

SENATE BILL 725

M4, M3

4r1843
CF 4r0713

By: **Senators Madaleno, Montgomery, and Pinsky**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay – Nutrient Management – Poultry Fair Share Act**

3 FOR the purpose of establishing a certain chicken manure pollution fee payable to the
4 Comptroller by a certain poultry integrator in a certain manner; requiring the
5 Comptroller to transfer revenue from a certain fee to the Maryland Agriculture
6 Water Quality Cost Share Program in the Department of Agriculture for certain
7 cover crop activities; authorizing the Comptroller to distribute a certain amount
8 in an administrative account for certain purposes; repealing certain provisions
9 of law requiring the Comptroller to disburse certain funds from the Bay
10 Restoration Fund to be used for certain cover crop activities; defining certain
11 terms; and generally relating to nutrient management in the Chesapeake Bay.

12 BY adding to

13 Article – Agriculture
14 Section 8–704.3
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2013 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Environment
19 Section 9–1605.2(h), (i)(2)(ii)3. and (ix), and (j)(6)(vi)
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – Environment
24 Section 9–1605.2(j)(1)
25 Annotated Code of Maryland
26 (2007 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Agriculture**

4 **8–704.3.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “FEE” MEANS THE CHICKEN MANURE POLLUTION FEE
8 ESTABLISHED UNDER THIS SECTION.

9 (3) “POULTRY INTEGRATOR” MEANS AN ENTITY THAT
10 CONTRACTS WITH A FARMER TO RAISE POULTRY FOR THE ENTITY ON PROPERTY
11 OWNED OR LEASED BY THE FARMER.

12 (B) (1) BEGINNING OCTOBER 1, 2014, THERE IS A CHICKEN MANURE
13 POLLUTION FEE TO BE PAID TO THE COMPTROLLER BY A POULTRY
14 INTEGRATOR IN A MANNER DETERMINED BY THE COMPTROLLER.

15 (2) THE FEE IS 5 CENTS FOR EACH CHICKEN A POULTRY
16 INTEGRATOR PROVIDES TO A FARMER IN THE STATE.

17 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
18 SUBSECTION, THE COMPTROLLER SHALL TRANSFER THE REVENUE FROM THE
19 FEE TO THE MARYLAND AGRICULTURE WATER QUALITY COST SHARE
20 PROGRAM IN THE DEPARTMENT TO FUND COVER CROP ACTIVITIES ON
21 AGRICULTURAL LANDS UPON WHICH CHICKEN MANURE HAS BEEN APPLIED AS
22 FERTILIZER.

23 (2) THE COMPTROLLER MAY DISTRIBUTE TO AN
24 ADMINISTRATIVE COST ACCOUNT AN AMOUNT THAT IS NECESSARY TO
25 ADMINISTER THE FEE.

26 (D) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO
27 ADMINISTER, COLLECT, AND ENFORCE THE FEE.

28 **Article – Environment**

29 **9–1605.2.**

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

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

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

8 (2) The Comptroller shall[:

9 (i) Deposit 60% of] **DEPOSIT** the funds in the separate account
10 to be used for:

11 [1.] **(I)** Subject to paragraph (3) of this subsection, with
12 priority first given to failing systems and holding tanks located in the Chesapeake and
13 Atlantic Coastal Bays Critical Area and then to failing systems that the Department
14 determines are a threat to public health or water quality, grants or loans for up to
15 100% of:

16 [A.] **1.** The costs attributable to upgrading an onsite
17 sewage disposal system to the best available technology for the removal of nitrogen;

18 [B.] **2.** The cost difference between a conventional
19 onsite sewage disposal system and a system that utilizes the best available technology
20 for the removal of nitrogen;

21 [C.] **3.** The cost of repairing or replacing a failing
22 onsite sewage disposal system with a system that uses the best available technology
23 for nitrogen removal;

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

29 [E.] **5.** The cost, up to the sum of the costs authorized
30 under item [C] **3** of this item for each individual system, of connecting a property
31 using an onsite sewage disposal system to an existing municipal wastewater facility
32 that is achieving enhanced nutrient removal level treatment; and

33 [2.] **(II)** The reasonable costs of the Department, not to
34 exceed 8% of the funds deposited into the separate account, to:

1 [A.] 1. Implement an education, outreach, and
2 upgrade program to advise owners of onsite sewage disposal systems and holding
3 tanks on the proper maintenance of the systems and tanks and the availability of
4 grants and loans under item 1 of this item;

5 [B.] 2. Review and approve the design and
6 construction of onsite sewage disposal system or holding tank upgrades;

7 [C.] 3. Issue grants or loans as provided under item 1
8 of this item; and

9 [D.] 4. Provide technical support for owners of
10 upgraded onsite sewage disposal systems or holding tanks to operate and maintain the
11 upgraded systems[; and

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

15 (3) (i) Funding for the costs identified in paragraph [(2)(i)1] **(2)(I)**
16 of this subsection shall be provided in the following order of priority:

17 1. For owners of all levels of income, the costs identified
18 in paragraph [(2)(i)1A and B] **(2)(I)1 AND 2** of this subsection; and

19 2. For low-income owners, as defined by the
20 Department, the costs identified in paragraph [(2)(i)1C] **(2)(I)3** of this subsection:

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

23 B. Second, for other wastewater treatment systems.

24 (ii) Funding for the costs identified in paragraph [(2)(i)1D]
25 **(2)(I)4** of this subsection may be provided if:

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

29 2. It can be demonstrated that:

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

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

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

6 (iii) Funding for the costs identified in paragraph [(2)(i)1E]
7 **(2)(I)5** of this subsection may be provided only if all of the following conditions are
8 met:

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

12 2. It can be demonstrated that:

13 A. The replacement of the onsite sewage disposal system
14 with service to an existing municipal wastewater facility that is achieving enhanced
15 nutrient removal level treatment is more cost-effective for nitrogen removal than
16 upgrading the individual onsite sewage disposal system; or

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

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

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

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

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

31 (i) Effectuate the purposes of this subtitle;

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

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

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

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

4 (ii) 3. In fiscal years 2018 and thereafter, after payment of
5 outstanding bonds and the allocation of funds to other required uses of the Bay
6 Restoration Fund for funding in the following order of priority:

7 A. For funding an upgrade of a wastewater facility to
8 enhanced nutrient removal at wastewater facilities with a design capacity of 500,000
9 gallons or more per day;

10 B. For funding for the most cost-effective enhanced
11 nutrient removal upgrades at wastewater facilities with a design capacity of less than
12 500,000 gallons per day;

13 C. For costs identified under subsection [(h)(2)(i)1]
14 **(H)(2)(I)** of this section; and

15 D. With respect to a local government that has enacted
16 and implemented a system of charges under § 4-204 of this article to fully fund the
17 implementation of a stormwater management program, for grants to the local
18 government for a portion of the costs of the most cost-effective and efficient
19 stormwater control measures, as determined and approved by the Department, from
20 the restoration fees collected annually by the Comptroller from users of wastewater
21 facilities under this section;

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

25 (j) (1) There is a Bay Restoration Fund Advisory Committee.

26 (6) The Committee shall:

27 (vi) Advise the Department on the components of an education,
28 outreach, and upgrade program established within the Department under subsection
29 [(h)(2)(i)2] **(H)(2)(II)1** of this section;

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2014.