

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 392

(Senator McCray)

Education, Energy, and the Environment and  
 Budget and Taxation

Rules and Executive Nominations

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

This bill establishes the Wastewater Facility Supplemental Operations and Maintenance Grant Program – administered by the Maryland Water Infrastructure Financing Administration (MWIFA) within the Maryland Department of the Environment (MDE) – to support the State’s water quality goals by providing grants for publicly owned wastewater facilities facing staffing shortages, maintenance backlogs, or other operations and maintenance (O&M) challenges that threaten the facility’s ability to discharge clean water and meet all applicable federal, State, and local laws. The bill establishes provisions governing grant proposals, prioritization for awarding grant funding, grant agreements, and grant amounts. Subject to the grant agreement, a grant may be used for any purpose related to O&M of the wastewater facility. Beginning in fiscal 2025, the Governor may include in the annual budget bill an appropriation of \$10.0 million for the grant program.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$10.0 million annually beginning in FY 2024, under the assumptions discussed below. Potential increase in State grant revenues and expenditures (multiple fund types) beginning in FY 2024 for State agency grant recipients.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF/SF Rev.	-	-	-	-	-
GF Expenditure	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0
GF/SF Exp.	-	-	-	-	-
Net Effect	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Potential significant increase in local grant revenues and expenditures beginning in FY 2024.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** A “publicly owned wastewater facility” means a wastewater facility that is owned by the State, a political subdivision, a municipal corporation, or another public entity.

MWIFA must (1) invite grant proposals from public wastewater facility operators and (2) develop and announce the criteria that will be used to evaluate grant proposals.

A grant proposal must include (1) a description of the O&M challenges facing the facility and an explanation of measures the facility intends to implement to address such challenges; (2) a cost estimate for each proposed measure and proposed metrics for evaluating the effectiveness of each proposed measure; (3) demographic information regarding the users served by the wastewater facility; and (4) any other information the administration requires.

When evaluating grant proposals, MWIFA must prioritize funding for wastewater facilities with (1) an overall staff vacancy rate or a maintenance division staff vacancy rate of 10% or more between October 1, 2020, and October 1, 2023; (2) a design flow of at least 1.0 million gallons per day (MGD); and (3) a high proportion of users who live in overburdened or underserved communities.

MWIFA must include in each grant agreement conditions and requirements sufficient to (1) ensure that grant funds are used for the purposes specified in the grant agreement and (2) evaluate the effectiveness of the measures implemented in accordance with the grant agreement. Subject to the grant agreement, a grant awarded pursuant to the bill may be used for any purpose related to O&M of the wastewater facility, including measures related to the recruitment and retention of qualified O&M staff, as specified.

The amount of a grant award is based on demonstrated need, as determined by MWIFA, but may not be more than \$3.0 million per wastewater facility. Further, a wastewater facility may not be awarded more than \$6.0 million in grants during a three-year period.

Grants provided under the bill are supplemental to and are not intended to take the place of O&M grants provided under the Bay Restoration Fund (BRF).

## **Current Law:**

### *Maryland Water Infrastructure Financing Administration*

MWIFA was established in 1988 to provide financial assistance in the form of low-interest rate loans, grant funding, and/or loan forgiveness for, among other things, clean water and drinking water capital projects across the State. Among other things, MWIFA administers BRF.

### *Bay Restoration Fund*

*Bay Restoration Fund Wastewater Account:* Chapter 428 of 2004 established BRF. The primary purpose of the fund is to support upgrades to Maryland's 67 major publicly owned wastewater treatment plants (WWTPs) with enhanced nutrient removal (ENR) technology; funds are also used for septic system upgrade grants, among other things, and the Cover Crop Program within the Maryland Department of Agriculture (MDA). 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 (until July 1, 2030). Chapters 694 and 695 of 2021 created the Clean Water Commerce (CWC) Account within BRF. MDE is required to transfer \$20.0 million each fiscal year into the account to be used to purchase environmental outcomes to help the State achieve water quality goals.

Fee revenue generated from users of wastewater facilities is deposited into MDE's Wastewater Account. The Wastewater Account may be used for the following:

- grants for projects relating to the planning, design, construction, and upgrade of a WWTP to achieve ENR (up to 100% of eligible costs for publicly owned WWTPs, and up to 50% of eligible costs for privately owned WWTPs);
- combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations (up to 87.5% of total project costs);
- grants to certain owners of WWTPs that are operating at or above ENR levels to partially offset the cost of O&M;
- the payment of principal and interest on bonds issued for and deposited into BRF;
- to earn interest on BRF accounts;
- reasonable operating expenses to administer the account (up to 1.5% of account funds);
- reasonable administrative costs incurred by certain local governments or billing authorities, not to exceed 5% of total restoration fees collected by the local government or billing authority;

- future upgrades of WWTPs to achieve additional nutrient removal or water quality improvement;
- costs associated with the issuance of bonds;
- nitrogen reduction of septic systems in accordance with MDE’s regulations regarding septic systems;
- stormwater alternative compliance plans (up to 100% of project costs);
- beginning in fiscal 2022, transfers of \$20.0 million annually to the CWC Account to purchase environmental outcomes in support of the State’s efforts to achieve the Chesapeake Bay Total Maximum Daily Load; and
- in fiscal 2023 only, transfers to (1) the Chesapeake Bay Trust’s Urban Trees Program (\$10.0 million); (2) the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund within the Department of Natural Resources (\$2.5 million); and (3) MDA for certain tree planting activities (\$2.5 million).

*Wastewater Account Operations and Maintenance Grants*

As mentioned above, BRF Wastewater Account funding may be used for grants to certain owners of WWTPs that are operating at or above ENR levels to partially offset the cost of O&M. More specifically, up to 10% of the fees collected annually from users of wastewater facilities must be distributed to WWTP owners that are operating at or above ENR levels to partially offset the cost of O&M. MDE, in consultation with the Bay Restoration Fund Advisory Committee, allocates the base grants at the following rates:

- the minimum annual allocation per facility is \$30,000 annually for a facility with a design capacity up to 1.0 million MGD;
- for a facility with a design capacity between 1.0 and 10.0 MGD, the facility can receive \$30,000 per MGD flow design per year; and
- the maximum allocation per facility is \$300,000 per year, which applies to facilities with a design capacity of 10.0 MGD or greater.

In addition to the base grants specified above, MDE adopted a regulatory change regarding the implementation of BRF (COMAR 26.03.13), effective May 17, 2021, that allows the department to provide additional funding for WWTPs operating at or above ENR treatment level.

**State Fiscal Effect:**

*Maryland Department of the Environment – Implementation of the Wastewater Facility Supplemental Operations and Maintenance Grant Program*

Although the bill does not establish a mandated appropriation to fund the grant program,

this analysis assumes that general fund expenditures for MDE increase by \$10.0 million annually beginning in fiscal 2024 to capitalize the grant program consistent with the level of funding authorized by the bill. Since the bill is silent regarding the fund source used to capitalize the program, this analysis assumes that general funds are provided. This analysis further assumes that MDE distributes the full amount of available funding for grants each year. MDE advises that it can administer the grant program with existing staff.

### *State Agencies as Potential Grant Recipients*

To the extent any State agencies – as owners/operators of wastewater facilities – are grant recipients, State grant revenues and expenditures increase correspondingly beginning as early as fiscal 2024.

**Local Fiscal Effect:** To the extent any local governments – as owners/operators of wastewater facilities – are grant recipients, local grant revenues and expenditures increase, potentially significantly, beginning as early as fiscal 2024.

For example, Baltimore City notes that it is experiencing a 50% vacancy rate in its mechanical maintenance shop and anticipates that grant funding under the bill could help the city to secure mechanical, electrical, and instrumentation contractors to address immediate issues at the Back River and Patapsco WWTPs, as well as at more than 24 pumping stations.

**Small Business Effect:** Small businesses that offer related services and equipment for wastewater facilities may benefit from an increase in the demand for their services due to the additional funding provided under the bill. Examples could include companies that conduct ground maintenance and mechanical work or that sell parts for wastewater facilities.

**Additional Comments:** The Maryland Environmental Service (MES), which operates wastewater facilities on behalf of several State agencies and local governments, notes that in calendar 2021 and 2022, MES experienced a significant agencywide vacancy rate of 10%, which was double historical norms of 4.5%, and that many of the vacancies were in its Water and Wastewater Division. MES further notes that on a national level, there is a significant workforce shortage coupled with an aging workforce in the water and wastewater industry.

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## **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Environmental Service; Baltimore City; Montgomery County; Maryland Association of Counties; cities of College Park and Frostburg; Maryland Municipal League; Department of Budget and Management; Maryland Department of the Environment; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2023  
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