

HOUSE BILL 628

M3

8lr0205

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

Introduced and read first time: February 1, 2008

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 13, 2008

CHAPTER _____

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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 9–345.

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

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

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

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

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

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

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

20 (i) The water quality or public health impacts caused by
21 existing circumstances;

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

23 (iii) Financial capacity of the applicant;

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

25 (v) Cost effectiveness of a proposed project;

26 (vi) Planning requirements;

27 (vii) Provisions for monitoring and review; and

28 (viii) Measures to assure accountability for all funds awarded
29 under this subtitle.

30 (2) Project priority systems shall be established. Prior to adopting
31 rules and regulations and establishing project priority rankings under this section, the
32 Secretary shall consult with the Secretaries of Natural Resources, Agriculture, and

1 Business and Economic Development and the Secretary of the Department of
2 Planning.

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

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

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

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

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

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

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

30 9-421.

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

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

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

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

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

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

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

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

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

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

33 9-1605.2.

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

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

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

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

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

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

15 (i) Is located in the State; or

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

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

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

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

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

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

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

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

1 3. For each equivalent dwelling unit exceeding 5,000
2 equivalent dwelling units, zero.

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

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

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

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

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

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

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

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

32 (ii) The averaging period is:

33 1. The billing period established by the local government
34 or billing authority; or

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

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

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

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

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

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

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

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

23 (3) The Department determines that:

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

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

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

33 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
34 the Bay Restoration Fee shall be collected by the local government or the billing
35 authority 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
14 calendar quarter in which the restoration fee was collected; and

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

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

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

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

27 (ii) After making the distribution required under subparagraph
28 (i) 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,
34 nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement
35 Article and shall be available in perpetuity for the purpose of providing financial
36 assistance in accordance with the provisions of this section.

1 (ii) Money in the Fund may not revert or be transferred to the
2 General Fund **OR A SPECIAL 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
10 section.

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

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

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

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

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

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

26 (1) Funds received from the restoration fee;

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

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

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

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

4 (i) Establish a separate account within the Bay Restoration
5 Fund; and

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

8 (2) The Comptroller shall:

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

11 1. Subject to paragraph (3) of this subsection, with
12 priority first given to failing systems and holding tanks located in the Chesapeake and
13 Atlantic Coastal Bays Critical Area and then to failing systems that the Department
14 determines are a threat to public health or water quality, grants or loans for up to
15 100% of:

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

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

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

24 2. The reasonable costs of the Department, not to exceed
25 8% of the funds deposited into the separate account, to:

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

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

32 C. Issue grants or loans as provided under item 1 of this
33 item; and

1 D. Provide technical support for owners of upgraded
2 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded
3 systems; and

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

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

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

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

13 1. First, for best available technologies for nitrogen
14 removal; and

15 2. Second, for other wastewater treatment systems.

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

19 (i) Effectuate the purposes of this subtitle;

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

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

23 (iv) Meet any rules or program directives established by the
24 Secretary or the Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **(4) THE GRANT AGREEMENT SHALL REQUIRE A GRANTEE TO**
32 **DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS**
33 **WERE TAKEN TO INCLUDE SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS**
34 **ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES BY:**

1 (I) **PLACING QUALIFIED SMALL BUSINESS ENTERPRISES,**
2 **MINORITY BUSINESS ENTERPRISES, AND WOMEN’S BUSINESS ENTERPRISES ON**
3 **SOLICITATION LISTS;**

4 (II) **ASSURING THAT SMALL BUSINESS ENTERPRISES,**
5 **MINORITY BUSINESS ENTERPRISES, AND WOMEN’S BUSINESS ENTERPRISES ARE**
6 **SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;**

7 (III) **DIVIDING TOTAL REQUIREMENTS, WHEN**
8 **ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT**
9 **MAXIMUM PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY**
10 **BUSINESS ENTERPRISES, AND WOMEN’S BUSINESS ENTERPRISES;**

11 (IV) **ESTABLISHING DELIVERY SCHEDULES, WHERE THE**
12 **REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL**
13 **BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN’S**
14 **BUSINESS ENTERPRISES; AND**

15 (V) **USING THE SERVICES AND ASSISTANCE OF THE**
16 **MARYLAND DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR’S OFFICE**
17 **OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS**
18 **ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN’S BUSINESS**
19 **ENTERPRISES.**

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

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

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

33 [(5)] (7) Priority for funding an upgrade of a wastewater facility shall
34 be given to enhanced nutrient removal upgrades at wastewater facilities with a design
35 capacity of 500,000 gallons or more per day.

1 **[(6)] (8)** (i) The eligibility and priority ranking of a project shall
2 be determined by the Department based on criteria established in regulations adopted
3 by the Department, in accordance with subsection (k) of this section.

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

- 6 1. The cost-effectiveness in providing water quality
7 benefit;
- 8 2. The water quality benefit to a body of water identified
9 by the Department as impaired under Section 303(d) of the Clean Water Act;
- 10 3. The readiness of a wastewater facility to proceed to
11 construction; and
- 12 4. The nitrogen and phosphorus loads discharged by a
13 wastewater facility.

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

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

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

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

22 (ii) One member of the Senate, appointed by the President of
23 the Senate;

24 (iii) One member of the House of Delegates, appointed by the
25 Speaker of the House of Delegates;

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

28 (v) Two individuals representing environmental organizations,
29 appointed by the Governor;

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

1 (vii) Two individuals representing the business community,
2 appointed by the Governor;

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

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

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

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

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

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

13 (iii) The terms of the members appointed by the Governor are
14 staggered as required by the terms provided for members of the Committee on October
15 1, 2004.

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

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

20 (6) The Committee shall:

21 (i) Perform an analysis of the cost of nutrient removal from
22 wastewater facilities;

23 (ii) Identify additional sources for funding the Bay Restoration
24 Fund;

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

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

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

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

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

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

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

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

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

18 (7) Members of the Committee:

19 (i) May not receive compensation; but

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

22 (8) The Department of the Environment, Department of Agriculture,
23 Department of Planning, Department of Natural Resources, and Department of
24 Budget and Management shall provide staff support for the Committee.

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

31 (2) (i) In preparing the report required under paragraph (1) of this
32 subsection, the Department of the Environment and the Department of Planning
33 shall:

34 1. Include the number of permits issued for residential
35 and commercial development to be served by the upgraded wastewater treatment
36 facility; and

