

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 581

(Delegate Costa)

Environmental Matters

Education, Health, and Environmental Affairs

Environment - Bay Restoration Fund - Authorized Uses of Fund

This bill expands the uses of the Septics Account of the Bay Restoration Fund within the Maryland Department of the Environment to include providing grants or loans for up to 100% of the cost of replacing multiple on-site sewage disposal (septic) systems located in the same community with a new “community sewerage system” that is owned by a local government and that meets enhanced nutrient removal (ENR) standards. Funding may only be provided if specified conditions are met.

Fiscal Summary

State Effect: Overall finances of the Septics Account within the Bay Restoration Fund would not be affected. However, MDE’s workload and associated staffing needs could increase.

Local Effect: Although local governments could benefit from any grants or loans provided for community sewerage systems as a result of this bill, the amount of funding provided to local governments for septic system upgrades would decrease correspondingly. Although local expenditures would increase to provide sewerage service to any additional customers, it is assumed that any such increase would be offset by user fees.

Small Business Effect: Minimal direct impact.

Analysis

Bill Summary: Funding may be provided if • the environmental impact of the septic system is documented by the local government and confirmed by MDE; • it can be demonstrated that the replacement of the septic system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual septic system *or* the individual replacement of the septic system is not feasible; and • the new community sewerage system will only serve lots that have received a certificate of occupancy by October 1, 2008.

“Community sewerage system” means a publicly or privately owned sewerage system that serves at least two lots.

Current Law: Chapter 428 of 2004 established the Bay Restoration Fund within MDE. The main goal of the fund is to provide grants to wastewater treatment plant (WWTP) owners to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with ENR technology. 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.

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. Eligible costs for ENR grants include the costs attributable to upgrading a facility from biological nutrient removal to ENR. 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 (the Septics Account) within the fund to provide grants and loans to septic system owners to upgrade their septic systems and to implement an education and outreach program. The remaining 40% must be transferred to the Maryland Agricultural Water Quality Cost Share Program within the Maryland Department of Agriculture to provide financial assistance to farmers for planting cover crops. With respect to grants provided to septic system owners, statutory priority is first given to failing septic systems within the Critical Area, and second, to failing systems that MDE determines are a threat to public health or water quality.

Background: ENR upgrades of the State’s 66 major publicly owned WWTPs are currently underway. As of February 20, 2008, eight facilities are operating at ENR, and nine ENR upgrades are under construction. As of January 31, 2008, the Comptroller had

deposited approximately \$165.0 million into the Bay Restoration Fund as a result of fees collected from WWTP users. With respect to fees collected from septic system users, the Comptroller had deposited approximately \$20.1 million into MDE's Septics Account and had transferred approximately \$13.4 million to MDA's Cover Crop Program.

Based on information provided by MDE, there are approximately 420,000 septic systems and sewage holding tanks in the State. MDE administers three programs (the Water Quality State Revolving Loan Fund, the Supplemental Assistance Grant Program, and the federal Special Appropriation Projects grant) that can, in addition to other uses, provide funding to extend public sewers to areas of need.

According to MDE, a recent study in Anne Arundel County estimated that the average cost of extending sewerage to septic system communities totaled \$24,000 per unit.

State Fiscal Effect: The bill would not affect the total finances of the Septics Account within the Bay Restoration Fund. Rather, it would simply provide for another use of the account. Any funding provided for community sewerage systems would result in a commensurate decrease in the amount of funding provided for septic system upgrades.

The Governor's proposed fiscal 2009 budget includes \$6.0 million for the Septic System Upgrade Program to fund approximately 500 septic system upgrades.

Legislative Services advises that the bill does not establish a priority for the use of funds for community sewerage systems over septic system upgrades; accordingly, it appears that MDE would have some discretion as to how much funding would be redirected. However, MDE advises that it does not have any information regarding the number of community sewerage systems that would apply for funding under the bill.

Existing MDE staff administer programs for septic system upgrades and sewer extension projects. Depending on the amount of funding diverted from septic upgrades to community sewer systems, overall staffing needs within MDE could increase. Legislative Services notes that MDE's workload could also be affected to the extent the bill results in a measurable increase in grant applications. Although MDE advises that it would need one additional public health engineer to implement the bill, without any actual experience under the bill, the need for any additional staff is unclear at this time.

Additional Information

Prior Introductions: None.

Cross File: SB 831 (Senator Colburn) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Maryland Department of Planning, Department of Natural Resources, Montgomery County, Prince George’s County, Garrett County, Maryland Municipal League, Anne Arundel County, Department of Legislative Services

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