

# HOUSE BILL 628

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Introduced and read first time: February 1, 2008

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment – Grants and Loans – Small, Minority, and**  
3 **Women’s Business Enterprises**

4 FOR the purpose of requiring applicants for certain financial assistance from certain  
5 funds to demonstrate that certain steps were taken to include certain small,  
6 minority, and women’s business enterprises; authorizing the Department of the  
7 Environment to withhold certain financial assistance under certain  
8 circumstances; requiring certain agreements for grants from a certain fund to  
9 require grantees to demonstrate that certain steps were taken to include certain  
10 small business enterprises, minority business enterprises, and women’s  
11 business enterprises; and generally relating to the small business enterprise,  
12 minority business enterprise, and women’s business enterprise participation in  
13 environmental financial assistance programs.

14 BY repealing and reenacting, with amendments,  
15 Article – Environment  
16 Section 9–345, 9–421, and 9–1605.2  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2007 Supplement)

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

21 **Article – Environment**

22 9–345.

23 (a) There is a Water Pollution Control Fund consisting of moneys made  
24 available under water quality loan authorizations or by funds appropriated in the  
25 State budget.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (b)    The Board of Public Works, upon the recommendation of the Secretary,  
2 may award financial assistance for the following types of projects:

3                   (1)    Construction of sewerage systems under §§ 9–347 and 9–348 of  
4 this subtitle;

5                   (2)    Industrial user pretreatment projects under § 9–349 of this  
6 subtitle;

7                   (3)    Best management practices to control or prevent agriculturally  
8 related nonpoint source pollution under § 9–350 of this subtitle and Title 8, Subtitle 7  
9 of the Agriculture Article; and

10                   (4)    Practices to reduce pollution from stormwater runoff in existing  
11 urbanized areas under § 9–350 of this subtitle.

12           (c)    (1)    The Secretary, with the approval of the Board of Public Works,  
13 shall adopt rules and regulations that establish application procedures and criteria for  
14 the award of financial assistance under this subtitle. The criteria shall provide the  
15 basis for project priority rankings and shall include, as appropriate:

16                           (i)    The water quality or public health impacts caused by  
17 existing circumstances;

18                           (ii)   Previous efforts expended to correct any existing problem;

19                           (iii)   Financial capacity of the applicant;

20                           (iv)   The problem prevention aspects of a proposed project;

21                           (v)    Cost effectiveness of a proposed project;

22                           (vi)   Planning requirements;

23                           (vii)   Provisions for monitoring and review; and

24                           (viii)   Measures to assure accountability for all funds awarded  
25 under this subtitle.

26                   (2)    Project priority systems shall be established. Prior to adopting  
27 rules and regulations and establishing project priority rankings under this section, the  
28 Secretary shall consult with the Secretaries of Natural Resources, Agriculture, and  
29 Business and Economic Development and the Secretary of the Department of  
30 Planning.

1           (D) FOR FINANCIAL ASSISTANCE OVER \$500,000 AWARDED UNDER THE  
2 FUND, THE APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE  
3 DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESS  
4 ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS  
5 ENTERPRISES BY:

6           (1) PLACING QUALIFIED SMALL BUSINESS ENTERPRISES,  
7 MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ON  
8 SOLICITATION LISTS;

9           (2) ASSURING THAT SMALL BUSINESS ENTERPRISES, MINORITY  
10 BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE  
11 SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

12           (3) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY  
13 FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM  
14 PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS  
15 ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;

16           (4) ESTABLISHING DELIVERY SCHEDULES, WHERE THE  
17 REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL  
18 BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S  
19 BUSINESS ENTERPRISES; AND

20           (5) USING THE SERVICES AND ASSISTANCE OF THE MARYLAND  
21 DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF  
22 MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS  
23 ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS  
24 ENTERPRISES.

25           (E) IF THE STEPS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION  
26 ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE  
27 DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

28 9-421.

29           (a) Grants and loans may be awarded to any State or local governmental  
30 entity responsible by law for the provision of water supply systems in order to finance  
31 eligible costs of those systems that are necessary to satisfy State drinking water  
32 standards and policies or to protect the public health and comfort.

33           (b) State assistance under this Part II of Subtitle 4, may not exceed 87-1/2  
34 percent of eligible costs for each project or part of a project.

1 (c) In the case of a project to be operated by a State-owned institution or  
2 facility, State financial assistance shall equal the total cost of the project less the  
3 amount of any federal grant made therefor.

4 (D) **FOR FINANCIAL ASSISTANCE OVER \$500,000 AWARDED UNDER THE**  
5 **FUND, THE APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE**  
6 **DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESS**  
7 **ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS**  
8 **ENTERPRISES BY:**

9 (1) **PLACING QUALIFIED SMALL BUSINESS ENTERPRISES,**  
10 **MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ON**  
11 **SOLICITATION LISTS;**

12 (2) **ASSURING THAT SMALL BUSINESS ENTERPRISES, MINORITY**  
13 **BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE**  
14 **SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;**

15 (3) **DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY**  
16 **FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM**  
17 **PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS**  
18 **ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;**

19 (4) **ESTABLISHING DELIVERY SCHEDULES, WHERE THE**  
20 **REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL**  
21 **BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S**  
22 **BUSINESS ENTERPRISES; AND**

23 (5) **USING THE SERVICES AND ASSISTANCE OF THE MARYLAND**  
24 **DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF**  
25 **MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS**  
26 **ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS**  
27 **ENTERPRISES.**

28 (E) **IF THE STEPS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION**  
29 **ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE**  
30 **DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.**

31 9-1605.2.

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

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

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

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

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

11 (4) There is established a Bay Restoration Fee to be paid by any user  
12 of a wastewater facility, an onsite sewage disposal system, or a holding tank that:

13 (i) Is located in the State; or

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

16 (b) (1) The Bay Restoration Fee is:

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

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

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

24 (iv) Beginning January 1, 2005, for a building or group of  
25 buildings under single ownership or management that receives a sewer bill and that  
26 contains multiple residential dwellings that do not receive an individual sewer bill or  
27 for a nonresidential user:

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

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

33 3. For each equivalent dwelling unit exceeding 5,000  
34 equivalent dwelling units, zero.

1                   (2)   (i)    For a residential dwelling that receives an individual sewer  
2 bill, a user of an onsite sewage disposal system or a holding tank that receives a water  
3 bill, a building or group of buildings under single ownership or management that  
4 receives a water and sewer bill and that contains multiple residential dwellings that  
5 do not receive an individual sewer bill, and a nonresidential user, the restoration fee  
6 shall be:

7                               1.    Stated in a separate line on the sewer or water bill, as  
8 appropriate, that is labeled "Bay Restoration Fee"; and

9                               2.    Collected for each calendar quarter, unless a local  
10 government or billing authority for a water or wastewater facility established some  
11 other billing period on or before January 1, 2004.

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

16                               B.    A county may negotiate with a municipal corporation  
17 located within the county for the municipal corporation to collect the restoration fee  
18 from onsite sewage disposal systems and holding tanks located in the municipal  
19 corporation.

20                               2.    The governing body of each county, in consultation  
21 with the Bay Restoration Fund Advisory Committee, shall determine the method and  
22 frequency of collecting the restoration fee under subsubparagraph 1 of this  
23 subparagraph.

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

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

30                               (ii)   The averaging period is:

31                                       1.    The billing period established by the local government  
32 or billing authority; or

33                                       2.    If a billing period is not established by the local  
34 government or billing authority, a quarter of a calendar year.

35                   **(5)    THE BAY RESTORATION FEE UNDER THIS SUBSECTION MAY**  
36 **NOT BE REDUCED AS LONG AS BONDS ARE OUTSTANDING.**

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

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

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

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

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

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

21 (3) The Department determines that:

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

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

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

31 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
32 the Bay Restoration Fee shall be collected by the local government or the billing  
33 authority for the water or wastewater facility, as appropriate, on behalf of the State.

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

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

3 (i) May use all of its existing procedures and authority for  
4 collecting a water or sewer bill, an onsite sewage disposal system bill, or a holding  
5 tank bill in order to enforce the collection of the Bay Restoration Fee; and

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

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

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

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

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

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

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

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

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

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

35 (ii) Money in the Fund may not revert or be transferred to the  
36 General Fund **OR A SPECIAL FUND** of the State.



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

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

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

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

13           (4) Subject to the provisions of any applicable bond resolution  
14 governing the investment of amounts in the Bay Restoration Fund, the Bay  
15 Restoration Fund shall be invested and reinvested in the same manner as other State  
16 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, (ii),  
32 and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

1 (i) Establish a separate account within the Bay Restoration  
2 Fund; and

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

5 (2) The Comptroller shall:

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

8 1. Subject to paragraph (3) of this subsection, with  
9 priority first given to failing systems and holding tanks located in the Chesapeake and  
10 Atlantic Coastal Bays Critical Area and then to failing systems that the Department  
11 determines are a threat to public health or water quality, grants or loans for up to  
12 100% of:

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

15 B. The cost difference between a conventional onsite  
16 sewage disposal system and a system that utilizes the best available technology for the  
17 removal of nitrogen; or

18 C. The cost of repairing or replacing a failing onsite  
19 sewage disposal system with a system that uses the best available technology for  
20 nitrogen removal or another wastewater treatment system; and

21 2. The reasonable costs of the Department, not to exceed  
22 8% of the funds deposited into the separate account, to:

23 A. Implement an education, outreach, and upgrade  
24 program to advise owners of onsite sewage disposal systems and holding tanks on the  
25 proper maintenance of the systems and tanks and the availability of grants and loans  
26 under item 1 of this item;

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

29 C. Issue grants or loans as provided under item 1 of this  
30 item; and

31 D. Provide technical support for owners of upgraded  
32 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded  
33 systems; and

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

4 (3) Funding for the costs identified in paragraph (2)(i)1 of this  
5 subsection shall be provided in the following order of priority:

6 (i) For owners of all levels of income, the costs identified in  
7 paragraph (2)(i)1A and B of this subsection; and

8 (ii) For low-income owners, as defined by the Department, the  
9 costs identified in paragraph (2)(i)1C of this subsection:

10 1. First, for best available technologies for nitrogen  
11 removal; and

12 2. Second, for other wastewater treatment systems.

13 (4) The Comptroller, in consultation with the Administration, may  
14 establish any other accounts and subaccounts within the Bay Restoration Fund as  
15 necessary to:

16 (i) Effectuate the purposes of this subtitle;

17 (ii) Comply with the provisions of any bond resolution;

18 (iii) Meet the requirements of any federal or State law or of any  
19 grant or award to the Bay Restoration Fund; and

20 (iv) Meet any rules or program directives established by the  
21 Secretary or the Board.

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

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

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

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

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

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

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

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

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

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

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

20                  (ix)   Subject to the **ALLOCATION OF FUNDS AND THE** conditions  
21 under subsection (h) of this section, **FOR** projects related to the removal of nitrogen  
22 from onsite sewage disposal systems and cover crop activities.

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

27                  **(4)   THE GRANT AGREEMENT SHALL REQUIRE A GRANTEE TO**  
28 **DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS**  
29 **WERE TAKEN TO INCLUDE SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS**  
30 **ENTERPRISES, AND WOMEN’S BUSINESS ENTERPRISES BY:**

31                  **(I)   PLACING QUALIFIED SMALL BUSINESS ENTERPRISES,**  
32 **MINORITY BUSINESS ENTERPRISES, AND WOMEN’S BUSINESS ENTERPRISES ON**  
33 **SOLICITATION LISTS;**

1                   (II) ASSURING THAT SMALL BUSINESS ENTERPRISES,  
2 MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE  
3 SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

4                   (III) DIVIDING TOTAL REQUIREMENTS, WHEN  
5 ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT  
6 MAXIMUM PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY  
7 BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;

8                   (IV) ESTABLISHING DELIVERY SCHEDULES, WHERE THE  
9 REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL  
10 BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S  
11 BUSINESS ENTERPRISES; AND

12                   (V) USING THE SERVICES AND ASSISTANCE OF THE  
13 MARYLAND DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE  
14 OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS  
15 ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS  
16 ENTERPRISES.

17                   (5) IF THE STEPS REQUIRED UNDER PARAGRAPH (4) OF THIS  
18 SUBSECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE  
19 DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR  
20 THE PROJECT.

21                   [(4)] (6) (i) All wastewater facilities serving Maryland users that  
22 have contributed to the Bay Restoration Fund are eligible for grants under this  
23 section, including the Blue Plains Wastewater Treatment Plant in the District of  
24 Columbia.

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

30                   [(5)] (7) Priority for funding an upgrade of a wastewater facility shall  
31 be given to enhanced nutrient removal upgrades at wastewater facilities with a design  
32 capacity of 500,000 gallons or more per day.

33                   [(6)] (8) (i) The eligibility and priority ranking of a project shall  
34 be determined by the Department based on criteria established in regulations adopted  
35 by the Department, in accordance with subsection (k) of this section.

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

3 1. The cost-effectiveness in providing water quality  
4 benefit;

5 2. The water quality benefit to a body of water identified  
6 by the Department as impaired under Section 303(d) of the Clean Water Act;

7 3. The readiness of a wastewater facility to proceed to  
8 construction; and

9 4. The nitrogen and phosphorus loads discharged by a  
10 wastewater facility.

11 [(7)] (9) A wastewater facility that has not been offered or has not  
12 received funds from the Department under this section or from any other fund in the  
13 Department may not be required to upgrade to enhanced nutrient removal levels,  
14 except as otherwise required under federal or State law.

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

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

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

19 (ii) One member of the Senate, appointed by the President of  
20 the Senate;

21 (iii) One member of the House of Delegates, appointed by the  
22 Speaker of the House of Delegates;

23 (iv) Two individuals representing publicly owned wastewater  
24 facilities, appointed by the Governor;

25 (v) Two individuals representing environmental organizations,  
26 appointed by the Governor;

27 (vi) One individual each from the Maryland Association of  
28 Counties and the Maryland Municipal League, appointed by the Governor;

29 (vii) Two individuals representing the business community,  
30 appointed by the Governor;

31 (viii) Two individuals representing local health departments who  
32 have expertise in onsite sewage disposal systems, appointed by the Governor; and

1 (ix) One individual representing a university or research  
2 institute who has expertise in nutrient pollution, appointed by the Governor.

3 (3) The Governor shall appoint the chairman of the Committee from  
4 the designated members of the Committee.

5 (4) The Committee may consult with any stakeholder group as it  
6 deems necessary.

7 (5) (i) The term of a member is 4 years.

8 (ii) A member continues to serve until a successor is appointed.

9 (iii) The terms of the members appointed by the Governor are  
10 staggered as required by the terms provided for members of the Committee on October  
11 1, 2004.

12 (iv) At the end of a term, a member continues to serve until a  
13 successor is appointed and qualifies.

14 (v) A member who is appointed after a term has begun serves  
15 only for the rest of the term and until a successor is appointed and qualifies.

16 (6) The Committee shall:

17 (i) Perform an analysis of the cost of nutrient removal from  
18 wastewater facilities;

19 (ii) Identify additional sources for funding the Bay Restoration  
20 Fund;

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

23 (iv) Make recommendations regarding the appropriate  
24 **INCREASE IN THE** restoration fee to be assessed in fiscal year 2008 and subsequent  
25 years as necessary to meet the financing needs of the Bay Restoration Fund;

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

27 1. Identify users of onsite sewage disposal systems and  
28 holding tanks; and

29 2. Make recommendations to the governing body of each  
30 county on the best method of collecting the Bay Restoration Fee from the users of  
31 onsite sewage disposal systems and holding tanks that do not receive water bills;

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

4 (vii) Study the availability of money from the Fund for the  
5 supplemental assistance program within the Department to provide grants to smaller,  
6 economically disadvantaged communities in the State to upgrade their wastewater  
7 collection and treatment facilities;

8 (viii) Advise the Secretary concerning the adoption of regulations  
9 as described in subsection (k) of this section; and

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

13 (7) Members of the Committee:

14 (i) May not receive compensation; but

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

17 (8) The Department of the Environment, Department of Agriculture,  
18 Department of Planning, Department of Natural Resources, and Department of  
19 Budget and Management shall provide staff support for the Committee.

20 (k) (1) Beginning January 1, 2009, and every year thereafter, the  
21 Department and the Department of Planning shall jointly report on the impact that a  
22 wastewater treatment facility that was upgraded to enhanced nutrient removal during  
23 the calendar year before the previous calendar year with funds from the Bay  
24 Restoration Fund had on growth within the municipality or county in which the  
25 wastewater treatment facility is located.

26 (2) (i) In preparing the report required under paragraph (1) of this  
27 subsection, the Department of the Environment and the Department of Planning  
28 shall:

29 1. Include the number of permits issued for residential  
30 and commercial development to be served by the upgraded wastewater treatment  
31 facility; and

32 2. Determine what other appropriate information is to  
33 be included in the report.

34 (ii) In determining the information that should be included in  
35 the report under subparagraph (i) of this paragraph, the Department of the  
36 Environment and the Department of Planning shall act:



1                                   1.    In consultation with the Bay Restoration Fund  
2 Advisory Committee; and

3                                   2.    With the assistance of the municipality and county in  
4 which an upgraded wastewater treatment facility is located.

5                                   (3)    The Department and the Department of Planning shall submit the  
6 report required under paragraph (1) of this subsection to the President of the Senate,  
7 the Speaker of the House, the Senate Budget and Taxation Committee, the Senate  
8 Education, Health, and Environmental Affairs Committee, the House Appropriations  
9 Committee, the House Environmental Matters Committee, and the Governor, in  
10 accordance with § 2-1246 of the State Government Article.

11                                   (1)    The Department shall adopt regulations that are necessary or  
12 appropriate to carry out the provisions of this section.

13                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2008.