

SENATE BILL 20

M3
SB 967/09 – EHE

(PRE-FILED)

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By: **Senator Colburn**

Requested: August 7, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration
4 Fund to be used to pay the cost of connecting properties served by onsite sewage
5 disposal systems to certain existing municipal wastewater facilities under
6 certain circumstances; establishing certain requirements for certain funding of
7 certain costs; providing for the termination of this Act; and generally relating to
8 authorized uses of the Bay Restoration Fund.

9 BY repealing and reenacting, without amendments,
10 Article – Environment
11 Section 9–1605.2(a) and (h)(1)
12 Annotated Code of Maryland
13 (2007 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Environment
16 Section 9–1605.2(h)(2) and (3)
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2009 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**

22 9–1605.2.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

21 (i) Establish a separate account within the Bay Restoration
22 Fund; and

23 (ii) Disburse the funds as provided under paragraph (2) of this
24 subsection.

25 (2) The Comptroller shall:

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

28 1. Subject to paragraph (3) of this subsection, with
29 priority first given to failing systems and holding tanks located in the Chesapeake and
30 Atlantic Coastal Bays Critical Area and then to failing systems that the Department
31 determines are a threat to public health or water quality, grants or loans for up to
32 100% of:

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

1 B. The cost difference between a conventional onsite
2 sewage disposal system and a system that utilizes the best available technology for the
3 removal of nitrogen;

4 C. The cost of repairing or replacing a failing onsite
5 sewage disposal system with a system that uses the best available technology for
6 nitrogen removal; [or]

7 D. The cost, up to the sum of the costs authorized under
8 item 1B of this item for each individual system, of replacing multiple onsite sewage
9 disposal systems located in the same community with a new community sewerage
10 system that is owned by a local government and that meets enhanced nutrient
11 removal standards; **OR**

12 **E. THE COST, UP TO THE SUM OF THE COSTS**
13 **AUTHORIZED UNDER ITEM 1C OF THIS ITEM FOR EACH INDIVIDUAL SYSTEM, OF**
14 **CONNECTING A PROPERTY USING AN ONSITE SEWAGE DISPOSAL SYSTEM TO AN**
15 **EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS ACHIEVING ENHANCED**
16 **NUTRIENT REMOVAL LEVEL TREATMENT.**

17 2. The reasonable costs of the Department, not to exceed
18 8% of the funds deposited into the separate account, to:

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

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

25 C. Issue grants or loans as provided under item 1 of this
26 item; and

27 D. Provide technical support for owners of upgraded
28 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded
29 systems; and

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

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

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

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

3 A. First, for best available technologies for nitrogen
4 removal; and

5 B. Second, for other wastewater treatment systems.

6 (ii) Funding for the costs identified in paragraph (2)(i)1D of this
7 subsection may be provided if:

8 1. The environmental impact of the onsite sewage
9 disposal system is documented by the local government and confirmed by the
10 Department;

11 2. It can be demonstrated that:

12 A. The replacement of the onsite sewage disposal system
13 with a new community sewerage system is more cost effective for nitrogen removal
14 than upgrading each individual onsite sewage disposal system; or

15 B. The individual replacement of the onsite sewage
16 disposal system is not feasible; and

17 3. The new community sewerage system will only serve
18 lots that have received a certificate of occupancy, or equivalent certificate, on or before
19 October 1, 2008.

20 **(iii) FUNDING FOR THE COSTS IDENTIFIED IN PARAGRAPH**
21 **(2)(i)1E OF THIS SUBSECTION MAY BE PROVIDED IF:**

22 **1. THE ENVIRONMENTAL IMPACT OF THE ONSITE**
23 **SEWAGE DISPOSAL SYSTEM IS DOCUMENTED BY THE LOCAL GOVERNMENT AND**
24 **CONFIRMED BY THE DEPARTMENT;**

25 **2. IT CAN BE DEMONSTRATED THAT:**

26 **A. THE REPLACEMENT OF THE ONSITE SEWAGE**
27 **DISPOSAL SYSTEM WITH SERVICE TO AN EXISTING MUNICIPAL WASTEWATER**
28 **FACILITY THAT IS ACHIEVING ENHANCED NUTRIENT REMOVAL LEVEL**
29 **TREATMENT IS MORE COST EFFECTIVE FOR NITROGEN REMOVAL THAN**
30 **UPGRADING THE INDIVIDUAL ONSITE SEWAGE DISPOSAL SYSTEM; OR**

31 **B. THE INDIVIDUAL REPLACEMENT OF THE ONSITE**
32 **SEWAGE DISPOSAL SYSTEM IS NOT FEASIBLE;**

1 **3. THE PROJECT IS CONSISTENT WITH THE**
2 **COUNTY'S COMPREHENSIVE PLAN AND WATER AND SEWER MASTER PLAN; AND**

3 **4. THE ONSITE SEWAGE DISPOSAL SYSTEM WAS**
4 **INSTALLED AS OF OCTOBER 1, 2008, AND THE PROPERTY IT SERVES IS LOCATED**
5 **IN A PRIORITY FUNDING AREA, AS SET FORTH IN § 5-7B-02 OF THE STATE**
6 **FINANCE AND PROCUREMENT ARTICLE.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2010. It shall remain effective for a period of 5 years and, at the end of
9 September 30, 2015, with no further action required by the General Assembly, this Act
10 shall be abrogated and of no further force and effect.