

SENATE BILL 851

M3, L1, B1

9lr1722

By: **Senators West and Young**

Introduced and read first time: February 4, 2019

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Bay Restoration Fund – Authorized Uses, Mandatory Appropriation, and**
3 **County Authority to Incur Indebtedness**

4 FOR the purpose of expanding the uses of a certain account in the Bay Restoration Fund
5 to include making certain no- or low-cost loans for the repair or replacement of
6 failing on-site sewage disposal systems with systems that use the best available
7 technology for the removal of nitrogen; limiting a certain loan to a homeowner who
8 resides in a jurisdiction that has developed and implemented a certain septic
9 stewardship plan; requiring payments received from a certain borrower to be
10 deposited to the Bay Restoration Fund; authorizing a county to borrow money and
11 incur indebtedness through the issuance and sale of notes in anticipation of the
12 receipt of the county's allocation of funds from the Bay Restoration Fund; authorizing
13 a county to expend the net proceeds of the sale of a certain issue of notes only for
14 certain purposes; authorizing the principal of certain notes and the interest on
15 certain notes to be paid from certain sources; authorizing a county to pledge its full
16 faith and credit and taxing power to the payment of the principal of and interest on
17 certain notes under certain circumstances; providing that the authority to borrow
18 money and issue notes granted to counties by this Act is supplemental to and not in
19 derogation of certain other powers; for a certain fiscal year, requiring the Governor
20 to appropriate a certain amount in the annual State operating or capital budget to
21 the Bay Restoration Fund for certain purposes; and generally relating to the Bay
22 Restoration Fund.

23 BY repealing and reenacting, with amendments,
24 Article – Environment
25 Section 9-1605.2(g) and (h)(2)(i)1 and (3)
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2018 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–1605.2(h)(1) and (8)(iii)2
 2 Annotated Code of Maryland
 3 (2014 Replacement Volume and 2018 Supplement)

4 BY adding to
 5 Article – Environment
 6 Section 9–1605.2(h)(9)
 7 Annotated Code of Maryland
 8 (2014 Replacement Volume and 2018 Supplement)

9 BY adding to
 10 Article – Local Government
 11 Section 19–1001 through 19–1004 to be under the new subtitle “Subtitle 10. Public
 12 Debt – Grants and Loans for Septic Upgrades”
 13 Annotated Code of Maryland
 14 (2013 Volume and 2018 Supplement)

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

17 **Article – Environment**

18 9–1605.2.

19 (g) There shall be deposited in the Bay Restoration Fund:

20 (1) Funds received from the restoration fee;

21 (2) Net proceeds of bonds issued by the Administration;

22 (3) Interest or other income earned on the investment of money in the Bay
 23 Restoration Fund; [and]

24 (4) **PAYMENTS RECEIVED FROM BORROWERS FOR DEPOSIT IN THE**
 25 **BAY RESTORATION FUND; AND**

26 **(5)** Any additional money made available from any sources, public or
 27 private, for the purposes for which the Bay Restoration Fund has been established.

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

32 (i) Establish a separate account within the Bay Restoration Fund;

33 and

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

3 (2) The Comptroller shall:

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

5 1. Subject to paragraphs (3), (4), (5), [and] (6), **AND (9)** of
6 this subsection, with priority first given to failing systems and holding tanks located in the
7 Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the
8 Department determines are a threat to public health or water quality, grants or loans for
9 up to 100% of:

10 A. The costs attributable to upgrading an on-site sewage
11 disposal system to the best available technology for the removal of nitrogen;

12 B. The cost difference between a conventional on-site sewage
13 disposal system and a system that utilizes the best available technology for the removal of
14 nitrogen;

15 C. The cost of repairing or replacing a failing on-site sewage
16 disposal system with a system that uses the best available technology for nitrogen removal;

17 D. The cost, up to the sum of the costs authorized under item
18 B of this item for each individual system, of replacing multiple on-site sewage disposal
19 systems located in the same community with a new community sewerage system that is
20 owned by a local government and that meets enhanced nutrient removal standards; or

21 E. The cost, up to the sum of the costs authorized under item
22 C of this item for each individual system, of connecting a property using an on-site sewage
23 disposal system to an existing municipal wastewater facility that is achieving enhanced
24 nutrient removal or biological nutrient removal level treatment, including payment of the
25 principal, but not interest, of debt issued by a local government for such connection costs;

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

28 (i) For owners of all levels of income, **GRANTS OR LOANS TO**
29 **COVER** the costs identified in paragraph (2)(i)1A and B of this subsection; [and]

30 (ii) For low-income owners, as defined by the Department, **GRANTS**
31 **TO COVER** the costs identified in paragraph (2)(i)1C of this subsection:

32 1. First, for best available technologies for nitrogen removal;
33 and

1 2. Second, for other wastewater treatment systems; AND

2 (III) FOR OWNERS OF ALL LEVELS OF INCOME, SUBJECT TO
3 PARAGRAPH (9) OF THIS SUBSECTION, LOANS TO COVER THE COSTS IDENTIFIED IN
4 PARAGRAPH (2)(I)1C OF THIS SUBSECTION.

5 (8) (iii) Financial assistance under paragraph (2)(i)5 of this subsection
6 may be provided only if:

7 2. The homeowner resides in a local jurisdiction that has
8 developed and implemented a septic stewardship plan that:

9 A. Has been adopted by the local governing body of the
10 jurisdiction, after consultation with the jurisdiction's local health department;

11 B. States specific goals consistent with the nitrogen load
12 reduction identified in the local jurisdiction's watershed implementation plan;

13 C. Specifies public education and outreach measures that
14 will be taken, including education and outreach on best management practices, legal
15 requirements, and existing support and financial assistance;

16 D. Provides technical guidance for the siting, design,
17 evaluation, and construction of an on-site sewage disposal system;

18 E. Requires an on-site sewage disposal system located on
19 residential property to be pumped out and inspected at least once every 5 years, unless a
20 more frequent pump out schedule is recommended during an inspection;

21 F. Requires an on-site sewage disposal system located on
22 commercial property to be pumped out and inspected at least once every 5 years, unless a
23 more frequent pump out schedule is recommended during an inspection;

24 G. Specifies certification and licensing procedures for a
25 person that pumps out and inspects on-site sewage disposal systems;

26 H. Specifies enforcement mechanisms, compliance
27 incentives, and penalties;

28 I. Outlines funding mechanisms to support the plan and
29 expand education, demonstration projects, and inspections;

30 J. Specifies requirements for record keeping; and

31 K. Establishes a process for periodically evaluating and
32 revising the plan.

1 **(9) (I) FINANCIAL ASSISTANCE UNDER PARAGRAPH (2)(I)1C OF**
2 **THIS SUBSECTION MAY BE PROVIDED TO OWNERS OF ALL LEVELS OF INCOME**
3 **THROUGH LOW- OR NO-INTEREST LOANS, IN ACCORDANCE WITH THE PROVISIONS**
4 **OF THIS PARAGRAPH.**

5 **(II) A LOAN UNDER THIS PARAGRAPH SHALL COVER UP TO 100%**
6 **OF THE COST OF REPAIRING OR REPLACING A FAILING ON-SITE SEWAGE DISPOSAL**
7 **SYSTEM WITH A SYSTEM THAT USES THE BEST AVAILABLE TECHNOLOGY FOR THE**
8 **REMOVAL OF NITROGEN, INCLUDING THE COST OF REPLACING OR REPAIRING A**
9 **FAILING DRAIN FIELD, TRENCH, OR SEEPAGE PIT.**

10 **(III) A LOAN UNDER THIS PARAGRAPH MAY BE MADE ONLY IF**
11 **THE HOMEOWNER RESIDES IN A LOCAL JURISDICTION THAT HAS DEVELOPED AND**
12 **IMPLEMENTED A SEPTIC STEWARDSHIP PLAN THAT MEETS THE REQUIREMENTS**
13 **UNDER PARAGRAPH (8)(III)2 OF THIS SUBSECTION.**

14 **(IV) ALL PAYMENTS RECEIVED FROM A BORROWER IN**
15 **REPAYMENT OF A LOAN MADE UNDER THIS PARAGRAPH SHALL BE DEPOSITED TO**
16 **THE BAY RESTORATION FUND.**

17 **Article – Local Government**

18 **SUBTITLE 10. PUBLIC DEBT – GRANTS AND LOANS FOR SEPTIC UPGRADES.**

19 **19-1001.**

20 **A COUNTY MAY BORROW MONEY AND INCUR INDEBTEDNESS THROUGH THE**
21 **ISSUANCE AND SALE OF NOTES IN ANTICIPATION OF THE RECEIPT OF THE COUNTY'S**
22 **ALLOCATION OF FUNDS FROM THE BAY RESTORATION FUND.**

23 **19-1002.**

24 **A COUNTY MAY EXPEND THE NET PROCEEDS OF THE SALE OF AN ISSUE OF**
25 **NOTES ONLY TO:**

26 **(1) MAKE GRANTS AND LOANS IN ACCORDANCE WITH §**
27 **9-1605.2(H)(2)(I) OF THE ENVIRONMENT ARTICLE; OR**

28 **(2) REFUND ONE OR MORE ISSUES OF NOTES.**

29 **19-1003.**

30 **(A) THE PRINCIPAL OF THE NOTES MAY BE PAID FROM:**

1 **(1) THE COUNTY'S ALLOCATION OF FUNDS FROM THE BAY**
2 **RESTORATION FUND; AND**

3 **(2) ANY OTHER REVENUES THAT ARE PLEDGED TO THE PAYMENT OF**
4 **THE NOTES IN THE AUTHORIZING RESOLUTION.**

5 **(B) THE INTEREST ON THE NOTES MAY BE PAID FROM:**

6 **(1) ANY REVENUES, OTHER THAN THE COUNTY'S ALLOCATION OF**
7 **FUNDS FROM THE BAY RESTORATION FUND, THAT ARE PLEDGED TO THE PAYMENT**
8 **OF THE NOTES IN THE AUTHORIZING RESOLUTION; OR**

9 **(2) MONEY MADE AVAILABLE TO THE COUNTY TO FINANCE UPGRADES**
10 **TO ON-SITE SEWAGE DISPOSAL SYSTEMS FROM:**

11 **(I) THE STATE OR A UNIT OF THE STATE, EXCEPT FOR THE**
12 **FUNDS FROM THE BAY RESTORATION FUND ALLOCATED UNDER THIS SUBTITLE FOR**
13 **GRANTS AND LOANS;**

14 **(II) THE FEDERAL GOVERNMENT OR A UNIT OF THE FEDERAL**
15 **GOVERNMENT; OR**

16 **(III) ANY OTHER SOURCE.**

17 **(C) (1) A COUNTY MAY PLEDGE ITS FULL FAITH AND CREDIT AND TAXING**
18 **POWER TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN**
19 **THE AUTHORIZING RESOLUTION.**

20 **(2) A COUNTY THAT MAKES A PLEDGE UNDER PARAGRAPH (1) OF**
21 **THIS SUBSECTION SHALL, IN EACH FISCAL YEAR THAT ANY OF THE NOTES ARE**
22 **OUTSTANDING, IMPOSE AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY IN THE**
23 **COUNTY AT A RATE AND AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND**
24 **INTEREST ON THE NOTES MATURING IN THAT FISCAL YEAR.**

25 **(3) IF THE PROCEEDS FROM THE TAXES IMPOSED IN ANY FISCAL YEAR**
26 **PROVE INADEQUATE FOR THE PAYMENT, THE COUNTY SHALL IMPOSE ADDITIONAL**
27 **TAXES IN THE SUCCEEDING FISCAL YEAR TO MAKE UP THE DEFICIENCY.**

28 **19-1004.**

29 **THE AUTHORITY TO BORROW MONEY AND ISSUE NOTES GRANTED TO A**
30 **COUNTY UNDER THIS SUBTITLE IS:**

1 **(1) SUPPLEMENTAL TO ANY OTHER POWER GRANTED TO A COUNTY BY**
2 **ANY OTHER LAW; AND**

3 **(2) NOT IN DEROGATION OF ANY OTHER EXISTING POWER OF A**
4 **COUNTY TO BORROW MONEY.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That, for fiscal year 2021, the
6 Governor shall appropriate \$10,000,000 in the annual State operating or capital budget to
7 the Bay Restoration Fund for the purposes described in § 9-1605.2(h)(2)(i)1C of the
8 Environment Article, as enacted by Section 1 of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2019.