

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 90

(Delegate Lafferty)

Environment and Transportation

Education, Health, and Environmental Affairs

On-Site Sewage Disposal Systems - Operation and Maintenance Costs - Low-Income Homeowners

This bill expands the authorized uses of the Bay Restoration Fund (BRF) Septics Account to include providing financial assistance to low-income homeowners, as defined by the Maryland Department of the Environment (MDE), for up to 50% of the cost of an operation and maintenance (O&M) contract of up to five years for an on-site sewage disposal system that utilizes nitrogen removal technology. Either MDE or a local government must determine an applicant's eligibility and the level of assistance to be provided based on the average cost of such a contract provided by vendors in the applicant's area.

Fiscal Summary

State Effect: Overall finances of the BRF Septics Account are not affected. However, to the extent that the average grant amount increases as a result of the bill, fewer grants are provided. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local finances or operations. It is assumed that local governments can determine eligibility for O&M grants using existing resources.

Small Business Effect: Minimal. While the total amount of funding provided for septic system upgrades is not affected, some small businesses that manufacture, distribute, install, or maintain septic systems may realize additional maintenance contracts.

Analysis

Current Law: Chapter 428 of 2004 established BRF, which is administered by the Water Quality Financing Administration within MDE. The main goal of BRF is to provide grants to owners of wastewater treatment plants (WWTPs) to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with enhanced nutrient removal (ENR) technology. The fund is also used to support septic system upgrades and the planting of cover crops.

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, and Chapter 150 of 2012 doubled the fee for most users. The BRF statute enumerates several uses of fee revenues, including ENR upgrades of WWTPs, upgrades of septic systems to the best available technology (BAT) for nitrogen removal, and funding for Maryland Department of Agriculture (MDA) cover crop activities.

Of the BRF revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account commonly referred to as the Septics Account to provide grants and loans to septic system owners for the upgrade of their septic systems and to implement an education and outreach program. The remaining funds collected from users of septic systems and sewage holding tanks (40%) must be transferred to the Maryland Agricultural Water Quality Cost Share Program within MDA to provide financial assistance to farmers for planting cover crops.

Chapter 280 of 2009 prohibits a person from newly installing or replacing a septic system on property in the Chesapeake and Atlantic Coastal Bays Critical Area (Critical Area) unless the installed system utilizes BAT. MDE is required to assist homeowners in upgrading a septic system with money authorized for this purpose from the Septics Account if sufficient funds are available.

Priority for funding from the Septics Account is as follows: (1) failing systems in the Critical Area; and (2) other failing systems that MDE determines are a threat to public health or water quality. Septics funds can be used to cover up to 100% of (1) the cost of repairing, replacing, or upgrading a septic system to a system utilizing BAT for nitrogen removal, or the difference in cost between a new conventional system and one utilizing BAT; (2) 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; and (3) grants or loans for connecting a property served by a septic system to an ENR wastewater facility. MDE advises that five years of O&M is included in the initial grant amount provided for all residential BAT systems.

Background: According to the Comptroller’s Office, through January 31, 2016, a total of \$808.9 million in bay restoration fees collected from wastewater facility users had been deposited in MDE’s Wastewater Account. In addition, of the fee revenues collected from users of septic systems and sewage holding tanks, \$114.6 million had been deposited in MDE’s Septics Account, and \$85.1 million had been provided to MDA to support the planting of cover crops. As of December 2015, BRF has supported the installation of nearly 7,100 BAT systems, of which nearly 4,000 were completed within Maryland’s Critical Area. BRF has also supported ENR upgrades to 41 major wastewater facilities, with 21 other facilities under construction and 5 in the planning or design stages; another 4 minor facilities are expected to be upgraded with BRF funds by 2017.

State Fiscal Effect: Overall finances of the Septics Account are not affected. However, to the extent that the average grant amount increases to cover up to 50% of the cost of an O&M contract of up to five years for a BAT system, fewer septic system grants can be provided. MDE advises that it estimates the cost of a five-year O&M contract to average \$1,000, but it cannot provide a specific estimate of the number of homeowners who are, or will become, eligible for the grant funding provided by the bill. MDE also advises that, pursuant to MDE policy, five years of O&M is already funded as part of the initial grant provided for all residential BAT systems. This analysis assumes that the O&M grant established by the bill is in addition to, and does not replace, the initial five-year O&M funding already provided.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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