

SENATE BILL 117

M3

(PRE-FILED)

5lr1673
CF HB 131

By: **Senator Hester**

Requested: November 1, 2024

Introduced and read first time: January 8, 2025

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 16, 2025

CHAPTER _____

1 AN ACT concerning

2 **Environment – Bay Restoration Fund – Septic System Upgrade Program**

3 FOR the purpose of ~~authorizing the Department of the Environment to establish~~
4 ~~performance-based funding levels for best available nitrogen removal technologies~~
5 ~~for on-site sewage disposal systems using a certain evaluation and ranking process;~~
6 ~~requiring the Department to make certain eligible funding levels available in a~~
7 ~~certain manner;~~ altering priorities for funding the repair or replacement of certain
8 on-site sewage disposal systems; expanding certain funding eligibility criteria for
9 on-site sewage disposal systems and community sewerage systems; ~~exempting~~
10 ~~procurements by the Department of certain best available nitrogen removal~~
11 ~~technologies for on-site sewage disposal systems from certain provisions of the~~
12 ~~general procurement law;~~ and generally relating to on-site sewage disposal systems.

13 BY repealing and reenacting, ~~with~~ without amendments,

14 Article – Environment

15 ~~Section 9-1108.1 and 9-1605.2(h)(2) through (5)~~ Section 9-1605.2(a)(1) and (h)(1)

16 Annotated Code of Maryland

17 (2014 Replacement Volume and 2024 Supplement)

18 BY repealing and reenacting, ~~without~~ with amendments,

19 Article – Environment

20 ~~Section 9-1605.2(a)(1) and (h)(1)~~ 9-1605.2(h)(2) through (5)

21 Annotated Code of Maryland

22 (2014 Replacement Volume and 2024 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.



~~BY repealing and reenacting, with amendments,
Article — State Finance and Procurement
Section 11-203(a)(1)(xviii) and (xix)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)~~

~~BY adding to
Article — State Finance and Procurement
Section 11-203(a)(1)(xx)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article — State Finance and Procurement
Section 11-203(a)(2) and (3)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)~~

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

Article – Environment

~~9-1108.1.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(2) “Nitrogen removal technology” has the meaning stated in § 9-1108 of this subtitle.~~

~~(3) “On-site sewage disposal system” has the meaning stated in § 9-1108 of this subtitle.~~

~~(4) “Vendor” means a person that sells, offers for sale, or distributes on-site sewage disposal systems that utilize nitrogen removal technology.~~

~~(b) (1) In accordance with subsection (c) of this section, the Department shall evaluate and rank all best available nitrogen removal technologies for on-site sewage disposal systems to advise local governments and residents of the State of approved technologies that qualify for funding under § 9-1605.2(h)(2) of this title.~~

~~(2) THE DEPARTMENT MAY USE THE EVALUATION AND RANKING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO ESTABLISH PERFORMANCE-BASED FUNDING LEVELS FOR EACH BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGY FOR ON-SITE SEWAGE DISPOSAL SYSTEMS THAT QUALIFIES FOR FUNDING UNDER § 9-1605.2(H)(2) OF THIS TITLE.~~

1 ~~(3) The Department shall:~~

2 ~~(i) Make available the evaluation [and], ranking, AND ELIGIBLE~~
3 ~~FUNDING LEVELS of all best available nitrogen removal technologies required under this~~
4 ~~section on the Department's [Web site] WEBSITE; and~~

5 ~~(ii) Provide the evaluation [and], ranking, AND ELIGIBLE~~
6 ~~FUNDING LEVELS of all best available nitrogen removal technologies to a county,~~
7 ~~municipality, or resident of the State in any correspondence relating to approved~~
8 ~~technologies that qualify for funding under § 9-1605.2(h)(2) of this title.~~

9 ~~(e) The Department shall evaluate and rank all best available nitrogen removal~~
10 ~~technologies for on-site sewage disposal systems based on:~~

11 ~~(1) The total amount of nitrogen reduction the technology can achieve;~~

12 ~~(2) The total cost of the technology, including the estimated annual cost of~~
13 ~~operation and maintenance, including electricity costs;~~

14 ~~(3) The cost per pound of the nitrogen reduction; and~~

15 ~~(4) Any other information the Department determines is necessary.~~

16 ~~(d) Beginning June 1, 2011, and every 2 years thereafter, the Department shall~~
17 ~~request information from vendors necessary to carry out the requirements of this section.~~

18 9-1605.2.

19 (a) (1) There is a Bay Restoration Fund.

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

24 (i) Establish a separate account within the Bay Restoration Fund;
25 and

26 (ii) Disburse the funds as provided under paragraph (2) of this
27 subsection.

28 (2) The Comptroller shall:

29 (i) Deposit 60% of the funds in the separate account to be used for:

1 1. Subject to paragraphs (3), (4), (5), and (6) of this
2 subsection, with priority first given to failing systems and holding tanks located in the
3 Chesapeake and Atlantic Coastal Bays Critical Area [and then], **SECOND** to failing
4 systems that **ARE LOCATED WITHIN ~~THE WATERSHED OF A NITROGEN-IMPAIRED~~**
5 **~~BODY OF WATER, AND THIRD~~ A MARYLAND CHESAPEAKE BAY 8-DIGIT WATERSHED**
6 **THAT HAS A RELATIVE EFFECTIVENESS FOR TOTAL NITROGEN REDUCTION OF 9.24**
7 **OR HIGHER BASED ON THE CHESAPEAKE BAY WATERSHED MODEL, THIRD TO**
8 **FAILING SYSTEMS THAT ARE LOCATED WITHIN THE 500-YEAR FLOODPLAIN, AND**
9 **FOURTH TO FAILING SYSTEMS THAT** the Department determines are a threat to public
10 health or water quality, grants or loans for up to 100% of:

11 A. The costs attributable to upgrading an on-site sewage
12 disposal system to the best available technology for the removal of nitrogen;

13 B. The cost difference between a conventional on-site sewage
14 disposal system and a system that utilizes the best available technology for the removal of
15 nitrogen;

16 C. The cost of repairing or replacing a failing on-site sewage
17 disposal system with a system that uses the best available technology for nitrogen removal;

18 D. The cost, up to the sum of the costs authorized under item
19 B of this item for each individual system, of replacing multiple on-site sewage disposal
20 systems located in the same community with a new community sewerage system that is
21 owned by a local government and that meets enhanced nutrient removal standards; or

22 E. The cost, up to the sum of the costs authorized under item
23 C of this item for each individual system, of connecting a property using an on-site sewage
24 disposal system to an existing municipal wastewater facility that is achieving, or has signed
25 a funding agreement with the Department and is under construction to achieve, enhanced
26 nutrient removal or biological nutrient removal level treatment, including payment of the
27 principal, but not interest, of debt issued by a local government for such connection costs;

28 2. The reasonable costs of the Department, not to exceed 8%
29 of the funds deposited into the separate account, to:

30 A. Implement an education, outreach, and upgrade program
31 to advise owners of on-site sewage disposal systems and holding tanks on the proper
32 maintenance of the systems and tanks and the availability of grants and loans under item
33 1 of this item;

34 B. Review and approve the design and construction of on-site
35 sewage disposal system or holding tank upgrades;

36 C. Issue grants or loans as provided under item 1 of this item;
37 and

1 D. Provide technical support for owners of upgraded
2 on-site sewage disposal systems or holding tanks to operate and maintain the upgraded
3 systems;

4 3. A portion of the reasonable costs of a local public entity
5 that has been delegated by the Department under § 1-301(b) of this article to administer
6 and enforce environmental laws, not to exceed 10% of the funds deposited into the separate
7 account, to implement regulations adopted by the Department for on-site sewage disposal
8 systems that utilize the best available technology for the removal of nitrogen;

9 4. Subject to paragraph (7) of this subsection, financial
10 assistance to low-income homeowners, as defined by the Department, for up to 50% of the
11 cost of an operation and maintenance contract of up to 5 years for an on-site sewage
12 disposal system that utilizes nitrogen removal technology;

13 5. Subject to paragraph (8) of this subsection, a local
14 jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost
15 of pumping out an on-site sewage disposal system, at least once every 5 years, unless a
16 more frequent pump out schedule is recommended during an inspection, not to exceed 10%
17 of the funds allocated to the local jurisdiction; and

18 6. In fiscal years 2020 and 2021, financial assistance to a
19 local jurisdiction for the development of a septic stewardship plan that meets the
20 requirements under paragraph (8)(iii)2 of this subsection; and

21 (ii) Transfer 40% of the funds to the Maryland Agriculture Water
22 Quality Cost Share Program in the Department of Agriculture in order to fund cover crop
23 activities.

24 (3) Funding for the costs identified in paragraph (2)(i)1 of this subsection
25 shall be provided in the following order of priority:

26 (i) For owners of all levels of income, the costs identified in
27 paragraph (2)(i)1A and B of this subsection; and

28 (ii) For [low-income] **LOW- AND MODERATE-INCOME** owners, as
29 defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

30 1. First, for best available technologies for nitrogen removal;
31 and

32 2. Second, for other wastewater treatment systems.

33 (4) Funding for the costs identified in paragraph (2)(i)1D of this subsection
34 may be provided if:

1 (i) The environmental impact of the on-site sewage disposal system
2 is documented by the local government and confirmed by the Department;

3 (ii) It can be demonstrated that:

4 1. The replacement of the on-site sewage disposal system
5 with a new community sewerage system is more cost effective for nitrogen removal than
6 upgrading each individual on-site sewage disposal system; or

7 2. The individual replacement of the on-site sewage disposal
8 system is not feasible; and

9 (iii) The new community sewerage system will only serve lots that
10 have received a certificate of occupancy, or equivalent certificate, [on or before October 1,
11 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE APPLICATION**
12 **FOR FUNDING IS MADE.**

13 (5) Funding for the costs identified in paragraph (2)(i)1E of this subsection
14 may be provided only if all of the following conditions are met:

15 (i) The environmental impact of the on-site sewage disposal system
16 is documented by the local government and confirmed by the Department;

17 (ii) It can be demonstrated that:

18 1. The replacement of the on-site sewage disposal system
19 with service to an existing municipal wastewater facility that is achieving, or has signed a
20 funding agreement with the Department and is under construction to achieve, enhanced
21 nutrient removal or biological nutrient removal level treatment is more cost-effective for
22 nitrogen removal than upgrading the individual on-site sewage disposal system; or

23 2. The individual replacement of the on-site sewage disposal
24 system is not feasible;

25 (iii) The project is consistent with the county's comprehensive plan
26 and water and sewer master plan;

27 (iv) 1. The on-site sewage disposal system was installed [as of
28 October 1, 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE**
29 **APPLICATION FOR FUNDING IS MADE**, and the property the system serves is located in a
30 priority funding area, in accordance with § 5-7B-02 of the State Finance and Procurement
31 Article; or

32 2. The on-site sewage disposal system was installed [as of
33 October 1, 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE**
34 **APPLICATION FOR FUNDING IS MADE**, the property the system serves is not located in a

1 priority funding area, and the project meets the requirements under § 5–7B–06 of the State
 2 Finance and Procurement Article and is consistent with a public health area of concern:

3 A. Identified in the county water and sewer plan; or

4 B. Certified by a county environmental health director with
 5 concurrence by the Department and, if funding is approved, subsequently added to the
 6 county water and sewer plan within a time frame jointly agreed on by the Department and
 7 the county that takes into consideration the county’s water and sewer plan update and
 8 amendment process; and

9 (v) The funding agreement for a project that meets the conditions for
 10 funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

11 1. Denial of access for any future connections that are not
 12 included in the project’s proposed service area; and

13 2. That the project will not unduly impede access to funding
 14 for upgrading individual on–site sewage disposal systems in the county with best available
 15 technology for nitrogen removal.

16 ~~Article State Finance and Procurement~~

17 ~~11-203.~~

18 (a) ~~Except as provided in subsection (b) of this section, this Division II does not~~
 19 ~~apply to:~~

20 (1) ~~procurement by:~~

21 (xviii) ~~the Department of Natural Resources, for negotiating or entering~~
 22 ~~into grants, agreements, or partnerships with nonprofit entities related to conservation~~
 23 ~~service opportunities; [and]~~

24 (xix) ~~the State Archives for preservation, conservation, proper care,~~
 25 ~~restoration, and transportation of fine art or decorative art that is:~~

26 1. ~~in the custody of the Commission on Artistic Property; and~~

27 2. ~~owned by or loaned to the State; AND~~

28 (xx) ~~THE DEPARTMENT OF THE ENVIRONMENT FOR BEST~~
 29 ~~AVAILABLE NITROGEN REMOVAL TECHNOLOGIES FOR ON-SITE SEWAGE DISPOSAL~~
 30 ~~SYSTEMS THAT QUALIFY FOR FUNDING UNDER § 9-1605(H)(2) OF THE~~
 31 ~~ENVIRONMENT ARTICLE, INCLUDING:~~

~~1. REQUESTING INFORMATION FROM VENDORS;~~

~~2. RANKING AND EVALUATING BEST AVAILABLE TECHNOLOGIES; AND~~

~~3. ESTABLISHING PERFORMANCE-BASED FUNDING LEVELS AS PROVIDED IN § 9-1108.1 OF THE ENVIRONMENT ARTICLE;~~

~~(2) procurement by a unit from:~~

~~(i) another unit;~~

~~(ii) a political subdivision of the State;~~

~~(iii) an agency of a political subdivision of the State;~~

~~(iv) a government, including the government of another state, of the United States, or of another country;~~

~~(v) an agency or political subdivision of a government; or~~

~~(vi) a bistate, multistate, bicounty, or multicounty governmental agency; or~~

~~(3) procurement in support of enterprise activities for the purpose of:~~

~~(i) direct resale; or~~

~~(ii) remanufacture and subsequent resale.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.