

# HOUSE BILL 11

M3

(4lr0046)

## ENROLLED BILL

— *Environmental Matters/Education, Health, and Environmental Affairs* —

Introduced by **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

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 pay certain debt issued by a local government for the cost of connecting  
5 properties served by on-site sewage disposal systems to certain existing  
6 municipal wastewater facilities under certain circumstances; altering certain  
7 conditions for certain funding of certain costs; requiring the Department of the  
8 Environment to adopt certain regulations; providing for the application of  
9 certain regulations; requiring the Department to consider certain information  
10 as a part of a certain review process; requiring certain information to be  
11 included in a certain notice for, and discussed at certain hearings on, certain  
12 projects; requiring the Department to submit a certain annual report to certain  
13 committees of the General Assembly beginning on a certain date; and generally  
14 relating to authorized uses of the Bay Restoration Fund.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,  
2 Article – Environment  
3 Section 9–1605.2(h)  
4 Annotated Code of Maryland  
5 (2007 Replacement Volume and 2013 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Environment**

9 9–1605.2.

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

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

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

17 (2) The Comptroller shall:

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

20 1. Subject to ~~paragraph (3)~~ **PARAGRAPHS (3), (4), (5),**  
21 **AND (6)** of this subsection, with priority first given to failing systems and holding  
22 tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to  
23 failing systems that the Department determines are a threat to public health or water  
24 quality, grants or loans for up to 100% of:

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

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

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

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

6 E. The cost, up to the sum of the costs authorized under  
7 item C of this item for each individual system, of connecting a property using an onsite  
8 sewage disposal system to an existing municipal wastewater facility that is achieving  
9 enhanced nutrient removal **OR BIOLOGICAL NUTRIENT REMOVAL** level treatment,  
10 **INCLUDING PAYMENT OF THE PRINCIPAL, BUT NOT INTEREST, OF DEBT ISSUED**  
11 **BY A LOCAL GOVERNMENT FOR SUCH CONNECTION COSTS; and**

12 2. The reasonable costs of the Department, not to exceed  
13 8% of the funds deposited into the separate account, to:

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

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

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

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

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

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

30 ~~I~~ **(I)** For owners of all levels of income, the costs identified  
31 in paragraph (2)(i)1A and B of this subsection; and

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

34 ~~1.~~ **1.** First, for best available technologies for nitrogen  
35 removal; and

1 ~~B. 2.~~ Second, for other wastewater treatment systems.

2 ~~(iii) (4)~~ Funding for the costs identified in paragraph (2)(i)1D  
3 of this subsection may be provided if:

4 ~~1. (I)~~ The environmental impact of the onsite sewage  
5 disposal system is documented by the local government and confirmed by the  
6 Department;

7 ~~2. (II)~~ It can be demonstrated that:

8 ~~A. 1.~~ The replacement of the onsite sewage disposal system  
9 with a new community sewerage system is more cost effective for nitrogen removal  
10 than upgrading each individual onsite sewage disposal system; or

11 ~~B. 2.~~ The individual replacement of the onsite sewage  
12 disposal system is not feasible; and

13 ~~3. (III)~~ The new community sewerage system will only  
14 serve lots that have received a certificate of occupancy, or equivalent certificate, on or  
15 before October 1, 2008.

16 ~~(iii) (5)~~ Funding for the costs identified in paragraph (2)(i)1E  
17 of this subsection may be provided only if all of the following conditions are met:

18 ~~1. (I)~~ The environmental impact of the onsite sewage  
19 disposal system is documented by the local government and confirmed by the  
20 Department;

21 ~~2. (II)~~ It can be demonstrated that:

22 ~~A. 1.~~ The replacement of the onsite sewage disposal system  
23 with service to an existing municipal wastewater facility that is achieving enhanced  
24 nutrient removal OR BIOLOGICAL NUTRIENT REMOVAL level treatment is more  
25 cost-effective for nitrogen removal than upgrading the individual onsite sewage  
26 disposal system; or

27 ~~B. 2.~~ The individual replacement of the onsite sewage  
28 disposal system is not feasible;

29 ~~3. (III)~~ The project is consistent with the county's  
30 comprehensive plan and water and sewer master plan; ~~AND~~

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

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

9                                   ~~B. 2.~~    **THE ON-SITE SEWAGE DISPOSAL SYSTEM WAS**  
 10 **INSTALLED AS OF OCTOBER 1, 2008, THE PROPERTY THE SYSTEM SERVES IS**  
 11 **NOT LOCATED IN A PRIORITY FUNDING AREA, AND THE PROJECT MEETS THE**  
 12 **REQUIREMENTS UNDER § 5-7B-06 OF THE STATE FINANCE AND**  
 13 **PROCUREMENT ARTICLE AND IS CONSISTENT WITH A PUBLIC HEALTH AREA OF**  
 14 **CONCERN ~~IDENTIFIED:~~**

15                                   A.    IDENTIFIED IN THE COUNTY WATER AND SEWER  
 16 PLAN; OR

17                                   B.    CERTIFIED BY A COUNTY ENVIRONMENTAL  
 18 HEALTH DIRECTOR WITH CONCURRENCE BY THE DEPARTMENT AND, IF  
 19 FUNDING IS APPROVED, SUBSEQUENTLY ADDED TO THE COUNTY WATER AND  
 20 SEWER PLAN WITHIN A TIME FRAME JOINTLY AGREED ON BY THE DEPARTMENT  
 21 AND THE COUNTY THAT TAKES INTO CONSIDERATION THE COUNTY'S WATER  
 22 AND SEWER PLAN UPDATE AND AMENDMENT PROCESS; AND

23                                   (V)   THE FUNDING AGREEMENT FOR A PROJECT THAT  
 24 MEETS THE CONDITIONS FOR FUNDING UNDER SUBPARAGRAPH (IV)2 OF THIS  
 25 PARAGRAPH INCLUDES PROVISIONS TO ENSURE:

26                                   1.    DENIAL OF ACCESS FOR ANY FUTURE  
 27 CONNECTIONS THAT ARE NOT INCLUDED IN THE PROJECT'S PROPOSED SERVICE  
 28 AREA; AND

29                                   2.    THAT THE PROJECT WILL NOT UNDULY IMPEDE  
 30 ACCESS TO FUNDING FOR UPGRADING INDIVIDUAL ON-SITE SEWAGE DISPOSAL  
 31 SYSTEMS IN THE COUNTY WITH BEST AVAILABLE TECHNOLOGY FOR NITROGEN  
 32 REMOVAL.

33                                   ~~(4)~~ **(6)**    The Comptroller, in consultation with the Administration, may  
 34 establish any other accounts and subaccounts within the Bay Restoration Fund as  
 35 necessary to:

- 1 (i) Effectuate the purposes of this subtitle;
- 2 (ii) Comply with the provisions of any bond resolution;
- 3 (iii) Meet the requirements of any federal or State law or of any  
4 grant or award to the Bay Restoration Fund; and
- 5 (iv) Meet any rules or program directives established by the  
6 Secretary or the Board.

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) Except as provided in subsection (c) of this section and subject to  
9 subsection (b) of this section, the Department of the Environment shall adopt  
10 regulations establishing procedures for the review and public notice of, and the  
11 opportunity to request a public hearing on, projects receiving preliminary approval for  
12 funding under § 9-1605.2(h)(5)(iv)2 of the Environment Article, as enacted by Section  
13 1 of this Act.

14 (b) (1) As a part of its review of a project receiving preliminary approval  
15 for funding under § 9-1605.2(h)(5)(iv)2 of the Environment Article, the Department  
16 shall consider:

17 (i) information about the public health issues the project  
18 addresses;

19 (ii) the potential infill development resulting from the project,  
20 as identified in the funding agreement;

21 (iii) any measures taken to mitigate the potential impacts of new  
22 growth resulting from the project; and

23 (iv) the total net nitrogen reduction resulting from the project,  
24 including a consideration of additional loading from potential new growth.

25 (2) The information considered by the Department under paragraph  
26 (1) of this subsection shall be included:

27 (i) in the public notification of the project; and

28 (ii) if a hearing is requested, discussed at the public hearing on  
29 the project.

30 (c) The regulations adopted under this section do not apply to a project:

31 (1) that will be served by an existing municipal wastewater treatment  
32 facility that is achieving enhanced nutrient removal level treatment;

1           (2) for which an application for funding from the Department ~~has been~~  
2 was submitted on or before February 15, 2014;

3           (3) that ~~has undergone~~ was the subject of a public notification ~~and~~  
4 hearing process initiated on or before February 15, 2014; ~~and~~

5           (4) ~~that has been, and~~ certified by the Department as substantially  
6 ~~meeting the public notice and hearing requirements established under this section~~  
7 addressing the considerations specified in subsection (b)(1) of this section;

8           (4) that, after February 15, 2014, was the subject of a public hearing  
9 held by the governing body for the county where the project will be installed after giving  
10 at least 2 weeks' advance notice of the hearing to the public; and

11           (5) that has been approved by a majority of the members of the  
12 governing body after the public hearing described in item (4) of this subsection.

13           SECTION 3. AND BE IT FURTHER ENACTED, That beginning December 1,  
14 2015, the Department of the Environment shall submit a report each year, in  
15 accordance with § 2-1246 of the State Government Article, to the House  
16 Environmental Matters Committee and the Senate Education, Health, and  
17 Environmental Affairs Committee, on:

18           (1) each project funded under § 9-1605.2(h)(5)(iv)2 of the Environment  
19 Article, as enacted by Section 1 of this Act; and

20           (2) a summary of any impacts that the funding used for these projects  
21 had on overall funding for upgrading individual on-site sewage disposal systems with  
22 best available technology for nitrogen removal.

23           SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
24 effect ~~October~~ June 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.