



## 2020 SESSION POSITION PAPER

<b>BILL:</b>	<b>HB 136 – Environment – On-Site Wastewater Services - Regulation</b>
<b>COMMITTEE:</b>	<b>Environment and Transportation Committee</b>
<b>POSITION:</b>	<b>Letter of Opposition</b>
<b>BILL ANALYSIS:</b>	<b>HB 136 would establish a new State Board of On-Site Wastewater Professionals in the Maryland Department of the Environment (MDE) that would regulate individuals who perform on-site wastewater services and establish minimum standards for on-site wastewater systems, require a county to adopt certain standards for these systems, and require the Board to take related steps to implement this new board.</b>

**POSITION RATIONALE:** The Maryland Association of County Health Officers (MACHO) **strongly opposes HB 136**. It is unnecessarily broad and seeks to regulate every aspect related to on-site sewage disposal systems which are already sufficiently regulated by MDE and local approving authorities. It creates a *substantial unfunded* financial burden on local jurisdictions by allowing adoption of regulations by an independent State Board and requires enforcement by counties. HB 136 is duplicative because it seeks to regulate professionals who are already required to be licensed by State or local licensing authorities. *HB 136 is an undue burden on some of the lowest level, low paid positions in the on-site sewage disposal industry.*

**HB 136 would create a mandate for counties to enforce regulations adopted by a State Board without funding to oversee the processes, procedures, techniques, and materials concerning the design, installation, operation and maintenance, pumping, repair, and transfer inspections, and transfer inspections for on-site wastewater systems.** The regulation of activities related to on-site systems currently lies with MDE and regulations are primarily enforced through delegation agreements with local health departments (LHDs) or other local agencies. HB 136 would give a *new State Board* the authority to adopt regulations governing all aspects of on-site wastewater disposal that counties would be required to enforce. *This broad authority would extend regulation into areas that local jurisdictions do not have the resources to effectively control.*

**Regulation of the inspection process and inspectors for real estate transfers will unnecessarily put LHDs and other government agencies in the middle of disputes and litigation concerning property transfers.** *LHDs do not engage in property transfers now.* HB 136 would give this new board the authority to set regulations for the inspection process. Many major systems in a home have a useful lifespan and it is often difficult to determine when these systems have reached the end of that lifespan. Much like a roofing system, it is impossible to determine exactly when an on-site system will reach the end of its useful life and the system will fail. If a roof has been in place for 20 years, an inspector may say the roof only has another 5 years of expected useful life but there is no way to guarantee that. It becomes a decision between the buyer and seller if the roof will be replaced before the property is transferred. *Prescriptively regulating inspections of on-site sewage systems will require systems that are not creating a public health hazard that are approaching the end of their useful life, to be unnecessarily replaced instead of leaving that decision up to the buyer and the seller.* It will put LHDs and counties, as

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Page 2

regulators, into disputes and litigation between buyers and sellers when a system does not continue to function as long as the buyer would have anticipated. The time involved in regulating these processes would be burdensome on LHDs and counties.

**Under current state law, LHDs, the Maryland Department of Health (MDH), and MDE already have the authority to order repair of a failing on-site sewage system so it is unnecessary to require replacement of a system that is nearing the end of its useful life unless the buyer and seller decide to do so before the transfer.** LHDs have observed that sellers often believe inspectors are affiliated with companies that repair on-site sewage systems and tend to fail systems on inspections because their company will benefit from the repair they are requiring. *Without required separation from inspectors and installation companies, prescriptive inspection requirements would exacerbate this concern.*

**Licensing of designers, installers, operators and maintainers, and pumbers is unnecessary and duplicative.** Many designers are licensed by the *existing* Board of Professional Engineers, Board of Licensed Environmental Health Specialists, or other licensing authority. MDE provides specific training for certain types of complex systems. Conventional trench systems require little sophisticated design work and can be done by an average citizen with review by an LHD. Installers are frequently licensed by local authorities that often require a bond for performing this type of work. We would suggest, if there is a need to license operators and maintainers, the scope of the existing board of wastewater operators could be expanded by regulation. Pumping companies are regulated by LHDs and those regulations could be modified or expanded. It seems unnecessary and burdensome to license individual pumbers. Individual pumbers are a very low skilled and low paid workforce.

*HB 136 is duplicative of authority that already lies with existing State Boards, LHDs, MDE, MDH and local governments. Expansion of the scope of regulation is not supportable without resources.*

For these reasons, the Maryland Association of County Health Officers submits this **letter of opposition for HB 136 and urges an unfavorable report**. For more information, please contact Ruth Maiorana, MACHO Executive Director at [rmaiora1@jhu.edu](mailto:rmaiora1@jhu.edu) or 410-614-6891. *This communication reflects the position of MACHO.*