

# SENATE BILL 831

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CF HB 581

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By: **Senator Colburn**

Introduced and read first time: February 8, 2008

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Bay Restoration Fund – Authorized Uses of Fund**

3 FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration  
4 Fund to be used to award grants to local governments for the costs of connecting  
5 certain existing communities to sewerage systems under certain circumstances;  
6 and generally relating to the Bay Restoration Fund.

7 BY repealing and reenacting, with amendments,  
8 Article – Environment  
9 Section 9–1605.2(a), (f), (h), and (i)  
10 Annotated Code of Maryland  
11 (2007 Replacement Volume and 2007 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article – Environment  
14 Section 9–1605.2(l)  
15 Annotated Code of Maryland  
16 (2007 Replacement Volume and 2007 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 9–1605.2.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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; AND

8 (III) **USED, IN PART, TO AWARD GRANTS TO LOCAL**  
9 **GOVERNMENTS FOR THE PURPOSE OF CONNECTING SEWERAGE SYSTEMS TO**  
10 **EXISTING COMMUNITIES THAT:**

11 **1. ARE LOCATED IN THE CHESAPEAKE AND**  
12 **ATLANTIC COASTAL BAYS CRITICAL AREA; AND**

13 **2. HAVE FAILING ONSITE SEWAGE DISPOSAL**  
14 **SYSTEMS OR HOLDING TANKS.**

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

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

20 (i) Is located in the State; or

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

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

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

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

31 (i) Eligible costs of projects relating to planning, design,  
32 construction, and upgrades of wastewater facilities to achieve enhanced nutrient  
33 removal as required by the conditions of a grant agreement and a discharge permit;  
34 [and]

1                   **(II) COSTS INCURRED BY LOCAL GOVERNMENTS RELATING**  
2 **TO CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:**

3                   **1. ARE LOCATED IN THE CHESAPEAKE AND**  
4 **ATLANTIC COASTAL BAYS CRITICAL AREA; AND**

5                   **2. HAVE FAILING ONSITE SEWAGE DISPOSAL**  
6 **SYSTEMS OR HOLDING TANKS; AND**

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

26                   (i) Establish a separate account within the Bay Restoration  
27 Fund; and

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

30                   (2) The Comptroller shall:

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

1                   1.     Subject to paragraph (3) of this subsection, with  
2 priority first given to failing systems and holding tanks located in the Chesapeake and  
3 Atlantic Coastal Bays Critical Area and then to failing systems that the Department  
4 determines are a threat to public health or water quality, grants or loans for up to  
5 100% of:

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

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

11                  C.     The cost of repairing or replacing a failing onsite  
12 sewage disposal system with a system that uses the best available technology for  
13 nitrogen removal or another wastewater treatment system; [and]

14                   **2.     GRANTS TO LOCAL GOVERNMENTS FOR THE COST**  
15 **OF CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:**

16                   **A.     ARE LOCATED IN THE CHESAPEAKE AND**  
17 **ATLANTIC COASTAL BAYS CRITICAL AREA; AND**

18                   **B.     HAVE FAILING ONSITE SEWAGE DISPOSAL**  
19 **SYSTEMS OR HOLDING TANKS; AND**

20                   [2.] **3.** The reasonable costs of the Department, not to  
21 exceed 8% of the funds deposited into the separate account, to:

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

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

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

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

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

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

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

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

7                           1. First, for best available technologies for nitrogen  
8 removal; and

9                           2. Second, for other wastewater treatment systems.

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

13                   (i) Effectuate the purposes of this subtitle;

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

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

17                   (iv) Meet any rules or program directives established by the  
18 Secretary or the Board.

19           (i) (1) In this subsection, “eligible costs” means the additional costs that  
20 would be attributable to upgrading a wastewater facility from biological nutrient  
21 removal to enhanced nutrient removal, as determined by the Department.

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

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

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

32                                   2. In fiscal years 2010 and thereafter, for a portion of the  
33 operation and maintenance costs related to the enhanced nutrient removal technology,

1 which may not exceed 10% of the total restoration fee collected from users of  
2 wastewater facilities under this section by the Comptroller annually;

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

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

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

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

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

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

18 (ix) Subject to the conditions under subsection (h) of this section,  
19 projects related to the removal of nitrogen from onsite sewage disposal systems and  
20 cover crop activities; **AND**

21 **(X) TO AWARD GRANTS TO LOCAL GOVERNMENTS FOR**  
22 **COSTS RELATING TO CONNECTING SEWERAGE SYSTEMS TO EXISTING**  
23 **COMMUNITIES THAT:**

24 **1. ARE LOCATED IN THE CHESAPEAKE AND**  
25 **ATLANTIC COASTAL BAYS CRITICAL AREA; AND**

26 **2. HAVE FAILING ONSITE SEWAGE DISPOSAL**  
27 **SYSTEMS OR HOLDING TANKS.**

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

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

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

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

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

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

14 1. The cost-effectiveness in providing water quality  
15 benefit;

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

18 3. The readiness of a wastewater facility to proceed to  
19 construction; and

20 4. The nitrogen and phosphorus loads discharged by a  
21 wastewater facility.

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

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

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