



**The Maryland Department of the Environment
Secretary Serena McIlwain**

Senate Bill 682

Anne Arundel County - Community Sewerage Systems - Homeowners Association Control

Position: Support with Amendments
Committee: Education, Energy, and the Environment
Date: February 24, 2026
From: Alex Butler, Deputy Director of Government Relations

The Maryland Department of the Environment (MDE) **SUPPORTS SB 682 WITH AMENDMENTS.**

Bill Summary

Senate Bill 682 authorizes a homeowners association (HOA) to be considered a “controlling authority” with respect to certain shared facilities or community sewerage systems in Anne Arundel County. If the HOA is unable to fulfill the requirements of a controlling authority, MDE shall direct the Maryland Environmental Service (MES) to become the controlling authority, with any incurred costs to be charged to the HOA or individual lot owners.

Position Rationale

Under current law, a “controlling authority” is the legal entity responsible for the management, operation and maintenance of a wastewater treatment facility. A controlling authority may contract with a third party to handle day-to-day operations of the plant, but is ultimately responsible for any operational failures or violations.

Based on historical experiences with HOAs failing to manage shared facilities or community sewerage systems, MDE currently prohibits HOAs from being designated as controlling authorities moving forward. HOAs lack the experience, resources, and operational continuity necessary to be proper stewards of their wastewater facilities. Additionally, many wastewater facilities also possess a discharge permit which is granted to the controlling authority. MDE has concerns with granting a discharge permit to an HOA, given the significant legal and fiscal responsibilities which accompany such a permit.

Finally, when a governmental entity is a controlling authority, they are eligible for State funding to assist with repairs or upgrades to their facility. A private entity (including an HOA) is not eligible for such funding, placing more liability and fiscal responsibility on the HOA or individual lot owners. If this bill were to move forward, MDE asks for amendments that ensure a local government 'backstop' is in place to manage the facility if the HOA proves unable to meet its obligations as a controlling authority.

Accordingly, MDE asks for a **FAVORABLE WITH AMENDMENTS** report for SB 682.

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AMENDMENTS

9-1110.

[Strike the proposed subsection (d) in the bill and replace with the following]

(d) (1) THIS SUBSECTION APPLIES TO ANNE ARUNDEL COUNTY.

(2) A SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM PERMITTED UNDER A DEPARTMENT-ISSUED GROUNDWATER DISCHARGE PERMIT AND IN OPERATION PRIOR TO JANUARY 1, 2026, MAY BE MANAGED, OPERATED AND MAINTAINED BY A HOMEOWNER'S ASSOCIATION AS A CONTROLLING AUTHORITY IF:

(i) THE SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM HAS FINALIZED CONSTRUCTION, IS FULLY OPERATIONAL, AND IS IN COMPLIANCE WITH FEDERAL AND STATE LAW, AS DETERMINED BY THE DEPARTMENT, FOR AT LEAST THE PRIOR 6 MONTHS;

(ii) THE HOMEOWNER'S ASSOCIATION WILL CHARGE A MANDATORY USER ASSESSMENT FOR SEWER SERVICE IN AN AMOUNT SUFFICIENT TO ENSURE THE PROPER OPERATION OF THE TREATMENT PLANT AND DISPOSAL SYSTEM;

(iii) THE HOMEOWNER'S ASSOCIATION HAS ESTABLISHED A CAPITAL RESERVE THAT IS FUNDED TO AN AMOUNT SUFFICIENT TO COVER THE ESTIMATED COSTS OF REPAIRS OR FUTURE REPLACEMENT OF BOTH THE TREATMENT SYSTEM AND DISPOSAL SYSTEM, AS DETERMINED BY THE DEPARTMENT;

(iv) THE HOMEOWNER'S ASSOCIATION RETAINS THE SERVICES OF A MARYLAND STATE CERTIFIED OPERATOR, CERTIFIED FROM THE MARYLAND BOARD OF WATERWORKS AND WASTE SYSTEM OPERATORS;

(v) THE DEPARTMENT, ANNE ARUNDEL COUNTY, AND THE HOMEOWNER'S ASSOCIATION APPROVE THE TRANSFER OF RESPONSIBILITY AS A CONTROLLING AUTHORITY TO THE HOMEOWNERS' ASSOCIATION;

(vi) IN THE EVENT THE HOMEOWNER'S ASSOCIATION IS UNABLE TO FULFILL THE OBLIGATIONS OF A CONTROLLING AUTHORITY OR OTHERWISE ENSURE COMPLIANCE WITH FEDERAL AND STATE LAWS, AS DETERMINED BY THE DEPARTMENT, ANNE ARUNDEL COUNTY SHALL ASSUME THE ROLE OF CONTROLLING AUTHORITY; AND

(vii) THE COUNTY AND THE HOMEOWNER'S ASSOCIATION AGREE TO BE NAMED AS CO-PERMITTEES ON THE GROUNDWATER DISCHARGE PERMIT.

(3) THE APPROVAL OF THE TRANSFER OF RESPONSIBILITY OF A CONTROLLING AUTHORITY TO A HOMEOWNER'S ASSOCIATION IN PARAGRAPH (2) OF THIS SUBSECTION IS AT THE DEPARTMENT'S DISCRETION.