

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 446
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Fees” insert “and Uses”; in line 3, strike “increasing” and substitute “altering”; strike beginning with “providing” in line 5 down through “circumstances” in line 6 and substitute “altering certain Bay Restoration Fees for certain buildings, groups of buildings, or nonresidential users beginning on a certain date; altering the manner in which the Bay Restoration Fee is calculated for certain buildings, groups of buildings, and nonresidential users; authorizing the Bay Restoration Fee to be calculated in a certain manner for a nonresidential user under certain circumstances; prohibiting a change in the manner of determining the Bay Restoration Fee that will reduce the amount of funds available for a certain purpose; requiring a local government or a certain billing authority to establish a certain hardship program, subject to approval by the Maryland Water Quality Financing Administration; establishing a maximum amount of funds that may be transferred to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture for certain activities beginning in a certain fiscal year; requiring certain funds remaining after certain distributions are made to be deposited in a certain account; requiring the Bay Restoration Fund to be used for grants to local governments for a certain purpose and in accordance with certain requirements in certain fiscal years; providing for a delayed effective date for certain provisions of this Act”; in line 7, strike “increasing”; in line 15, after “9-1605.2(b)” insert “, (d), and (i)”; and after line 17, insert:

“BY repealing and reenacting, with amendments,

Article - Environment

Section 9-1605.2(h)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

(Over)

(As enacted by Chapter 428 of the Acts of the General Assembly of 2004)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9-1605.2(b)(1)(i)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

(As enacted by Section 1 of this Act)".

AMENDMENT NO. 2

On page 2, in line 18, after "(1)" insert "**(I)**"; in lines 19, 29, and 31, strike "(i)", "(ii)", and "(iii)", respectively, and substitute "**1.**", "**2.**", and "**3.**", respectively; in line 19, strike the third bracket; in line 20, strike the bracket; in the same line, strike "USER"; in line 21, strike the brackets; in the same line, strike "\$2.50" and substitute "**\$5.00**"; strike beginning with the colon in line 21 down through "SYSTEM" in line 28; in line 30, strike "AND"; and in line 32, strike the third bracket.

On page 3, in line 1, strike "(iv) Beginning January 1, 2005, for" and substitute "**4. FOR**"; in line 5, strike "3,000" and substitute "**2,000**"; in lines 5 and 10, strike "1." and "3.", respectively, and substitute "**A.**" and "**B.**", respectively; in line 6, strike "\$2.50" and substitute "**\$5.00**"; in the same line, after "month;" insert "**AND**"; strike in their entirety lines 7 through 9, inclusive; in line 10, strike "5,000" and substitute "**2,000**"; in line 11, strike the bracket; and after line 11, insert:

"(II) FOR A NONRESIDENTIAL USER, THE BAY RESTORATION FEE MAY BE CALCULATED BASED ON AN ESTIMATE OF EQUIVALENT DWELLING UNITS OF WASTEWATER EFFLUENT GENERATED, IF THE NONRESIDENTIAL USER'S WASTEWATER BILL IS BASED ON WASTEWATER GENERATED AND NOT ON WATER USAGE."

AMENDMENT NO. 3

On page 4, in line 10, after “(5)” insert “(I)”; after line 11, insert:

“(II) ANY CHANGE IN THE MANNER OF DETERMINING THE BAY RESTORATION FEE MAY NOT REDUCE THE AMOUNT OF FUNDS AVAILABLE FOR THE PAYMENT OF OUTSTANDING BONDS.”;

and before line 12, insert:

“(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility [may] SHALL establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an onsite sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

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(4) (i) In Dorchester County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, onsite sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Dorchester County.

(5) (i) In Caroline County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, onsite sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Caroline County.

(h) (1) With regard to the funds collected under subsection [(b)(1)(i)] (B)(1)(I)1, from users of an onsite sewage disposal system or holding tank that receive a water bill, [(ii)] (I)2, and [(iii)] (I)3 of this section, beginning in fiscal year 2006, the Comptroller shall:

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

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

(2) The Comptroller shall:

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

1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and

Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

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

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

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

D. The cost, up to the sum of the costs authorized under item 1B of this item for each individual system, of replacing multiple onsite sewage disposal 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 standards; or

E. The cost, up to the sum of the costs authorized under item 1C of this item for each individual system, of connecting a property using an onsite sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal level treatment.

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

A. Implement an education, outreach, and upgrade program to advise owners of onsite sewage disposal systems and holding tanks on the

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proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

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

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

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

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

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

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

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

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

B. Second, for other wastewater treatment systems.

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

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

2. It can be demonstrated that:

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

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

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

(iii) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

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

2. It can be demonstrated that:

A. The replacement of the onsite sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced

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nutrient removal level treatment is more cost-effective for nitrogen removal than upgrading the individual onsite sewage disposal system; or

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

3. The project is consistent with the county's comprehensive plan and water and sewer master plan;

4. The onsite sewage disposal system was installed as of October 1, 2008, and the property the system serves is located in a priority funding area, in accordance with § 5-7B-02 of the State Finance and Procurement Article; and

5. The local government has adopted a policy or procedure that will guarantee that any future connection to an existing municipal wastewater facility that is funded under paragraph (2)(i)1E of this subsection will meet all of the requirements under this subparagraph.

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

(i) Effectuate the purposes of this subtitle;

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

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

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

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

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

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

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

2. In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

3. IN FISCAL YEARS 2018 AND THEREAFTER, AFTER PAYMENT OF OUTSTANDING BONDS AND THE ALLOCATION OF FUNDS TO OTHER REQUIRED USES OF THE BAY RESTORATION FUND FOR FUNDING IN THE FOLLOWING ORDER OF PRIORITY:

A. FOR FUNDING AN UPGRADE OF A WASTEWATER FACILITY TO ENHANCED NUTRIENT REMOVAL AT WASTEWATER FACILITIES WITH A DESIGN CAPACITY OF 500,000 GALLONS OR MORE PER DAY;

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B. FOR FUNDING FOR THE MOST COST-EFFECTIVE ENHANCED NUTRIENT REMOVAL UPGRADES AT WASTEWATER FACILITIES WITH A DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY;

C. FOR COSTS IDENTIFIED UNDER SUBSECTION (H)(2)(I)1 OF THIS SECTION; AND

D. WITH RESPECT TO A LOCAL GOVERNMENT THAT HAS ENACTED AND IMPLEMENTED A SYSTEM OF CHARGES UNDER § 4-204 OF THIS ARTICLE TO FULLY FUND THE IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM, FOR GRANTS TO THE LOCAL GOVERNMENT FOR A PORTION OF THE COSTS OF THE MOST COST-EFFECTIVE AND EFFICIENT STORMWATER CONTROL MEASURES, AS DETERMINED AND APPROVED BY THE DEPARTMENT, FROM THE RESTORATION FEES COLLECTED ANNUALLY BY THE COMPTROLLER FROM USERS OF WASTEWATER FACILITIES UNDER THIS SECTION;

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

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

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

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

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

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

(ix) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities.

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

(4) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

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(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Minority Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(5) If the steps required under paragraph (4) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 4

On page 4, in lines 12 and 13, strike “this Act shall take effect July 1, 2012” and substitute “the Laws of Maryland read as follows:”

Article – Environment

9-1605.2.

(b) (1) (i) Beginning on [July 1, 2012] JULY 1, 2030, the Bay Restoration Fee is:

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1. For each residential dwelling that receives an individual sewer bill and each user of an onsite sewage disposal system or a holding tank that receives a water bill, [\$5.00] **\$2.50** per month;

2. For each user of an onsite sewage disposal system that does not receive a water bill, [\$60] **\$30** per year;

3. For each user of a sewage holding tank that does not receive a water bill, [\$60] **\$30** per year; and

4. For a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

A. For each equivalent dwelling unit not exceeding [2,000] **3,000** equivalent dwelling units, [\$5.00] **\$2.50** per month; [and]

B. FOR EACH EQUIVALENT DWELLING UNIT EXCEEDING 3,000 EQUIVALENT DWELLING UNITS AND NOT EXCEEDING 5,000 EQUIVALENT DWELLING UNITS, \$1.25 PER MONTH; AND

[B.]C. For each equivalent dwelling unit exceeding [2,000] **5,000** equivalent dwelling units, zero.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2012.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2030”.