

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 305

(Howard County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

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Howard County - Enabling Legislation - Sewerage System Performance Bond  
Ho. Co. 12-08

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This bill authorizes the governing body of Howard County to require the recipient of a permit to install a multiuse sewerage system to post a performance bond with the county before installing the system.

The bill takes effect July 1, 2008.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** To the extent Howard County uses the authority provided by the bill, the county would be able to complete any installation project without using county funds in the event of a contractor default. Legislative Services notes that the county does not currently have the authority to regulate multiuse sewerage systems, but legislation has been introduced (HB 167 of 2008) to authorize the county to enact local laws regulating the installation and use of such systems.

**Small Business Effect:** Potential impact on developers or other permit recipients in Howard County only. Because the amount of any local bonding requirements would be determined in the future, the magnitude of any impact cannot be estimated at this time. It is assumed, however, that any costs would be passed on to system users.

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## Analysis

**Current Law:** A “multiuse sewerage system” is a sewerage system that serves only one lot, serves a number of individuals, has a treatment capacity of more than 5,000 gallons per day, and is not publicly owned or operated.

Multiuse sewerage systems are regulated by the Maryland Department of the Environment and subject to various requirements. Although State law does not require a performance bond, MDE is required to adopt rules and regulations to require that, before the issuance of a permit for the construction of a community or multiuse sewerage system, a financial management plan sufficient to ensure the dependable and safe operation of the system has been adopted within the county plan and approved by MDE.

Current regulations also require the owner of the proposed system to sign a financial management agreement before the issuance of such a permit. The agreement must require the owner to deposit into an escrow account funds to cover the repair or replacement of the highest-cost treatment plant unit. MDE may accept a binding financial arrangement, such as a letter of credit or other type of legal document, instead of the escrow account. The agreement may require that a separate account be established which provides sufficient funds for the initial operation and maintenance of the system. Finally, the agreement must provide that the owner establish a fund sufficient for replacement of the system 20 years after initial construction.

**Background:** According to testimony on this delegation bill from November 2007, the residents of the Villas at Cattail Creek, an active adult community in Howard County, have had a long-standing problem with the community’s multiuse sewerage system. MDE advises that the community is served by a system that consists of a treatment plant and septic system type drainfield. The system is subject to a groundwater discharge permit that established the level of treatment required prior to discharging to the drainfield. The original treatment plant was never able to meet the permit requirements. As a result, sewage from the community is pumped to an offsite location. MDE advises that it has recently issued a construction permit to build a new treatment plant. In the meantime, however, concern has been raised that the county does not have the authority to require a performance bond with respect to the installation of such systems.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Howard County, Maryland Department of the Environment, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2008  
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