

Sen. Gile Written Testimony_SB0682.pdf

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Position: FAV

DAWN D. GILE
CHAIR



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401
ANNE ARUNDEL COUNTY DELEGATION

**Testimony in Support of SB 682 - Anne Arundel County - Community Sewerage Systems -
Homeowners Association Control**

Mr. Chair, Madam Vice Chair, and Members of the Senate Education, Energy, and Environment Committee:

SB 682 authorizes a homeowner's association in Anne Arundel County to manage, operate, and maintain a shared facility or community sewerage system as a controlling authority if certain conditions are met; requiring the Maryland Environmental Service to take charge of and operate the shared facility or community sewerage system under certain circumstances.

Background

Senate Bill 682 arises out of an unsettled situation in the Southern Hills subdivision concerning the subdivision's private sewage disposal facility. Southern Hills, located in Davidsonville, is a 24-lot subdivision of high-end homes that were built circa 2015 on a reclaimed surface (sand and gravel) mine.

There is no public sewer in that area and due to the condition of the reclaimed land, the soil was not suitable for the installation of individual private septic systems. The developer (Southstar Ltd. Partnership) therefore proposed a private shared sewage disposal facility. These types of private communal systems are only permitted when there is a "controlling authority," which is, and I'll paraphrase, a governmental body empowered by the county or municipality to provide for management, operation, and continuous preventive and corrective maintenance of a shared facility.

Maryland Environmental Service (MES) agreed to serve as the controlling authority for the Southern Hills system, and Southstar and MES entered into a series of agreements to finalize that relationship. The Maryland Department of the Environment (MDE) approved this arrangement, and the shared facility was constructed and commenced operation with MES as the controlling authority.

The relationship between Southstar and MES soon became troubled, and disputes arose between MES and Southstar regarding the operation of the facility. These disputes are now in litigation so I am limited in what I can say about this. Due to these operational issues, the facility was shut down by MES in July 2024, and MDE and Southstar were informed of this decision. Thereafter, the sewage was pumped out of the facility and hauled away for disposal rather than being treated on site.

On April 25, 2025, MES sent the County a letter and a certification that MES was no longer in a position to provide for the operation and maintenance at the Facility. MES also stated it was withdrawing from its role as Controlling Authority.

In late summer of 2025, the system was brought back to operation by Southstar and is currently operating, albeit not in legal compliance since there is no controlling authority.

Under current law, a shared sewage disposal may not operate without a controlling authority, which must be a governmental body. The real issue is therefore the lack of any governmental body that is willing to continue to serve, or to take on the role of, controlling authority for this shared system.

Solution

Senate Bill 682 offers a focused solution to the problems in Southern Hills. The Bill will have limited application as it only applies in Anne Arundel County and only to a shared facility in operation before January 1, 2026; the shared facility at Southern Hills is the one system that meets those criteria.

The Bill recognizes the unique financing structure set in place by the Southstar/MES covenants to finance the operation and maintenance of the shared system, which empowers the HOA to collect the necessary funds from the homeowners to operate the system.

The Bill also establishes a safety net for continued operation of the shared system in providing that MES will take over operation and maintenance of the system in the event the HOA is unable to do so. MES also has a financial backstop, in that State law requires the person ordered to fix the system (in this case, the HOA) to reimburse MES for costs incurred in the event of an MES takeover, then requires MDE to reimburse MES if the HOA fails to do so. In that instance, collection remedies against the HOA accrue to MDE for ultimate collection.

This private shared sewage disposal system is operated for, and benefits only, the residents of Southern Hills, with no public benefit to the residents (and utility fee payers) of Anne Arundel County. Authorizing the residents to operate, maintain, and control this system avoids bureaucratic pitfalls, delays, and costs and places control exactly where it should be – with the residents who will benefit from a cost-effective and environmentally safe shared sewage disposal solution.

Closing

Finally, this legislation is structured such that all parties have a right of refusal. There is nothing mandatory about this bill, and everyone - MDE, MES, and the HOA - has to agree on a path forward.

For these reasons, I respectfully request a favorable report on SB 682.

SB 682 - Community Sewerage Systems - Homeowners A

Uploaded by: Erin Dey

Position: FAV



Karen Henry, Director
2662 Riva Road, Annapolis, MD 21401
410-222-7042
pwhenr00@aacounty.org
www.dpwandyou.com

February 20, 2025

Senate Education, Energy, and the Environment Committee
2 West Miller
Senate Office Building
Annapolis, Maryland 21401

Dear Honorable Brian J. Feldman, Chair,

I am writing today to formally express my strong support for SB 682, which seeks to allow homeowners' associations to serve as the controlling authority for certain privately owned and maintained minor sewage systems. This legislation is a necessary step in ensuring that the homeowners' associations are responsible and accountable for their own minor sewage systems and does not force the County to assume a localized infrastructure liability that was never built or maintained by the County and is well outside the County's sewer service areas.

This bill is narrowly focused on one system in Anne Arundel County. The historical context of this project underscores the necessity for legislative relief. From the outset, there were significant concerns raised about its long-term sustainability, accompanied by attempts to prevent its establishment. Despite these reservations, the project proceeded with an understanding that a designated entity would handle ongoing maintenance and oversight. Now, after years of operation and ongoing disputes between private parties that have nothing to do with the County, there has been an attempt to shift responsibility and liability of the system to the County. This shift disregards the initial efforts to halt the project's implementation and imposes an unwarranted strain on local resources and utility ratepayers.

Passing SB 682 will ensure that the County is not held accountable for a private utility it never sanctioned and does not wish to control. It is a matter of basic fairness that the entities which designed, built, and committed to maintaining the privately owned plant remain the responsible parties, rather than offloading the operational and financial risks onto the County utility rate payers. This bill provides a common-sense solution to a unique administrative problem without setting a broad or disruptive precedent. For these reasons, I respectfully urge the Committee to issue a favorable report on SB 682.

Sincerely,

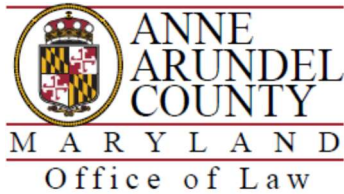
Karen Henry
Karen Henry
Director

cc: Members of the Senate Education, Energy, and the Environment Committee

Testimony SB 682.pdf

Uploaded by: Gregory Swain

Position: FAV



Gregory J. Swain, County Attorney

2660 Riva Road, 4th Floor
P.O. Box 6675
Annapolis, Maryland 21401
Phone: 410-222-7888
gregory.swain@aacounty.org

TESTIMONY ON SENATE BILL 682
Gregory J. Swain, County Attorney for Anne Arundel County

While Anne Arundel County is not a party to the various agreements between MES and the developer of Southern Hills, and is not, and never has been, the Controlling Authority for the shared sewage disposal system at issue, the County does have an interest in reaching a solution for the current stalemate.

This subdivision was approved by the County based on a statutory scheme that allowed the developer and MES to construct and maintain this shared sewage system. That scheme has fallen apart which led to several pending lawsuits, two of which include the County as a party. Underlying that legal situation are concerns over a potential environmental hazard from an improperly maintained or operated system, and the health of the residents and the habitability of the 24 homes serviced by this shared system.

Senate Bill 682 offers a focused solution to these problems.

The Bill will have limited application as it only applies in Anne Arundel County and only to a shared facility in operation before January 1, 2026; the shared facility at Southern Hills is the one system that meets those criteria.

The Bill recognizes the unique financing structure set in place by the Southstar/MES shared sewage system covenants, which are separate and apart from the standard HOA covenants. These covenants impose an assessment on each home to fund the operation and maintenance of the shared system and includes robust collection remedies, including lien rights for unpaid sewage system assessments, and a separate assessment for a sinking fund to be used for major system costs. It is extremely unlikely that the default to MES or the State bearing these costs would occur, but in any event, those remedies already exist under current law and are not established by this Bill,

This private shared sewage disposal system is operated for, and benefits only, the residents of Southern Hills, with no public benefit to the residents (and utility fee payers) of Anne Arundel County. Authorizing the residents to operate, maintain, and control this system

avoids bureaucratic pitfalls, delays, and costs and places control exactly where it should be – with the residents who will benefit from a cost-effective and environmentally safe shared sewage disposal solution.

SB 682 MES SUPPORT.pdf

Uploaded by: Jeff Tosi

Position: FAV



Wes Moore GOVERNOR

Aruna Miller LT. GOVERNOR

Charles Glass, Ph.D., P.E. EXECUTIVE DIRECTOR

February 24, 2026

The Honorable Brian Feldman, Chair
Senate Committee on Education, Energy and the Environment
2 West Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 682 – Anne Arundel County – Community Sewerage Systems – Homeowners Association Control

Dear Chair Feldman and Distinguished Members of the Committee,

The Maryland Environmental Service (MES) supports SB 682, which would create a very narrow exception to the general mandate in the Environment Article §9-1110, which generally requires that community sewerage systems or shared facilities with two or more different entities hooked up shall be managed by a government entity of some kind. The narrow exception would authorize a homeowners association (HOA) in Anne Arundel County to manage, operate and maintain a community sewerage or shared facility if the facility was in operation prior to January 1, 2026, and has been in full operational compliance for at least six months prior. To our knowledge, this exception would only apply to one community, so this will not end up in a proliferation of communities requesting this type of agreement. The bill is permissive in that all interested parties (Maryland Department of the Environment, Anne Arundel County, MES, the HOA) must sign off, meaning any one party has a right of refusal.

The HOA would also need to establish rates to cover operations and maintenance costs and a capital reserve sufficient to cover costs to replace the facility. If the HOA, after taking control of the facility, fails to fulfill the obligations of being a controlling authority and fails to comply with an MDE order, MDE would then be required to direct MES to take control of the facility. In the event that happens, any costs incurred by MES for the management, operation and maintenance of the facility shall be charged to the HOA or the individual lot owners. Should the HOA or the individual lot owners fail to reimburse MES, MES would be permitted to recover its costs under the mechanism set forth in Section 3-109 of the Natural Resources Article.

The bill, as introduced, addresses the primary concern for MES – payment for services. MES is a non-budgeted, fee-for-service independent unit of state government and cannot absorb operational obligations without a payment arrangement. By authorizing MES to recover its costs through the mechanisms set forth in NR § 3-109, the bill provides MES with assurance that it will be able to recover those costs in the event the HOA or individual lot owners fail to remit payment.

We appreciate your time and attention to this matter and we urge a favorable report.

Contact: Jeff Tosi, Director of Strategy and Government Affairs
Phone/Email: 410-729-8504 (w) | jtosi@menv.com

MDE SB 682 SWA.pdf

Uploaded by: Jeremy D Baker

Position: FWA



**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.

Contact: Alex Butler, Deputy Director of Government Relations
Phone: 443-695-7478, Email: alex.butler@maryland.gov

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.

SB682 LOO 2.20.2026.pdf

Uploaded by: Heather Moritz

Position: UNF



Affiliate of The Maryland Association of Counties, Inc.

Date: February 20, 2026
TO: Members of the Education, Energy, and the Environment Committee
FROM: Maryland Conference of Local Environmental Health Directors
RE: **SB 682–Anne Arundel County-Community Sewerage Systems-Homeowners Association Control**

The Maryland Conference of Local Environmental Health Directors (Conference) provide this letter of **Opposition** for SB 682 in their capacities as the state’s twenty-four Environmental Health Directors who carry out delegated authorities from both MDE and MDH. The Conference does not support allowing a Homeowners Association the authority to manage, operate, and maintain a shared facility or community sewerage system as a controlling authority. The concerns are as follows:

1. The only determination of “full operational compliance” needs to be the Maryland Department of the Environment. Shared facilities that are issued a Groundwater Discharge Permit have defined parameters outlined in the Permit that must be in full compliance.
2. A shared facility or a community sewerage system is a complex system usually including a package sewage treatment facility that are expensive to repair or replace. A Homeowners Association does not have enforcement authority to regulate the users of the shared facility nor the technical expertise to manage, operate and maintain a shared facility or community sewerage system.
3. Concern that a Homeowners Association has the existing or the ability to collect sufficient capital funds to repair the shared facility or community sewerage system in the case of emergency or equipment failure. If the funds do not exist to repair the shared facility, it would create a public health hazard possibly jeopardizing and contaminating drinking water wells, surface waters and the groundwater of the State. There is no requirement in this legislation that requires auditing a Homeowners Association finances to ensure they have the capability to assume the responsibility of a shared facility or have the available funds to repair a shared facility. Additionally, if the Maryland Department of the Environment had to take enforcement action and levy a fine, the Homeowners Association doesn’t have the assets or structure to pay a fine.
4. There are no assurances that the Maryland Department of the Environment can direct the Maryland Environmental Service to take charge of and operate a shared facility or community sewerage system that is transferred to a Homeowners Association as a Controlling Authority. In Anne Arundel County, a subdivision that was approved as a shared facility with the Maryland Environmental Service as the Controlling Authority being a governmental body empowered to manage, operate and maintain such shared facility, decided while under contract to no longer be the Controlling Authority. The Maryland Department of the Environment was not able to maintain the Maryland Environmental Service as the Controlling Authority. This left the individual homeowners with no Controlling Authority and with no ability to make changes to their individual properties. Therefore, there would be

- no guarantees that the Maryland Environmental Services would take the authority of a Controlling Authority.
5. Although this is specific to Anne Arundel County this could set a precedence to the other jurisdictions of the State leading to public health concerns.
 6. In Anne Arundel County the Department of Public Works does not have the ability to manage, operate, and maintain a shared facility or community sewerage system utilizing on-site sewage disposal systems as a Controlling Authority.

Accordingly, the Conference requests the Committee give SB 682 an **UNFAVORABLE** report.

Thank you for the opportunity to share our views on this matter. If you any further questions concerning this written testimony, please contact:

For more information:
Michael Davis, President
Maryland Conference of Local Environmental Health Directors
410-313-2651
Email: mjdavis@howardcountymd.gov