

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader

Senate Bill 495

(Senator Eckardt, *et al.*)

Education, Health, and Environmental Affairs

Environment and Transportation

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**Bay Restoration Fund - Use of Funds - Municipal Wastewater Facilities**

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This bill expands the authorized uses of the Bay Restoration Fund's (BRF) Septics Account to include specified costs associated with connecting a property using an on-site sewage disposal system (commonly referred to as a septic system) to an existing municipal wastewater facility that *has signed a funding agreement with the Maryland Department of the Environment (MDE) and is under construction to achieve, enhanced nutrient removal (ENR) or biological nutrient removal level treatment.* **The bill terminates September 30, 2024.**

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**Fiscal Summary**

**State Effect:** Overall finances of the BRF Septics Account are not affected; the bill merely expands the authorized uses of the account. MDE can implement the bill's changes with existing resources.

**Local Effect:** Local grant revenues and expenditures could be affected to the extent that BRF funding is provided to connect more properties to wastewater facilities instead of other authorized uses. Any such impact cannot be reliably estimated at this time.

**Small Business Effect:** Minimal overall, but potential meaningful impact on some small businesses depending on the projects that receive funding under the bill.

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## Analysis

### Current Law:

#### *Bay Restoration Fund*

Chapter 428 of 2004 established BRF, which is administered by the Water Quality Financing Administration within MDE. The primary purpose of the fund is to support upgrades to Maryland's 67 major publicly owned wastewater treatment plants with ENR technology; funds are also used for septic system upgrade grants, among other things, and Maryland Department of Agriculture's (MDA) Cover Crop Program.

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. Of the fee 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. 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.

#### *Uses of MDE's Septics Account*

The Septics Account within MDE may be used for grants or loans for up to 100% of (1) the cost of upgrading septic systems to a system using the best available technology (BAT) for the removal of nitrogen; (2) the cost difference between a conventional septic system and one that uses BAT; (3) the cost of repairing or replacing a failing septic system with one that uses BAT; (4) 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; or (5) the cost of connecting a property served by a septic system to an existing municipal wastewater facility *that is achieving* specified levels of treatment.

The Septics Account may also be used (1) for specified administrative costs for MDE (up to 8% of funds deposited) and for certain local entities (up to 10% of funds deposited); (2) to provide financial assistance to qualifying low-income homeowners for up to 50% of the cost of an operating and maintenance contract of up to five years for a BAT system; (3) to provide financial assistance (not to exceed 10% of the funds allocated to the local jurisdiction) to eligible homeowners for the reasonable cost of pumping out a septic system at least once every five years if the homeowner lives in a local jurisdiction that has developed and implemented a qualifying septic stewardship plan, among other requirements; and (4) in fiscal 2020 and 2021, to provide financial assistance to a local jurisdiction to develop a qualifying septic stewardship plan.

**Background:** According to the Comptroller's Office, through December 31, 2019, a total of \$1.2 billion 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, almost \$181.0 million had been deposited in MDE's Septics Account and \$129.2 million had been provided to MDA to support the planting of cover crops.

As of October 2019, BRF had supported ENR upgrades to 63 major wastewater facilities, with 3 other facilities under construction and 1 in the planning stage. As of July 2019, BRF had supported the installation of 10,532 BAT septic systems, of which 6,582 upgrades were completed within Maryland's Critical Areas. In addition, 515 homes had been connected to public sewerage using BRF, and BRF had supported the planting of more than three million acres of cover crops.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 1035 (Delegate Adams, *et al.*) - Environment and Transportation.

**Information Source(s):** Harford and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; Maryland Department of the Environment; Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2020  
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