

SENATE BILL 392

M3

3lr1367

By: **Senator McCray**

Introduced and read first time: February 1, 2023

Assigned to: Education, Energy, and the Environment and Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2023

CHAPTER _____

1 AN ACT concerning

2 **Wastewater Facility Supplemental Operations and Maintenance Grant Program**
3 **– Establishment**

4 FOR the purpose of establishing the Wastewater Facility Supplemental Operations and
5 Maintenance Grant Program for the purpose of providing competitive grants for
6 publicly owned wastewater facilities facing operations and maintenance challenges
7 that threaten the ~~proper functioning of a facility's enhanced nutrient removal~~
8 ~~technology~~ ability of the facility to discharge clean water and meet certain laws;
9 requiring the Maryland Water Infrastructure Financing Administration in the
10 Department of the Environment to administer the Program; and generally relating
11 to the establishment of the Wastewater Facility Supplemental Operations and
12 Maintenance Grant Program.

13 BY repealing and reenacting, without amendments,
14 Article – Environment
15 Section 9–1601(a), (b), ~~(c)~~, (r), (v) through (x), (kk), and (ll)
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2022 Supplement)

18 BY adding to
19 Article – Environment
20 Section 9–1605.5
21 Annotated Code of Maryland
22 (2014 Replacement Volume and 2022 Supplement)

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.



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

3 **Article – Environment**

4 9–1601.

5 (a) Unless the context clearly requires otherwise, in this subtitle the following
6 words have the meanings indicated.

7 (b) “Administration” means the Maryland Water Infrastructure Financing
8 Administration.

9 ~~(c) “Enhanced nutrient removal” means:~~

10 ~~(1) An enhanced nutrient removal technology that is capable of reducing~~
11 ~~the nitrogen and phosphorus concentrations in wastewater effluent to concentrations of not~~
12 ~~more than 3 milligrams per liter total nitrogen and not more than 0.3 milligrams per liter~~
13 ~~total phosphorus, as calculated on an annually averaged basis; or~~

14 ~~(2) If the Department has determined that the concentrations under item~~
15 ~~(1) of this subsection are not practicable for a wastewater facility, the lowest average annual~~
16 ~~wastewater effluent nitrogen and phosphorus concentrations that the Department~~
17 ~~determines are practicable for that facility.~~

18 (r) “Facility” means a wastewater facility or all or a portion of a water supply
19 system as defined in § 9–201(u) of this title.

20 (v) “Grant” means a grant from the Administration to a grantee.

21 (w) “Grant agreement” means a written agreement between the Administration
22 and a grantee with respect to a grant.

23 (x) “Grantee” means the grant recipient.

24 (kk) (1) “User” means any person discharging wastewater to:

25 (i) A wastewater facility that has a State discharge permit or
26 national pollutant discharge elimination system discharge permit;

27 (ii) An on-site sewage disposal system; or

28 (iii) A sewage holding tank.

29 (2) “User” does not include a person whose sole discharge is stormwater
30 under a stormwater permit.

1 (ll) (1) "Wastewater facility" means any equipment, plant, treatment works,
2 structure, machinery, apparatus, interest in land, or any combination of these, which is
3 acquired, used, constructed, or operated:

4 (i) For the storage, collection, treatment, neutralization,
5 stabilization, reduction, recycling, reclamation, separation, or disposal of wastewater;

6 (ii) To improve water conservation, reduce energy consumption, or
7 increase security; or

8 (iii) For the final disposal of residues resulting from the treatment of
9 wastewater.

10 (2) "Wastewater facility" includes:

11 (i) Treatment or disposal plants; outfall sewers, interceptor sewers,
12 and collector sewers; pumping and ventilating stations, facilities, and works; and other real
13 or personal property and appurtenances incident to their development, use, or operation;

14 (ii) Any programs and projects for managing, reducing, treating,
15 recapturing, abating, or controlling nonpoint sources of water pollution, including
16 stormwater or subsurface drainage water; and

17 (iii) Any programs and projects for improving estuarine conservation
18 and management.

19 **9-1605.5.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) "PROGRAM" MEANS THE WASTEWATER FACILITY
23 SUPPLEMENTAL OPERATIONS AND MAINTENANCE GRANT PROGRAM.

24 (3) "PUBLICLY OWNED WASTEWATER FACILITY" MEANS A
25 WASTEWATER FACILITY THAT IS OWNED BY THE STATE, A POLITICAL SUBDIVISION,
26 A MUNICIPAL CORPORATION, OR ANOTHER PUBLIC ENTITY.

27 (B) THERE IS A WASTEWATER FACILITY SUPPLEMENTAL OPERATIONS AND
28 MAINTENANCE GRANT PROGRAM.

29 (C) THE PURPOSE OF THE PROGRAM IS TO SUPPORT THE STATE'S WATER
30 QUALITY GOALS BY PROVIDING COMPETITIVE GRANTS FOR PUBLICLY OWNED
31 WASTEWATER FACILITIES FACING STAFFING SHORTAGES, MAINTENANCE
32 BACKLOGS, ~~AND OR~~ OTHER OPERATIONS AND MAINTENANCE CHALLENGES THAT
33 THREATEN THE ~~PROPER FUNCTIONING OF A FACILITY'S ENHANCED NUTRIENT~~

1 ~~REMOVAL TECHNOLOGY~~ ABILITY OF THE FACILITY TO DISCHARGE CLEAN WATER
2 AND MEET ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.

3 (D) THE ADMINISTRATION SHALL ADMINISTER THE PROGRAM.

4 (E) THE ADMINISTRATION SHALL:

5 (1) ~~USE A COMPETITIVE PROCESS TO INVITE~~ INVITE GRANT
6 PROPOSALS FROM THE OPERATORS OF PUBLIC WASTEWATER FACILITIES ~~THAT~~
7 ~~HAVE BEEN UPGRADED TO ACHIEVE ENHANCED NUTRIENT REMOVAL; AND~~

8 (2) DEVELOP AND ANNOUNCE THE CRITERIA THAT WILL BE USED TO
9 EVALUATE GRANT PROPOSALS.

10 (F) A GRANT PROPOSAL SUBMITTED UNDER THIS SECTION SHALL INCLUDE:

11 (1) A DESCRIPTION OF THE OPERATIONS AND MAINTENANCE
12 CHALLENGES FACING THE WASTEWATER FACILITY;

13 (2) AN EXPLANATION OF THE MEASURES THE WASTEWATER FACILITY
14 INTENDS TO IMPLEMENT TO ADDRESS OPERATIONS AND MAINTENANCE
15 CHALLENGES;

16 (3) A COST ESTIMATE FOR EACH PROPOSED MEASURE;

17 (4) PROPOSED METRICS FOR EVALUATING THE EFFECTIVENESS OF
18 EACH PROPOSED MEASURE;

19 (5) DEMOGRAPHIC INFORMATION REGARDING THE USERS SERVED
20 BY THE WASTEWATER FACILITY; AND

21 (6) ANY OTHER INFORMATION THE ADMINISTRATION REQUIRES.

22 (G) WHEN EVALUATING GRANT PROPOSALS UNDER THIS SECTION, THE
23 ADMINISTRATION SHALL PRIORITIZE FUNDING FOR WASTEWATER FACILITIES
24 WITH:

25 (1) AN OVERALL STAFF VACANCY RATE OR A MAINTENANCE DIVISION
26 STAFF VACANCY RATE OF 10% OR MORE BETWEEN OCTOBER 1, 2020, AND OCTOBER
27 1, 2023;

28 (2) A DESIGN FLOW OF 1,000,000 GALLONS PER DAY OR MORE; AND

1 **(3) A HIGH PROPORTION OF ~~LOW-INCOME~~ USERS WHO LIVE IN**
2 **OVERBURDENED OR UNDERSERVED COMMUNITIES AS DEFINED IN § 1-701 OF THIS**
3 **ARTICLE.**

4 **(H) SUBJECT TO THE GRANT AGREEMENT, A GRANT AWARDED UNDER THIS**
5 **SECTION MAY BE USED FOR ANY PURPOSE RELATED TO THE OPERATIONS AND**
6 **MAINTENANCE OF THE WASTEWATER FACILITY, INCLUDING MEASURES RELATED**
7 **TO:**

8 ~~**(1) THE THE RECRUITMENT AND RETENTION OF QUALIFIED**~~
9 ~~**EMPLOYEES OPERATIONS AND MAINTENANCE STAFF, SUCH AS PUBLIC OUTREACH**~~
10 ~~**EFFORTS, APPRENTICESHIPS, CONTINUING EDUCATION AND TRAINING PROGRAMS,**~~
11 ~~**RECRUITMENT BONUSES, AND SALARY ADJUSTMENTS; AND**~~

12 ~~**(2) THE OPERATION AND MAINTENANCE OF ENHANCED NUTRIENT**~~
13 ~~**REMOVAL TECHNOLOGY, SUCH AS THE IMPLEMENTATION OF PREVENTIVE**~~
14 ~~**MAINTENANCE PRACTICES, PREDICTIVE MAINTENANCE PRACTICES, AND ASSET**~~
15 ~~**MANAGEMENT SYSTEMS.**~~

16 **(I) (1) A GRANT AWARDED UNDER THIS SECTION SHALL BE IN AN**
17 **AMOUNT THAT IS:**

18 ~~**(1) (I) DETERMINED BY THE ADMINISTRATION, BASED ON THE**~~
19 ~~**DEMONSTRATED NEED OF THE GRANT APPLICANT; AND**~~

20 ~~**(2) (II) NOT MORE THAN \$3,000,000 PER WASTEWATER FACILITY.**~~

21 **(2) A WASTEWATER FACILITY MAY NOT BE AWARDED MORE THAN**
22 **\$6,000,000 IN GRANTS UNDER THIS SECTION DURING A 3-YEAR PERIOD.**

23 **(J) THE ADMINISTRATION SHALL INCLUDE IN EACH GRANT AGREEMENT**
24 **ENTERED INTO UNDER THIS SECTION CONDITIONS AND REQUIREMENTS SUFFICIENT**
25 **TO:**

26 **(1) ENSURE THAT GRANT FUNDS ARE USED FOR THE PURPOSES**
27 **SPECIFIED IN THE GRANT AGREEMENT; AND**

28 **(2) EVALUATE THE EFFECTIVENESS OF THE MEASURES**
29 **IMPLEMENTED IN ACCORDANCE WITH THE GRANT AGREEMENT.**

30 **(K) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, THE**
31 **GOVERNOR ~~SHALL~~ MAY INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION**
32 **OF \$10,000,000 FOR THE PROGRAM.**

1 **(L) GRANTS PROVIDED UNDER THIS SECTION ARE SUPPLEMENTAL TO AND**
 2 **NOT INTENDED TO TAKE THE PLACE OF OPERATIONS AND MAINTENANCE GRANTS**
 3 **PROVIDED UNDER THE BAY RESTORATION FUND IN ACCORDANCE WITH §**
 4 **9-1605.2(I)(2)(III) OF THIS SUBTITLE.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 6 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.