

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 235

(Delegate Rudolph, *et al.*)

Environmental Matters

Bay Restoration Program - On-Site Sewage Disposal Fee - County Option

This bill authorizes a county to opt out of collecting the bay restoration fee from users of onsite sewage disposal (septic) systems and sewage holding tanks. A county that chooses not to collect the fee from such users would not be eligible to receive grants or loans disbursed by the Maryland Department of the Environment (MDE) for upgrading septic systems with nutrient removal technology or for the cost difference between conventional systems and those equipped with nutrient removal technology.

Fiscal Summary

State Effect: Potential significant decrease in special fund revenues and expenditures within MDE and the Maryland Department of Agriculture (MDA), depending on the number of counties that opt out. *If all counties opt out*, special fund revenues would decrease by an estimated \$14.1 million in FY 2007 and \$12.0 million annually thereafter, and special fund expenditures 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 expenditures in the absence of the bill).

Local Effect: Counties could choose to opt out of collecting the bay restoration fee from users of septic systems and sewage holding tanks. Those that choose to do so may realize administrative savings from a reduction in billings; associated reimbursements would no longer be provided. In addition, those that opt out would no longer receive financial assistance for upgrading septic systems in their counties.

Small Business Effect: Potential 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 MDA to provide financial assistance to farmers for cover crops.

State Fiscal Effect: The extent to which this bill would affect special fund finances depends on how many counties would opt out of collecting the fee from users of septic systems and sewage holding tanks and when they would do so. The number of counties that would opt out cannot be reliably estimated at this time. Legislative Services notes that, because the bill does not specify a date by which counties would be required to opt out, fee revenue could vary from year to year, making it difficult to budget for the affected programs within MDE and MDA.

If *all counties* were to opt out of collecting the fee from users of septic systems and sewage holding tanks, special fund revenues would decrease by an estimated \$14.1 million in fiscal 2007 and \$12.0 million annually thereafter. These estimates assume that, in the absence of the bill, approximately 420,000 septic system and sewage holding tank users will pay \$30 annually in bay restoration fees. Legislative Services notes that these projections do not account for the exemption under current law applicable to local governments because the number of locally-owned septic systems is unknown. The fiscal 2007 estimate is higher than the out-year estimate because it reflects additional billings anticipated from three counties (Anne Arundel, Baltimore, and Montgomery) that will be collecting certain fees due from fiscal 2006 in fiscal 2007.

Likewise, if *all counties* were to opt out, special fund expenditures would decrease by an estimated \$5.8 million in fiscal 2007 (reflecting the amount included in the Governor's proposed fiscal 2007 budget for MDE and MDA) and \$11.3 million annually thereafter. The Governor's proposed fiscal 2007 budget includes \$970,000 in special funds for MDE's activities related to the septic program (including \$500,000 for grants and loans for septic system upgrades and \$470,000 in operating expenses). The Governor's proposed fiscal 2007 budget includes \$4.8 million in special funds for MDA's Cover Crop Program. Out-year projections reflect anticipated out-year program costs in the absence of the bill.

Local Fiscal Effect: Under this bill, counties would be given the authority to opt out of collecting the bay restoration fee from users of septic systems and sewage holding tanks. Counties that choose to do so 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 that opt out 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 in counties that opt out would no longer be subject to the bay restoration fee. If a county opts out, any septic system owner in that county, including a small

business, would no longer be eligible for financial assistance for septic system upgrades; the Governor's proposed fiscal 2007 budget provides funding for approximately 100 septic system upgrades.

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. According to MDA, the bay restoration fee is anticipated to support the planting of approximately 137,000 acres of cover crops each year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Maryland Department of Agriculture, Comptroller's Office, Kent County, Prince George's County, Washington County, Worcester County, Department of Legislative Services

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