Chapter 368

(Senate Bill 343)

AN ACT concerning

Bay Restoration Fund – Eligible Costs – Expansion

FOR the purpose of altering the definition of "eligible costs" as it relates to projects that receive funding from the Bay Restoration Fund to include any wastewater facility upgrade to enhanced nutrient removal, as determined by the Department of the Environment; making conforming changes; and generally relating to the Bay Restoration Fund.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.2(i)(1) *and (2)*
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Environment~~
~~Section 9–1605.2(i)(2)~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2016 Supplement)~~

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

Article – Environment

9–1605.2.

(i) (1) In this subsection, "eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility **[**from biological nutrient removal**]** to enhanced nutrient removal, as determined by the Department.

(2) Funds in the Bay Restoration Fund shall be used only:

(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;

(ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total cost of projects, as approved by the Department, relating to combined sewer overflows

abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;

(iii) In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

(iv) In fiscal years 2018 and thereafter, after payment of outstanding bonds and the allocation of funds to other required uses of the Bay Restoration Fund for funding in the following order of priority:

1. For funding ~~an~~ **THE ELIGIBLE COSTS TO** upgrade ~~of~~ a wastewater facility to enhanced nutrient removal at wastewater facilities with a design capacity of 500,000 gallons or more per day;

2. For funding ~~for~~ **THE ELIGIBLE COSTS OF** the most cost–effective enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less than 500,000 gallons per day; and

3. As determined by the Department and based on water quality and public health benefits, for the following:

A. For costs identified under item (ii) of this paragraph;

B. For costs identified under subsection (h)(2)(i)1 of this section; and

C. With respect to a local government that has enacted and implemented a system of charges to fully fund the implementation of a stormwater management program, for grants to the local government for a portion of the costs of the most cost–effective and efficient stormwater control measures, as determined and approved by the Department, from the restoration fees collected annually by the Comptroller from users of wastewater facilities under this section;

(v) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;

(vi) To earn interest on Bay Restoration Fund accounts;

(vii) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;

(viii) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;

(ix) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;

(x) For costs associated with the issuance of bonds;

(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on–site sewage disposal systems and cover crop activities; and

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4–202.1(k)(3) of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.