

22 (i) Is located in the State; or

23 (ii) Serves a Maryland user and is eligible for funding under this  
24 subtitle.

25 (b) (1) The Bay restoration fee is:

26 (i) Beginning January 1, 2005, for each residential dwelling that  
27 receives an individual sewer bill [and each user of an onsite sewage disposal system  
28 or a holding tank that receives a water bill], \$2.50 per month; AND

29 (ii) [Beginning October 1, 2005, for each user of an onsite sewage  
30 disposal system that does not receive a water bill, \$30 per year;

31 (iii) Beginning October 1, 2005, for each user of a sewage holding  
32 tank that does not receive a water bill, \$30 per year; and

33 (iv)] Beginning January 1, 2005, for a building or group of buildings  
34 under single ownership or management that receives a sewer bill and that contains

1 multiple residential dwellings that do not receive an individual sewer bill or for a  
2 nonresidential user:

3                                   1.       For each equivalent dwelling unit not exceeding 3,000  
4 equivalent dwelling units, \$2.50 per month;

5                                   2.       For each equivalent dwelling unit exceeding 3,000  
6 equivalent dwelling units and not exceeding 5,000 equivalent dwelling units, \$1.25  
7 per month; and

8                                   3.       For each equivalent dwelling unit exceeding 5,000  
9 equivalent dwelling units, zero.

10                   (2)    [(i)]   For a residential dwelling that receives an individual sewer bill,  
11 [a user of an onsite sewage disposal system or a holding tank that receives a water  
12 bill,] a building or group of buildings under single ownership or management that  
13 receives a water and sewer bill and that contains multiple residential dwellings that  
14 do not receive an individual sewer bill, and a nonresidential user, the restoration fee  
15 shall be:

16                                   [1.]   (I)     Stated in a separate line on the sewer or water bill,  
17 as appropriate, that is labeled "Bay Restoration Fee"; and

18                                   [2.]   (II)    Collected for each calendar quarter, unless a local  
19 government or billing authority for a water or wastewater facility established some  
20 other billing period on or before January 1, 2004.

21                                   [(ii) 1.    A.     If the user does not receive a water bill, for users of  
22 an onsite sewage disposal system and for users of a sewage holding tank, the county  
23 in which the onsite sewage disposal system or holding tank is located shall be  
24 responsible for collecting the restoration fee.

25   B.     A county may negotiate with a municipal corporation  
26 located within the county for the municipal corporation to collect the restoration fee  
27 from onsite sewage disposal systems and holding tanks located in the municipal  
28 corporation.

29                                   2.       The governing body of each county, in consultation with  
30 the Bay Restoration Fund Advisory Committee, shall determine the method and  
31 frequency of collecting the restoration fee under subparagraph 1 of this  
32 subparagraph.]

33                   (3)     The total fee imposed under paragraph (1) of this subsection may not  
34 exceed \$120,000 annually for a single site.

35                   (4)    (i)     For purposes of measuring average daily wastewater flow, the  
36 local government or billing authority for a wastewater facility shall use existing  
37 methods of measurement, which may include water usage or other estimation  
38 methods.

- 1 (ii) The averaging period is:
- 2 1. The billing period established by the local government or  
3 billing authority; or
- 4 2. If a billing period is not established by the local  
5 government or billing authority, a quarter of a calendar year.

6 (c) A user of a wastewater facility is exempt from paying the restoration fee if:

7 (1) (i) 1. The user's wastewater facility's average annual effluent  
8 nitrogen and phosphorus concentrations, as reported in the facility's State discharge  
9 monitoring reports for the previous calendar year, demonstrate that the facility is  
10 achieving enhanced nutrient removal, as defined under § 9-1601(l) of this subtitle; or

11 2. The Department has determined that the wastewater  
12 facility does not discharge nitrogen or phosphorus and is not required to monitor for  
13 nitrogen or phosphorus in its discharge permit; and

14 (ii) The user's wastewater facility has not received a State or  
15 federal grant for that facility;

16 (2) (i) The user's wastewater facility discharges to groundwater and  
17 the annual average nutrient concentrations in the wastewater prior to discharge to  
18 groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3  
19 milligrams per liter total phosphorus, as demonstrated by analysis of the  
20 groundwater from monitoring wells located on the property and as reported in  
21 discharge monitoring reports for the previous calendar year; and

22 (ii) The user's wastewater facility has not received a federal or  
23 State grant for that facility; or

24 (3) The Department determines that:

25 (i) The user's wastewater facility discharges noncontact cooling  
26 water, water from dewatering operations, or reclaimed wastewater from a facility  
27 whose users pay in to the Fund; and

28 (ii) The discharge does not result in a net increase in loading of  
29 nutrients compared to the intake water.

30 (d) (1) Subject to the approval of the Administration, a local government or a  
31 billing authority for a water or wastewater facility may establish a program to exempt  
32 from the requirements of this section a residential dwelling able to demonstrate  
33 substantial financial hardship as a result of the restoration fee.

34 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the  
35 Bay restoration fee shall be collected by the local government or the billing authority  
36 for the water or wastewater facility, as appropriate, on behalf of the State.

1 (ii) For a wastewater facility without a billing authority, the  
2 Comptroller may collect the restoration fee from the facility owner.

3 (3) A local government, billing authority for a water or wastewater  
4 facility, or any other authorized collecting agency:

5 (i) May use all of its existing procedures and authority for  
6 collecting a water or sewer bill[, an onsite sewage disposal system bill, or a holding  
7 tank bill] in order to enforce the collection of the Bay restoration fee; and

8 (ii) Shall establish a segregated account for the deposit of funds  
9 collected under this section.

10 (e) (1) A local government, the billing authority for a water or wastewater  
11 facility, or any other authorized collecting agency shall complete and submit, under  
12 oath, a return and remit the restoration fees collected to the Comptroller:

13 (i) On or before the 20th day of the month that follows the calendar  
14 quarter in which the restoration fee was collected; and

15 (ii) For other periods and on other dates that the Comptroller may  
16 specify by regulation, including periods in which no restoration fee has been collected.

17 (2) Except to the extent of any inconsistency with this subsection, the  
18 provisions of Title 13 of the Tax - General Article that are applicable to the sales and  
19 use tax shall govern the administration, collection, and enforcement of the restoration  
20 fee under this section.

21 (3) The Comptroller may adopt regulations necessary to administer,  
22 collect, and enforce the restoration fee.

23 (4) (i) From the restoration fee revenue, the Comptroller shall  
24 distribute to an administrative cost account the amount that is necessary to  
25 administer the fee, which may not exceed 0.5% of the fees collected by the  
26 Comptroller.

27 (ii) After making the distribution required under subparagraph (i)  
28 of this paragraph, the Comptroller shall deposit the restoration fee in the Bay  
29 Restoration Fund.

30 (5) The State Central Collection Unit may collect delinquent accounts  
31 under this section in accordance with § 3-302 of the State Finance and Procurement  
32 Article.

33 (f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing  
34 fund that is not subject to § 7-302 of the State Finance and Procurement Article and  
35 shall be available in perpetuity for the purpose of providing financial assistance in  
36 accordance with the provisions of this section.

1 (ii) Money in the Fund may not revert or be transferred to the  
2 General Fund of the State.

3 (2) The Bay Restoration Fund shall be available for the purpose of  
4 providing financial assistance in accordance with the provisions of this section for:

5 (i) Eligible costs of projects relating to planning, design,  
6 construction, and upgrades of wastewater facilities to achieve enhanced nutrient  
7 removal as required by the conditions of a grant agreement and a discharge permit;  
8 and

9 (ii) All projects identified in subsections (h) and (i) of this section.

10 (3) Subject to the provisions of any applicable bond resolution regarding  
11 the holding or application of amounts in the Bay Restoration Fund, the Treasurer  
12 shall separately hold, and the Comptroller shall account for, the Bay Restoration  
13 Fund.

14 (4) Subject to the provisions of any applicable bond resolution governing  
15 the investment of amounts in the Bay Restoration Fund, the Bay Restoration Fund  
16 shall be invested and reinvested in the same manner as other State funds.

17 (5) Any investment earnings shall be retained to the credit of the Bay  
18 Restoration Fund.

19 (6) The Bay Restoration Fund shall be subject to audit by the Office of  
20 Legislative Audits as provided under § 2-1220 of the State Government Article.

21 (7) The Administration shall operate the Bay Restoration Fund in  
22 accordance with §§ 9-1616 through 9-1621 of this subtitle.

23 (g) There shall be deposited in the Bay Restoration Fund:

24 (1) Funds received from the restoration fee;

25 (2) Net proceeds of bonds issued by the Administration;

26 (3) Interest or other income earned on the investment of money in the  
27 Bay Restoration Fund; and

28 (4) Any additional money made available from any sources, public or  
29 private, for the purposes for which the Bay Restoration Fund has been established.

30 (h) [(1) With regard to the funds collected under subsection (b)(1)(i), from  
31 users of an onsite sewage disposal system or holding tank that receive a water bill,  
32 (ii), and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

33 (i) Establish a separate account within the Bay Restoration Fund;  
34 and

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

3 (2) The Comptroller shall:

4 (i) Deposit 60% of the funds in the separate account to be used for:

5 1. With priority given to failing systems and holding tanks  
6 located in the Chesapeake and Atlantic Coastal Bays Critical Area, grants or loans for  
7 up to 100% of:

8 A. The costs attributable to upgrading an onsite sewage  
9 disposal system to the best available technology for the removal of nitrogen; or

10 B. The cost difference between a conventional onsite sewage  
11 disposal system and a system that utilizes the best available technology for the  
12 removal of nitrogen; and

13 2. The reasonable costs of the Department, not to exceed 8%  
14 of the funds deposited into the separate account, to:

15 A. Implement an education, outreach, and upgrade program  
16 to advise owners of onsite sewage disposal systems and holding tanks on the proper  
17 maintenance of the systems and tanks and the availability of grants and loans under  
18 item 1 of this subparagraph;

19 B. Review and approve the design and construction of onsite  
20 sewage disposal system or holding tank upgrades;

21 C. Issue grants or loans as provided under subsubparagraph  
22 1 of this subparagraph; and

23 D. Provide technical support for owners of upgraded onsite  
24 sewage disposal systems or holding tanks to operate and maintain the upgraded  
25 systems; and

26 (ii) Transfer 40% of the funds to the Maryland Agriculture Water  
27 Quality Cost Share Program in the Department of Agriculture in order to fund cover  
28 crop activities.

29 (3) The Comptroller, in consultation with the Administration, may  
30 establish any [other] accounts and subaccounts within the Bay Restoration Fund as  
31 necessary to:

32 [(i)] (1) Effectuate the purposes of this subtitle;

33 [(ii)] (2) Comply with the provisions of any bond resolution;

34 [(iii)] (3) Meet the requirements of any federal or State law or of  
35 any grant or award to the Bay Restoration Fund; and

1 [(iv)] (4) Meet any rules or program directives established by the  
2 Secretary or the Board.

3 (i) (1) In this subsection, "eligible costs" means the additional costs that  
4 would be attributable to upgrading a wastewater facility from biological nutrient  
5 removal to enhanced nutrient removal, as determined by the Department.

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

7 (i) To award grants for up to 100% of eligible costs of projects  
8 relating to planning, design, construction, and upgrade of a wastewater facility for  
9 flows up to the design capacity of the wastewater facility, as approved by the  
10 Department, to achieve enhanced nutrient removal in accordance with paragraph (3)  
11 of this subsection;

12 (ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion  
13 of the costs of projects relating to combined sewer overflows abatement, rehabilitation  
14 of existing sewers, and upgrading conveyance systems, including pumping stations,  
15 not to exceed an annual total of \$5,000,000; and

16 2. In fiscal years 2010 and thereafter, for a portion of the  
17 operation and maintenance costs related to the enhanced nutrient removal  
18 technology, which may not exceed 10% of the total restoration fee collected from users  
19 of wastewater facilities under this section by the Comptroller annually;

20 (iii) As a source of revenue or security for the payment of principal  
21 and interest on bonds issued by the Administration if the proceeds of the sale of the  
22 bonds will be deposited in the Bay Restoration Fund;

23 (iv) To earn interest on Bay Restoration Fund accounts;

24 (v) For the reasonable costs of administering the Bay Restoration  
25 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of  
26 wastewater facilities that are collected by the Comptroller annually;

27 (vi) For the reasonable administrative costs incurred by a local  
28 government or a billing authority for a water or wastewater facility collecting the  
29 restoration fees, in an amount not to exceed 5% of the total restoration fees collected  
30 by that local government or billing authority;

31 (vii) For future upgrades of wastewater facilities to achieve  
32 additional nutrient removal or water quality improvement, in accordance with  
33 paragraphs (6) and (7) of this subsection; AND

34 (viii) For costs associated with the issuance of bonds[; and

35 (ix) Subject to the conditions under subsection (h) of this section,  
36 projects related to the removal of nitrogen from onsite sewage disposal systems and  
37 cover crop activities].

1           (3)     The grant agreement and State discharge permit, if applicable, shall  
2 require an owner of a wastewater facility to operate the enhanced nutrient removal  
3 facility in a manner that optimizes the nutrient removal capability of the facility in  
4 order to achieve enhanced nutrient removal performance levels.

5           (4)     (i)     All wastewater facilities serving Maryland users that have  
6 contributed to the Bay Restoration Fund are eligible for grants under this section,  
7 including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

8                     (ii)     Grants issued under paragraph (2)(i) of this subsection for  
9 upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if  
10 each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a  
11 proportional share of the upgrade costs in accordance with the Blue Plains  
12 Intermunicipal Agreement of 1985, as revised and updated.

13           (5)     Priority for funding an upgrade of a wastewater facility shall be given  
14 to enhanced nutrient removal upgrades at wastewater facilities with a design  
15 capacity of 500,000 gallons or more per day.

16           (6)     (i)     The eligibility and priority ranking of a project shall be  
17 determined by the Department based on criteria established in regulations adopted  
18 by the Department, in accordance with subsection (k) of this section.

19                     (ii)     The criteria adopted by the Department shall include, as  
20 appropriate, consideration of:

- 21                             1.     The cost-effectiveness in providing water quality benefit;
- 22                             2.     The water quality benefit to a body of water identified by  
23 the Department as impaired under Section 303(d) of the Clean Water Act;
- 24                             3.     The readiness of a wastewater facility to proceed to  
25 construction; and
- 26                             4.     The nitrogen and phosphorus loads discharged by a  
27 wastewater facility.

28           (7)     A wastewater facility that has not been offered or has not received  
29 funds from the Department under this section or from any other fund in the  
30 Department may not be required to upgrade to enhanced nutrient removal levels,  
31 except as otherwise required under federal or State law.

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

33           (2)     The Committee consists of the following members:

34                     (i)     The Secretaries of the Environment, Agriculture, Planning,  
35 Natural Resources, and Budget and Management, or their designees;

- 1 (ii) One member of the Senate, appointed by the President of the  
2 Senate;
- 3 (iii) One member of the House of Delegates, appointed by the  
4 Speaker of the House of Delegates;
- 5 (iv) Two individuals representing publicly owned wastewater  
6 facilities, appointed by the Governor;
- 7 (v) Two individuals representing environmental organizations,  
8 appointed by the Governor;
- 9 (vi) One individual each from the Maryland Association of Counties  
10 and the Maryland Municipal League, appointed by the Governor;
- 11 (vii) Two individuals representing the business community,  
12 appointed by the Governor;
- 13 (viii) Two individuals representing local health departments who  
14 have expertise in onsite sewage disposal systems, appointed by the Governor; and
- 15 (ix) One individual representing a university or research institute  
16 who has expertise in nutrient pollution, appointed by the Governor.
- 17 (3) The Governor shall appoint the chairman of the Committee from the  
18 designated members of the Committee.
- 19 (4) The Committee may consult with any stakeholder group as it deems  
20 necessary.
- 21 (5) (i) The term of a member is 4 years.
- 22 (ii) A member continues to serve until a successor is appointed.
- 23 (iii) The terms of the members appointed by the Governor are  
24 staggered as required by the terms provided for members of the Committee on  
25 October 1, 2004.
- 26 (iv) At the end of a term, a member continues to serve until a  
27 successor is appointed and qualifies.
- 28 (v) A member who is appointed after a term has begun serves only  
29 for the rest of the term and until a successor is appointed and qualifies.
- 30 (6) The Committee shall:
- 31 (i) Perform an analysis of the cost of nutrient removal from  
32 wastewater facilities;
- 33 (ii) Identify additional sources for funding the Bay Restoration  
34 Fund;

1 (iii) Make recommendations to improve the effectiveness of the Bay  
2 Restoration Fund in reducing nutrient loadings to the waters of the State;

3 (iv) Make recommendations regarding the appropriate restoration  
4 fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the  
5 financing needs of the Bay Restoration Fund;

6 [(v) In consultation with the governing body of each county:

7 1. Identify users of onsite sewage disposal systems and  
8 holding tanks; and

9 2. Make recommendations to the governing body of each  
10 county on the best method of collecting the Bay restoration fee from the users of  
11 onsite sewage disposal systems and holding tanks that do not receive water bills;

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

15 [(vii) (V) Study the availability of money from the Fund for the  
16 supplemental assistance program within the Department to provide grants to  
17 smaller, economically disadvantaged communities in the State to upgrade their  
18 wastewater collection and treatment facilities;

19 [(viii) (VI) Advise the Secretary concerning the adoption of  
20 regulations as described in subsection (k) of this section; and

21 [(ix) (VII) Beginning January 1, 2006, and every year thereafter,  
22 report to the Governor and, subject to § 2-1246 of the State Government Article, the  
23 General Assembly on its findings and recommendations.

24 (7) Members of the Committee:

25 (i) May not receive compensation; but

26 (ii) Are entitled to reimbursement for expenses under the Standard  
27 State Travel Regulations, as provided in the State budget.

28 (8) The Department of the Environment, Department of Agriculture,  
29 Department of Planning, Department of Natural Resources, and Department of  
30 Budget and Management shall provide staff support for the Committee.

31 (k) The Department shall adopt regulations that are necessary or appropriate  
32 to carry out the provisions of this section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2006.