

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: Senate Bill 326

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Support with Amendment

TITLE: Environment – State Board of Waterworks and Waste Systems Operators – Sunset Extension and Revisions

BILL ANALYSIS:

This bill continues the State Board of Waterworks and Waste Systems Operators in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending the termination provisions to July 1, 2020 relating to the statutory and regulatory authority of the Board. The bill also clarifies that the Department of the Environment is responsible for the enforcement of Environment Articles 12-501, and 12-602. The bill requires that an evaluation of the Board and the statutes and regulations that relate to the Board be performed, and requires the Board to submit a certain report on or before October 1, 2011. Finally, the bill repeals obsolete language relating to the State Board of Waterworks and Waste Systems Operators.

POSITION AND RATIONALE:

The Maryland Department of the Environment (MDE) supports the extension of the termination provisions of the Board of Waterworks and Waste Systems Operators. The certification of operators for the water systems and wastewater facilities is critical to the ongoing protection of the environment, and the public health protection of all persons that live or visit the State of Maryland.

MDE recognizes the importance of program improvement, but restrictions in funding and staffing resources impact the ability of the Department to address the fourteen nonstatutory recommendations that were contained in the Sunset Review: Evaluation of the State Board of Waterworks and Waste Systems Operators. Due to the lack of funding for many of the recommendations, MDE proposes that the scope of the report be modified so that the report is a ten-year plan for evaluating improvements to the administration and enforcement of regulations for the Board of Waterworks and Waste Systems Operators.

FOR MORE INFORMATION,
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BY: The Maryland Department of the Environment

AMENDMENT TO SENATE BILL 326

AMENDMENT NO.1

On page 4, strike lines 24 through 34 in their entirety.

On page 5, strike lines 1 through 16 in their entirety.

On page 4, after line 23, insert:

“(1) evaluate the options for development of a database to be used for tracking waste systems facilities, to track the employment of superintendents at facilities;

(2) evaluate whether to recommend an amendment to the statute to exempt facilities of a certain size or type from the requirement to employ a certified superintendent;

(3) evaluate the current use of circuit riders by facilities in Maryland, system compliance for facilities with circuit riders;

(4) the adoption of regulations establishing the Board’s circuit rider experience crediting policy;

(5) study workforce conditions (retirement, turnover, salary) affecting future facility compliance with the certified operator requirement;

(6) evaluate the options for upgrading the Board’s administrative database, and the Board’s website, and compatibility with the Board’s administrative database and the Department of the Environment’s databases;

(7) evaluate the use of the Department of the Environment’s penalty authority and any recommended changes to that authority;

(8) evaluate preexamination training opportunities for operators;

(9) the status of implementing computer-based examinations; and

(10) the Board’s ability to generate sufficient fee revenue for the General Fund to cover Board expenditures.

Section 2 of Senate Bill 326 contains 14 specific recommendations. The following information is MDE's commentary on the recommendations:

1. Funding is not available for the development of a database to track waste system facilities and their operators (Recommendation 1) and superintendents (Recommendation 2). MDE will work with the Board to determine if fees should be increased to provide for this database improvement. The Board and MDE will review the recommendation to develop a database for waste systems enforcement personnel with functionality similar to that possessed for public water systems, and determine how it should be prioritized with other outstanding database development issues. This is not required by MDE under existing federal grant commitments.
2. The Board and MDE agree to review, and provide recommendations regarding whether to amend the statute to exempt facilities of a certain size or type from the requirement to employ a certified Superintendent. (Recommendation 3).
3. Circuit riders are operators who are employed at multiple treatment facilities, and they may hold multiple licenses. There are a number of private companies that provide circuit riders to water and wastewater systems in this area, including Maryland Environmental Service. It would be a conflict of interest for the Board or MDE to promote circuit riders on an official basis as the regulator of public water systems and waste systems (Recommendation 4).
4. Information related to Recommendation 5 is not readily available. Circuit rider information is not maintained for individual operators. MDE has information on a facility's compliance status, but the relationship to operations would not be well documented unless it is identified as a portion of the advanced enforcement action.
5. MDE agrees with Recommendation 6 regarding the adoption of the current Board policy regarding circuit rider experience crediting.
6. MDE and the Board agree to review the labor market conditions affecting facility compliance with certified operator requirement. (Recommendation 7)
7. Funding is not available for upgrading the Board's administrative database (Recommendation 8). The Board and MDE will review the recommendation that the Board's Administrative Database be upgraded to a modern system that allows for the efficient tracking of both facilities and personnel by certain attributes including the presence of a certified operator or Superintendent, and determine how it should be prioritized with other outstanding database development issues. This is not required by MDE under existing federal grant commitments.
8. Funding is not available to upgrade the Board's website (Recommendation 9 and Recommendation 10). The Board coordinates web-site development through the MDE Information Technology staff. Decisions related to website development and on-line

application submittals will be evaluated by the Department, and implemented as resources become available.

- 9.** The Board and MDE will review the applicability of Environment Article 12-504 of the Annotated Code in enforcement actions related to operator certification, as appropriate (Recommendation 11). MDE has penalty authority for water and wastewater facilities that are not covered by this Statute.
- 10.** MDE does not have authority to mandate preexamination training for operators (Recommendation 12). MDE consults with organizations on operator training. The training is chosen and paid by the operators. Limited federal funding has been available for drinking water systems in the past. Funding for wastewater facilities is generally available. MDE provides funds to the Maryland Center for Environmental Training.
- 11.** MDE and the Board agree with Recommendation 13, and it is actively working toward implementing computer-based testing by Spring 2010. Only one location will be offered at the start of this testing however the Board is working with the contractor to open more locations. Federal funding under the Safe Drinking Water Act is being used for the initial start-up of this program activity.
- 12.** MDE and the Board agree with Recommendation 14, and will continue to monitor its fees and expenditures.