

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 346 (Delegate Love, *et al.*)
Environmental Matters

Bay Restoration Fund - Nitrogen-Removing Septic Systems

This bill expands the uses of the Bay Restoration Fund within the Maryland Department of the Environment (MDE) to include costs incurred by a local government in inspecting projects related to the removal of nitrogen from onsite sewage disposal systems.

Fiscal Summary

State Effect: Special funds within the Bay Restoration Fund are diverted in part from current authorized uses to inspection activities under the bill; no impact on funding levels.

Local Effect: Potential increase in revenues due to reimbursement for costs incurred by local governments to inspect projects.

Small Business Effect: Potential minimal impact for small businesses engaged in other authorized uses of Bay Restoration Fund money.

Analysis

Current Law: Chapter 428 of 2004 established the Bay Restoration Fund, which is administered by the Water Quality Financing Administration within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants in order to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with enhanced nutrient removal (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.

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. With respect to grants provided to septic system owners, statutory priority is given first 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. Chapters 225 and 226 of 2008 expanded the uses of the Septics Account to include providing grants or loans for up to 100% of the cost of replacing multiple septic systems in the same community with a new community sewerage system that meets ENR standards and other specified conditions.

The remaining 40% of the revenue collected from users of septic systems and sewage holding tanks must be transferred to the Maryland Agricultural Water Quality Cost Share Program within the Maryland Department of Agriculture (MDA) to provide financial assistance to farmers for planting cover crops.

Background: As identified in the 2008 Annual Status Report of the Bay Restoration Fund Advisory Committee, one key challenge facing Bay Restoration Fund program implementation is the lack of funds dedicated to long-term maintenance of advanced septic systems. Upgraded units using best available technology nitrogen-removal systems require electricity and have moving parts that require regular maintenance. The report noted that the U.S. Environmental Protection Agency strongly recommends management systems be in place to ensure the long-term performance of advanced septic systems.

As of March 31, 2009, the Comptroller had deposited approximately \$219.2 million into the Bay Restoration Fund as a result of fees collected from wastewater treatment plant users. With respect to fees collected from septic system users, the Comptroller had deposited approximately \$29.5 million into MDE's Septics Account and had transferred approximately \$19.7 million to MDA's Cover Crop Program.

The fiscal 2010 budget includes \$1.0 million in special funds for the MDE Septic System Upgrade Program and approximately \$12.2 million for the MDA Cover Crop Program, which includes approximately \$10.3 million in special funds from the Bay Restoration Fund and \$1.9 million from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

State Effect: No reliable estimate can be made at this time as to the extent of the diversion of funds within the Septics Account for inspections under the bill. MDE advises that up to 500 upgraded septic systems are installed each year and that it costs on average \$200 to inspect a unit. Moreover, MDE advises that inspection of onsite sewage disposal systems has been delegated to local approving authorities – typically local health departments. However, it is unclear how many local governments may seek

reimbursement for inspections conducted or how often a unit may be inspected. *For illustrative purposes only*, if 500 units were inspected statewide each year, then approximately \$100,000 within the Bay Restoration Fund could be diverted annually for reimbursement to local governments. This represents less than 1% of Septics Account balance at the end of fiscal 2008.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Harford and Montgomery counties, Baltimore City, Department of Legislative Services

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