

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 964

(Dorchester County Senators)

Education, Energy, and the Environment

Environment and Transportation

Dorchester County - Well and On-Site Sewage Disposal Activities - Privatization Program

This bill authorizes the Maryland Department of the Environment (MDE), at the request of the Dorchester County government and the delegated approval authority, to establish a privatization program for the performance of any activities associated with MDE-delegated authority relating to a well or on-site sewage disposal system (a septic system) in Dorchester County. The bill establishes related duties for MDE and authorizes MDE to suspend or halt the privatization program under certain circumstances. The bill also establishes eligibility standards for program participants and related responsibilities for the delegated approval authority. MDE may adopt implementing regulations. **The bill takes effect July 1, 2025, and terminates June 30, 2028.**

Fiscal Summary

State Effect: Assuming MDE receives a request for and establishes a privatization program, general fund expenditures increase by \$96,000 in FY 2026 for contractual staff; out-years reflect inflation, ongoing costs, and the termination of contractual staff at the end of FY 2028. State revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	96,000	84,500	88,200	0	0
Net Effect	(\$96,000)	(\$84,500)	(\$88,200)	\$0	\$0

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

Local Effect: Dorchester County Health Department operations and finances may be affected, as discussed below.

Small Business Effect: Minimal overall, but potential meaningful impact on some small businesses, as discussed below.

Analysis

Bill Summary: At the request of the Dorchester County government and the delegated approval authority, MDE may establish a privatization program for the performance of any activities associated with the delegation of well or septic system authority by MDE. If MDE establishes such a privatization program, MDE must specify (1) whether the program is ongoing or of limited duration and (2) the activities associated with a well or septic system delegation of authority covered under the program. MDE must also (1) establish reporting and performance monitoring requirements, as determined appropriate; (2) conduct mandatory compliance audits on at least an annual basis; (3) consider reasonable consumer protection requirements, including fee caps and dispute resolution mechanisms; (4) require participants to carry appropriate insurance and provide financial assurances, as specified; (5) ensure that the privatization program complies with applicable procurement laws; (6) establish appropriate ethics policies, as specified; and (7) require participants to transfer related records to the delegated approval authority, at which time the records are considered public records subject to the Public Information Act.

MDE may halt or suspend the privatization program if MDE determines that the program (1) is failing to comply with any requirement established pursuant to the bill; (2) is failing to meet reporting or performance monitoring requirements established pursuant to the bill; or (3) poses a risk to public health or the environment.

In order to be eligible to participate in the program, a person must (1) be a State-licensed environmental health specialist; (2) have demonstrated satisfactory experience in the activities associated with the delegated authority covered under the program; and (3) meet any other requirements established by MDE or requested by the delegated approval authority to ensure the quality of the work performed under the privatization program.

The delegated approval authority must review and approve or disapprove any work performed by a person under a privatization program, consistent with the delegation of authority by MDE. In addition, a delegated approval authority seeking to establish a privatization program under the bill must work with MDE and the Dorchester County government to implement the program.

Current Law: In Dorchester County, the local approving authority with respect to well and septic system activities delegated by MDE is the county's health department.

Septic Systems Permitting

MDE delegates the authority to issue permits to construct and repair conventional septic systems to local approving authorities. Pursuant to current regulations, a person may not construct or attempt to construct a septic system without first obtaining a permit from

the appropriate approving authority. A person also may not alter a septic system or cause it to receive any increase in flow or change in the character of wastewater unless permitted. A person must obtain an appropriate septic system permit, well construction permit, public or private water supply system permit, or public or private sewerage permit before constructing or altering any structure, residence, floating home, or commercial establishment that is served or planned to be served by a septic system or a private water supply system. Local approving authorities, which are generally local health departments (LHDs), conduct inspections.

Water Well Construction Permitting

MDE's water well construction program regulates the permitting and installation of water wells in the State, including for potable and nonpotable supply wells. Wells must be installed by a Maryland-licensed well driller, and the licensed well driller must obtain a well construction permit prior to drilling. MDE delegates authority to enforce the State's water well construction regulations to LHDs and other local approving authorities. Licensed well drillers apply to the local approving authority to obtain a well construction permit prior to drilling. After obtaining a permit to drill, the well driller must also submit a completion report to the approving authority. If the well is to be used as a potable water supply, a Certificate of Potability is required before the well is put into service.

Study and Report Related to Well and Septic Systems Permitting

Chapter 577 of 2023 required MDE, in consultation with the Department of Legislative Services and the University of Maryland Agriculture and Food Systems Extension Program, to study the implications of the delegation of MDE's well and septic systems permitting authority to the Maryland Department of Health. MDE was required to submit an interim report of its findings and any recommendations for legislative or administrative changes to the Governor and the General Assembly. The final report can be found [here](#).

Privatization Program for Soil Percolation Tests

MDE is authorized to establish a privatization program for performing soil percolation tests in one or more counties in the State. Qualified program participants must be a State-licensed sanitarian or a qualified professional, as specified, have demonstrated experience in working with septic systems, and meet any other requirements established by the LHD to ensure the quality of testing performed under the program. The LHD seeking to establish a privatization program must work with MDE to implement the program.

State Expenditures: Assuming MDE receives a request for and establishes a privatization program in Dorchester County, as authorized by the bill, general fund expenditures increase by \$96,043 in fiscal 2026, which accounts for the bill's July 1, 2025 effective date.

This estimate reflects the cost of hiring one contractual sanitarian to (1) develop and implement the privatization program in Dorchester County, including promulgating regulations, establishing appropriate ethics policies, and ensuring the program complies with applicable procurement laws; (2) conduct audits; (3) monitor private entities' compliance; (4) handle any complaints, disputes, and enforcement; and (5) process any necessary documentation, maintain records, and track compliance. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$88,398
Operating Expenses	<u>7,645</u>
Total FY 2026 State Expenditures	\$96,043

Future year expenditures reflect (1) a salary with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the contractual employee at the end of fiscal 2028, when the bill terminates.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Local Expenditures: To the extent a privatization program is established in Dorchester County, county health department operations are affected, but county expenditures are likely not materially affected, as discussed below.

According to the Dorchester County Planning and Zoning Department, due in large part to staffing constraints at the county health department, there have been significant delays in well and septic system activities that are delegated by MDE. MDE advises that establishing a privatization program provides an opportunity for the county to duplicate a service currently provided by the county health department. By allowing for privatization, MDE notes that the county can anticipate streamlining in the permitting and inspection processes, thus reducing delays and improving service delivery for residents and businesses.

Because the bill still requires the delegated approval authority (*i.e.*, the county health department) to review and approve or disapprove any work performed by a person under a privatization program (consistent with the delegation of authority by MDE), the health department is still involved – at least to some extent – in delegated well and septic activities conducted under the privatization program. Thus, the extent to which the establishment of a privatization program results in efficiencies and related workload reductions for the county is somewhat unclear. Ultimately, the overall effect on the workload of the county health department depends on the specifics of the privatization program established, which cannot be determined in advance. Even so, to the extent the establishment of a privatization

program results in a decrease in workload for the county health department, it is assumed that this merely allows existing staff to redirect their time and does not necessarily result in any decrease in staffing levels or associated expenditures.

Local Revenues: The Dorchester County Health Department charges fees for septic and well services, which can be found [here](#) (along with other fees that do not relate to the bill). Any effect on the county health department's fee revenues depends on the specifics of the privatization program and cannot be predicted in advance. The county health department advises, however, that it assumes that it continues to collect some fees even under a privatization program since, as the delegated approval authority, the county health department is still responsible for reviewing and approving or disapproving any work performed under the privatization program (consistent with the delegation of authority by MDE). As a result, the overall effect on fee revenues collected by the county health department cannot be determined at this time.

Small Business Effect: If a privatization program is established in Dorchester County, the bill may create meaningful opportunities for small businesses to perform delegated activities associated with well and septic systems (such as permitting and inspections) in the county.

Other small businesses may benefit to the extent well and septic system services (such as inspections) are expedited under a privatized program in the county. As noted above, the Dorchester County Planning and Zoning Department advises that there have been significant delays in well and septic system services, which have led to delays in permitting for other projects that hinge on those services (for example, building permits that require a well or septic system inspection).

Additional Information

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

Designated Cross File: HB 1124 (Dorchester County Delegation) - Environment and Transportation.

Information Source(s): Maryland Association of County Health Officers; Dorchester County; Maryland Department of the Environment; Department of Legislative Services

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