

**Department of Legislative Services**  
 Maryland General Assembly  
 2006 Session

**FISCAL AND POLICY NOTE**

Senate Bill 174 (Senator Stoltzfus, *et al.*)  
 Education, Health, and Environmental Affairs

**Environment - Bay Restoration Fund - Exemption**

This bill exempts users of onsite sewage disposal (septic) systems and sewage holding tanks from the bay restoration fee established by Chapter 428 of 2004. The bill repeals all provisions in that law related to septic systems and sewage holding tanks.

**Fiscal Summary**

**State Effect:** Special fund revenues would decrease by an estimated \$14.1 million in FY 2007 and \$12.0 million annually thereafter due to the repeal of the bay restoration fee applicable to users of septic systems and sewage holding tanks. Special fund expenditures for affected programs would decrease by an estimated \$5.8 million in FY 2007 (reflecting the amount included in the Governor’s proposed FY 2007 budget) and \$11.3 million annually thereafter, reflecting anticipated out-year program costs.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	(\$14.1)	(\$12.0)	(\$12.0)	(\$12.0)	(\$12.0)
SF Expenditure	(5.8)	(11.3)	(11.3)	(11.3)	(11.3)
Net Effect	(\$8.3)	(\$.7)	(\$.7)	(\$.7)	(\$.6)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Counties may realize administrative savings from a reduction in billings; associated reimbursements would no longer be provided. Counties would no longer receive any financial assistance from the Maryland Department of the Environment (MDE) for upgrading septic systems in their counties.

**Small Business Effect:** Meaningful.

## Analysis

**Current Law/Background:** Chapter 428 of 2004 established the Bay Restoration Fund to be administered by the Maryland Water Quality Financing Administration (WQFA) within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants (WWTPs) to reduce nutrient pollution to the Chesapeake Bay. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks.

The fee is \$2.50 per month (\$30 annually), for each residential dwelling that receives an individual sewer bill and for each user of a septic system or sewage holding tank that receives a water bill. For a building or group of buildings under single ownership or management that contain multiple residential dwellings that do not receive an individual sewer bill, or for a nonresidential user, Chapter 428 establishes a sliding fee scale based on the volume of wastewater generated; the fee is \$2.50 per month (\$30 annually) for each “equivalent dwelling unit” (EDU), generally 250 gallons of wastewater effluent generated daily, up to 3,000 EDUs, and \$1.25 per month (\$15 annually) for each EDU exceeding that threshold and up to 5,000 EDUs. Based on that “cap,” the maximum fee is \$120,000 annually. The maximum fee for a single site is \$120,000. The fees described above, which are to be collected through water and sewer bills, took effect January 1, 2005.

The fee for each user of a septic system or a sewage holding tank that does not receive a water bill is \$30 per year, effective October 1, 2005.

Certain users, including local governments, are exempt from the fee. Subject to approval by WQFA, a local government or a billing authority for a water or wastewater facility is authorized to establish a program to exempt a residential dwelling able to demonstrate substantial financial hardship.

After a deduction by billing authorities for administrative costs, fee revenue from WWTP users will support the issuance of bonds to provide the additional revenue needed to provide grants to WWTP owners for the upgrades. Other allowable uses of the revenue collected from WWTP users include grants for sewer infrastructure projects, grants to offset a portion of operation and maintenance costs associated with ENR technology, and administrative expenses. Of the revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account within the fund to provide grants and loans to septic system owners for upgrades of failing septic systems, while 40% must be transferred to the Maryland Agricultural Water Quality Cost Share (MACS) Program within the Maryland Department of Agriculture (MDA) to provide financial assistance to farmers for cover crops.

**State Revenues:** Special fund revenues will decrease by an estimated \$14.1 million in fiscal 2007 and \$12.0 million annually thereafter due to the repeal of the bay restoration fee applicable to users of septic systems and sewage holding tanks.

Because the bay restoration fee on users of septic systems and sewage holding tanks was just fully phased in as of October 1, 2005, a full year of fee collections have not yet accrued to the fund. Accordingly, a precise estimate of the revenue loss under the bill cannot be made. However, based on MDE's current revenue projections, once fully implemented, gross fee collections from users of septic systems and sewage holding tanks will total an estimated \$12.6 million annually; this estimate assumes that approximately 420,000 users of septic systems and sewage holding tanks statewide will pay \$30 annually. The estimate does not account for the exemption under current law applicable to local governments because the number of locally-owned septic systems is unknown.

After local administrative costs are deducted, revenues to the Bay Restoration Fund in MDE are projected to total \$7.2 million annually, and revenues to MACS in MDA are estimated to total \$4.8 million annually. Accordingly, the repeal of these fee provisions will result in a corresponding decrease in special fund revenues within these two agencies (\$12.0 million total) beginning in fiscal 2008.

MDE advises that three counties (Anne Arundel, Baltimore, and Montgomery) have not yet billed users of septic systems and sewage holding tanks that do not receive water bills. Accordingly, in fiscal 2007, those counties will be billing such users for fees due from October 1, 2005 through the billing date. As a result, gross revenues are estimated to total \$14.8 million in fiscal 2007. After local administrative costs are deducted, net revenues to MDE will total an estimated \$8.5 million in fiscal 2007, and net revenues to MDA will total an estimated \$5.6 million in fiscal 2007. Accordingly, the repeal of the fee provisions will result in a corresponding decrease in special fund revenues in fiscal 2007. (Although the bill's effective date is October 1, 2006, MDE advises that, under the bill, it is unlikely that counties would bill for just the first quarter of fiscal 2007.)

**State Expenditures:** The Governor's proposed fiscal 2007 budget includes approximately \$5.8 million in special funds related to the provisions that would be repealed under this bill. The budgeted amount reflects approximately \$970,000 for MDE (\$500,000 for grants and loans for septic system upgrades and \$470,000 in operating expenses, including costs for four existing full-time equivalent positions) and \$4.8 million for MDA's Cover Crop Program (including costs for two existing positions). Under the bill, special fund expenditures would decrease correspondingly in fiscal 2007.

Future year expenditure decreases are estimated to total approximately \$11.3 million annually (\$6.5 million for MDE and \$4.8 million for MDA), reflecting anticipated out-

year program costs that otherwise would occur. The out-year projections for MDE reflect \$6 million in annual funding for septic system upgrades, as is shown in the Governor's proposed fiscal 2007 capital budget.

MDE and MDA both advise that they would attempt to reallocate other funds to pay for the positions that are currently funded out of the Bay Restoration Fund.

**Local Fiscal Effect:** Counties may realize administrative savings from billing fewer fee payers. Under current law, billing authorities may retain up to 5% of fees collected to offset their administrative costs; based on fee projections, such costs could total approximately \$742,268 in fiscal 2007 and \$630,000 annually thereafter. Under the bill, counties would no longer be eligible to receive any grants or loans from MDE for upgrading septic systems in their counties.

**Small Business Effect:** Any small businesses that have septic systems or sewage holding tanks would no longer be subject to the bay restoration fee. The elimination of the septic grant and loan program within MDE would result in a decrease in financial assistance to any entities with septic systems, including small businesses; the Governor's proposed fiscal 2007 budget provides funding for approximately 100 septic system upgrades.

In addition, there would be less funding available for farmers to help them offset the costs of planting cover crops. According to MDA, the bay restoration fee is anticipated to support the planting of approximately 137,000 acres of cover crops each year. Legislative Services notes that, in addition to special funds from the Bay Restoration Fund, the Governor's proposed fiscal 2007 budget includes approximately \$4.5 million in general and federal funds for MDA's Cover Crop Program.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None designated, although HB 276 (Delegate Edwards, *et al.*) – Environmental Matters, is identical.

**Information Source(s):** Maryland Department of the Environment, Maryland Department of Agriculture, Comptroller's Office, Baltimore City, Prince George's County, Wicomico County, Maryland Municipal League, Department of Legislative Services

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