

# HOUSE BILL 11

M3

4lr0046

(PRE-FILED)

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Requested: October 10, 2013

Introduced and read first time: January 8, 2014

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Bay Restoration Fund – Authorized Uses**

3 FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration  
4 Fund to pay certain debt issued by a local government for the cost of connecting  
5 properties served by on-site sewage disposal systems to certain existing  
6 municipal wastewater facilities under certain circumstances; altering certain  
7 conditions for certain funding of certain costs; requiring the Department of the  
8 Environment to adopt certain regulations; providing for the application of  
9 certain regulations; requiring the Department to consider certain information  
10 as a part of a certain review process; requiring certain information to be  
11 included in a certain notice for, and discussed at certain hearings on, certain  
12 projects; requiring the Department to submit a certain annual report to certain  
13 committees of the General Assembly beginning on a certain date; and generally  
14 relating to authorized uses of the Bay Restoration Fund.

15 BY repealing and reenacting, with amendments,  
16 Article – Environment  
17 Section 9-1605.2(h)  
18 Annotated Code of Maryland  
19 (2007 Replacement Volume and 2013 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Environment**

2 9–1605.2.

3 (h) (1) With regard to the funds collected under subsection (b)(1)(i)1, from  
4 users of an onsite sewage disposal system or holding tank that receive a water bill,  
5 (i)2, and (i)3 of this section, beginning in fiscal year 2006, the Comptroller shall:

6 (i) Establish a separate account within the Bay Restoration  
7 Fund; and

8 (ii) Disburse the funds as provided under paragraph (2) of this  
9 subsection.

10 (2) The Comptroller shall:

11 (i) Deposit 60% of the funds in the separate account to be used  
12 for:

13 1. Subject to ~~paragraph (3)~~ **PARAGRAPHS (3), (4), (5),**  
14 **AND (6)** of this subsection, with priority first given to failing systems and holding  
15 tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to  
16 failing systems that the Department determines are a threat to public health or water  
17 quality, grants or loans for up to 100% of:

18 A. The costs attributable to upgrading an onsite sewage  
19 disposal system to the best available technology for the removal of nitrogen;

20 B. The cost difference between a conventional onsite  
21 sewage disposal system and a system that utilizes the best available technology for the  
22 removal of nitrogen;

23 C. The cost of repairing or replacing a failing onsite  
24 sewage disposal system with a system that uses the best available technology for  
25 nitrogen removal;

26 D. The cost, up to the sum of the costs authorized under  
27 item B of this item for each individual system, of replacing multiple onsite sewage  
28 disposal systems located in the same community with a new community sewerage  
29 system that is owned by a local government and that meets enhanced nutrient  
30 removal standards; or

31 E. The cost, up to the sum of the costs authorized under  
32 item C of this item for each individual system, of connecting a property using an onsite  
33 sewage disposal system to an existing municipal wastewater facility that is achieving  
34 enhanced nutrient removal **OR BIOLOGICAL NUTRIENT REMOVAL** level treatment,

1 INCLUDING PAYMENT OF THE PRINCIPAL, BUT NOT INTEREST, OF DEBT ISSUED  
2 BY A LOCAL GOVERNMENT FOR SUCH CONNECTION COSTS; and

3 2. The reasonable costs of the Department, not to exceed  
4 8% of the funds deposited into the separate account, to:

5 A. Implement an education, outreach, and upgrade  
6 program to advise owners of onsite sewage disposal systems and holding tanks on the  
7 proper maintenance of the systems and tanks and the availability of grants and loans  
8 under item 1 of this item;

9 B. Review and approve the design and construction of  
10 onsite sewage disposal system or holding tank upgrades;

11 C. Issue grants or loans as provided under item 1 of this  
12 item; and

13 D. Provide technical support for owners of upgraded  
14 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded  
15 systems; and

16 (ii) Transfer 40% of the funds to the Maryland Agriculture  
17 Water Quality Cost Share Program in the Department of Agriculture in order to fund  
18 cover crop activities.

19 (3) ~~(i)~~ Funding for the costs identified in paragraph (2)(i)1 of this  
20 subsection shall be provided in the following order of priority:

21 ~~(I)~~ **(I)** For owners of all levels of income, the costs identified  
22 in paragraph (2)(i)1A and B of this subsection; and

23 ~~(II)~~ **(II)** For low-income owners, as defined by the  
24 Department, the costs identified in paragraph (2)(i)1C of this subsection:

25 ~~1.~~ **1.** First, for best available technologies for nitrogen  
26 removal; and

27 ~~2.~~ **2.** Second, for other wastewater treatment systems.

28 ~~(4)~~ **(4)** Funding for the costs identified in paragraph (2)(i)1D  
29 of this subsection may be provided if:

30 ~~(I)~~ **(I)** The environmental impact of the onsite sewage  
31 disposal system is documented by the local government and confirmed by the  
32 Department;

1 ~~2.~~ **(II)** It can be demonstrated that:

2 ~~A.~~ **1.** The replacement of the onsite sewage disposal system  
3 with a new community sewerage system is more cost effective for nitrogen removal  
4 than upgrading each individual onsite sewage disposal system; or

5 ~~B.~~ **2.** The individual replacement of the onsite sewage  
6 disposal system is not feasible; and

7 ~~3.~~ **(III)** The new community sewerage system will only  
8 serve lots that have received a certificate of occupancy, or equivalent certificate, on or  
9 before October 1, 2008.

10 ~~(iii)~~ **(5)** Funding for the costs identified in paragraph (2)(i)1E  
11 of this subsection may be provided only if all of the following conditions are met:

12 ~~1.~~ **(I)** The environmental impact of the onsite sewage  
13 disposal system is documented by the local government and confirmed by the  
14 Department;

15 ~~2.~~ **(III)** It can be demonstrated that:

16 ~~A.~~ **1.** The replacement of the onsite sewage disposal system  
17 with service to an existing municipal wastewater facility that is achieving enhanced  
18 nutrient removal OR BIOLOGICAL NUTRIENT REMOVAL level treatment is more  
19 cost-effective for nitrogen removal than upgrading the individual onsite sewage  
20 disposal system; or

21 ~~B.~~ **2.** The individual replacement of the onsite sewage  
22 disposal system is not feasible;

23 ~~3.~~ **(III)** The project is consistent with the county's  
24 comprehensive plan and water and sewer master plan; ~~AND~~

25 ~~4.~~ ~~A.~~ **(IV)** **1.** The onsite sewage disposal system  
26 was installed as of October 1, 2008, and the property the system serves is located in a  
27 priority funding area, in accordance with § 5-7B-02 of the State Finance and  
28 Procurement Article]; and

29 **5.** The local government has adopted a policy or  
30 procedure that will guarantee that any future connection to an existing municipal  
31 wastewater facility that is funded under paragraph (2)(i)1E of this subsection will  
32 meet all of the requirements under this subparagraph]; **OR**

1           ~~B.~~ **2. THE ON-SITE SEWAGE DISPOSAL SYSTEM WAS**  
 2 **INSTALLED AS OF OCTOBER 1, 2008, THE PROPERTY THE SYSTEM SERVES IS**  
 3 **NOT LOCATED IN A PRIORITY FUNDING AREA, AND THE PROJECT MEETS THE**  
 4 **REQUIREMENTS UNDER § 5-7B-06 OF THE STATE FINANCE AND**  
 5 **PROCUREMENT ARTICLE AND IS CONSISTENT WITH A PUBLIC HEALTH AREA OF**  
 6 **CONCERN IDENTIFIED:**

7           **A. IDENTIFIED IN THE COUNTY WATER AND SEWER**  
 8 **PLAN; OR**

9           **B. CERTIFIED BY A COUNTY ENVIRONMENTAL**  
 10 **HEALTH DIRECTOR WITH CONCURRENCE BY THE DEPARTMENT AND, IF**  
 11 **FUNDING IS APPROVED, SUBSEQUENTLY ADDED TO THE COUNTY WATER AND**  
 12 **SEWER PLAN WITHIN A TIME FRAME JOINTLY AGREED ON BY THE DEPARTMENT**  
 13 **AND THE COUNTY THAT TAKES INTO CONSIDERATION THE COUNTY'S WATER**  
 14 **AND SEWER PLAN UPDATE AND AMENDMENT PROCESS; AND**

15           **(V) THE FUNDING AGREEMENT FOR A PROJECT THAT**  
 16 **MEETS THE CONDITIONS FOR FUNDING UNDER SUBPARAGRAPH (IV)2 OF THIS**  
 17 **PARAGRAPH INCLUDES PROVISIONS TO ENSURE:**

18           **1. DENIAL OF ACCESS FOR ANY FUTURE**  
 19 **CONNECTIONS THAT ARE NOT INCLUDED IN THE PROJECT'S PROPOSED SERVICE**  
 20 **AREA; AND**

21           **2. THAT THE PROJECT WILL NOT UNDULY IMPEDE**  
 22 **ACCESS TO FUNDING FOR UPGRADING INDIVIDUAL ON-SITE SEWAGE DISPOSAL**  
 23 **SYSTEMS IN THE COUNTY WITH BEST AVAILABLE TECHNOLOGY FOR NITROGEN**  
 24 **REMOVAL.**

25           ~~(4)~~ **(6)**       The Comptroller, in consultation with the Administration,  
 26 may establish any other accounts and subaccounts within the Bay Restoration Fund  
 27 as necessary to:

- 28                       (i)     Effectuate the purposes of this subtitle;
- 29                       (ii)    Comply with the provisions of any bond resolution;
- 30                       (iii)   Meet the requirements of any federal or State law or of any  
 31 grant or award to the Bay Restoration Fund; and
- 32                       (iv)   Meet any rules or program directives established by the  
 33 Secretary or the Board.

34           **SECTION 2. AND BE IT FURTHER ENACTED, That:**

1           (a) Except as provided in subsection (c) of this section and subject to  
2 subsection (b) of this section, the Department of the Environment shall adopt  
3 regulations establishing procedures for the review and public notice of, and the  
4 opportunity to request a public hearing on, projects receiving preliminary approval for  
5 funding under § 9-1605.2(h)(5)(iv)2 of the Environment Article, as enacted by Section  
6 1 of this Act.

7           (b) (1) As a part of its review of a project receiving preliminary approval  
8 for funding under § 9-1605.2(h)(5)(iv)2 of the Environment Article, the Department  
9 shall consider:

10                           (i) information about the public health issues the project  
11 addresses;

12                           (ii) the potential infill development resulting from the project,  
13 as identified in the funding agreement;

14                           (iii) any measures taken to mitigate the potential impacts of new  
15 growth resulting from the project; and

16                           (iv) the total net nitrogen reduction resulting from the project,  
17 including a consideration of additional loading from potential new growth.

18           (2) The information considered by the Department under paragraph  
19 (1) of this subsection shall be included:

20                           (i) in the public notification of the project; and

21                           (ii) if a hearing is requested, discussed at the public hearing on  
22 the project.

23           (c) The regulations adopted under this section do not apply to a project:

24                           (1) that will be served by an existing municipal wastewater treatment  
25 facility that is achieving enhanced nutrient removal level treatment;

26                           (2) for which an application for funding from the Department has been  
27 submitted on or before February 15, 2014;

28                           (3) that has undergone a public notification and hearing process on or  
29 before February 15, 2014; and

30                           (4) that has been certified by the Department as substantially meeting  
31 the public notice and hearing requirements established under this section.

1           SECTION 3. AND BE IT FURTHER ENACTED, That beginning December 1,  
 2 2015, the Department of the Environment shall submit a report each year, in  
 3 accordance with § 2-1246 of the State Government Article, to the House  
 4 Environmental Matters Committee and the Senate Education, Health, and  
 5 Environmental Affairs Committee, on:

6                   (1) each project funded under § 9-1605.2(h)(5)(iv)2 of the Environment  
 7 Article, as enacted by Section 1 of this Act; and

8                   (2) a summary of any impacts that the funding used for these projects  
 9 had on overall funding for upgrading individual on-site sewage disposal systems with  
 10 best available technology for nitrogen removal.

11           SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
 12 effect ~~October~~ June 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.