

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 117

(Senator Hester)

Education, Energy, and the Environment

Environment and Transportation

Environment - Bay Restoration Fund - Septic System Upgrade Program

This bill modifies the prioritization and eligibility for projects that receive funding from the Bay Restoration Fund's (BRF) Septics Account. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: Overall Septics Account finances are not affected; the bill merely modifies the prioritization and eligibility for projects that receive funding. The Maryland Department of the Environment (MDE) can implement the bill with existing resources.

Local Effect: Although the total amount of grant funding provided to local governments from the Septics Account is not affected, the distribution of such funding across jurisdictions may be affected. Local grant revenues and expenditures are commensurately affected. There is also an operational impact on local health departments (LHDs) that distribute block grants from MDE, as discussed below.

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

Analysis

Bill Summary/Current Law:

Bay Restoration Fund – Generally

Chapter 428 of 2004 established BRF. *Under current law and the bill*, the primary purpose of the fund is to support upgrades to Maryland's 67 major publicly owned wastewater

treatment plants (WWTP) with enhanced nutrient removal (ENR) technology; funds are also used for on-site sewage disposal system (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. Chapter 150 of 2012 doubled the fee for most users (until July 1, 2030).

Under current law and the bill, of the fee revenues collected from users of septic systems and sewage holding tanks, 60% must be deposited into the BRF Septics Account, and the remaining funds (40%) must be transferred to MDA to provide financial assistance to farmers for planting cover crops.

Bay Restoration Fund Septics Account – Uses and Priority

Authorized Uses of the Septics Account: *Under current law and the bill*, the Septics Account may be used to provide grants or loans for up to 100% of (1) the cost of upgrading septic systems to a system that uses the best available technology for nitrogen removal (BAT); (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 a wastewater facility meeting specified levels of treatment.

Under current law and the bill, 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 under certain circumstances; and (4) in fiscal 2020 and 2021, to provide financial assistance to a local jurisdiction to develop a qualifying septic stewardship plan.

Project Prioritization: *Under current law*, statutory priority for funding from the Septics Account is as follows: (1) first, for failing systems in the Chesapeake and Atlantic Coastal Bays Critical Area (Critical Area); and (2) then, for other failing systems that MDE determines are a threat to public health or water quality. *Under the bill*, statutory priority for funding from the Septics Account is as follows: (1) first, for failing systems in the Critical Area; (2) second, to failing systems that are located within a Maryland Chesapeake Bay 8-digit watershed that has a relative effectiveness for total nitrogen reduction of 9.24 or higher based on the Chesapeake Bay watershed model; (3) third, to failing systems that

are located within the 500-year floodplain; and (4) fourth, to other failing systems that MDE determines are a threat to public health or water quality.

Under current law, priority is then given to low-income owners, as defined by MDE, for the costs of repairing or replacing a failing septic system with a BAT septic system and other wastewater treatment systems. *Under the bill*, priority is then given to low- and *moderate-income* owners, as defined by MDE, for the same purposes as under current law. *Under current law and the bill*, the balance of funds in the Septics Account is then awarded by MDE to LHDs as block grants for BAT septic system upgrades.

Bay Restoration Fund Septics Account – Grant Eligibility

Under current law, there are eligibility restrictions for grant awards for septic system upgrades. Among other things, grants for the costs of replacing multiple septic systems in the same community with a new community sewerage system may only be provided if the new system will only serve lots that have received a certificate of occupancy, or equivalent certificate, by October 1, 2008. *Under the bill*, the lots served by a new system must have received a certificate of occupancy, or equivalent certificate, *at least 15 years before July 1 of the year in which the application for funding is made*.

Under current law, among other requirements, grants for the cost of connecting a property that uses a septic system to an existing WWTP that is achieving or has signed a funding agreement with MDE and is under construction to achieve, ENR or biological nutrient removal level treatment may only be issued if the septic system on the property was installed by October 1, 2008. *Under the bill*, the septic system must have been installed *at least 15 years before July 1 of the year in which the application for funding is made*.

Local Fiscal Effect: Overall grant funding for local governments from the Septics Account is unchanged under the bill, but local grant revenues and expenditures increase for some local governments and decrease for others based on the bill's changes to the priority ranking and eligibility for projects.

Additionally, the Maryland Association of County Health Officers (MACHO) notes that there is an operational impact on some LHDs, which are responsible for distributing county block grants from MDE in many counties. MACHO anticipates that there may be an increase in workload to implement the bill's changes, particularly for counties that do not currently use the Chesapeake Bay watershed model to evaluate the effectiveness of nitrogen reductions. However, the overall impacts on LHDs are anticipated to be minimal.

Additional Information

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

Designated Cross File: HB 131 (Delegate Stein, *et al.*) - Environment and Transportation.

Information Source(s): Maryland Association of County Health Officers; Baltimore, Cecil, and Frederick counties; Maryland Association of Counties; City of Annapolis; Comptroller's Office; Maryland Department of the Environment; Department of General Services; Maryland Department of Health; Department of Legislative Services

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