

# HOUSE BILL 1304

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

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, February 27, 2012

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Committee Report: Favorable

House action: Adopted

Read second time: March 19, 2012

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

1 AN ACT concerning

2 **Department of Agriculture – Animal Waste Technology Fund**

3 FOR the purpose of repealing the provisions relating to financial assistance for certain  
4 animal waste technology projects from the Maryland Economic Development  
5 Assistance Fund in the Department of Business and Economic Development;  
6 establishing the Animal Waste Technology Fund, a special, nonlapsing fund in  
7 the Department of Agriculture, establishing the purposes, uses, and funding  
8 sources of the Fund; requiring the Secretary of Agriculture to administer the  
9 Fund and establish certain procedures; authorizing the Secretary to contract for  
10 certain services and impose certain fees; establishing an Animal Waste  
11 Technology Fund Advisory Committee; establishing the membership, staffing,  
12 role, and responsibilities of the Advisory Committee; authorizing the Secretary  
13 to take certain actions to protect the interests of the Department of Agriculture  
14 in certain financing transactions; defining certain terms; and generally relating  
15 to funding for animal waste technology projects.

16 BY repealing and reenacting, with amendments,  
17 Article – Economic Development  
18 Section 5–301, 5–311, 5–313, 5–316, and 5–321(b)(1)  
19 Annotated Code of Maryland  
20 (2008 Volume and 2011 Supplement)

21 BY adding to

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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 – Agriculture  
2 Section 8–7A–101 through 8–7A–105 to be under the new subtitle “Subtitle 7A.  
3 Animal Waste Technology Fund”  
4 Annotated Code of Maryland  
5 (2007 Replacement Volume and 2011 Supplement)

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

8 **Article – Economic Development**

9 5–301.

10 (a) In this subtitle the following words have the meanings indicated.

11 (b) [“Animal waste technology project” means a project that involves the  
12 research, development, implementation, or market development of technology that is  
13 intended to:

14 (1) reduce the amount of nutrients in animal waste;

15 (2) alter the composition of animal waste;

16 (3) develop alternative animal waste management strategies; or

17 (4) use animal waste in a production process.

18 (c) [“Aquaculture project” means a project that encourages innovation,  
19 expansion, and modernization of the seafood processing industry or aquaculture  
20 industry.

21 [(d)] (C) “Arts and entertainment district” means an area designated by the  
22 Secretary as an arts and entertainment district under Title 4, Subtitle 7 of this article.

23 [(e)] (D) “Arts and entertainment enterprise” means a for–profit or  
24 not–for–profit entity that is:

25 (1) located in an arts and entertainment district; and

26 (2) dedicated to the visual or performing arts.

27 [(f)] (E) “Arts and entertainment project” means a project that promotes or  
28 enhances the development of an arts and entertainment district.

29 [(g)] (F) (1) “Associated development and carrying costs” means costs  
30 that are associated with the acquisition and maintenance of an asset.

1           (2)    “Associated development and carrying costs” includes:

2                   (i)    settlement costs;

3                   (ii)   insurance;

4                   (iii)   interest;

5                   (iv)   taxes;

6                   (v)    government fees;

7                   (vi)   utilities; and

8                   (vii)   the costs of managing and securing the asset.

9           **[(h)] (G)**    “Authority” means the Maryland Economic Development  
10 Assistance Authority.

11           **[(i)] (H)**    “Brownfields Revitalization Incentive Program” means the  
12 program in the Department that provides financial assistance from the Fund for the  
13 redevelopment of qualified brownfields sites, as provided in Part VI of this subtitle.

14           **[(j)] (I)**    (1)    “Brownfields site” means a property that:

15                   (i)    is located in a county or municipal corporation that elects to  
16 participate in the Brownfields Revitalization Incentive Program in accordance with §  
17 5–336 of this subtitle; and

18                   (ii)   is:

19                           1.    an eligible property, as defined in § 7–501 of the  
20 Environment Article, that is owned or operated by an inculpable person, as defined in  
21 § 7–501 of the Environment Article; or

22                           2.    a property where there is a release, discharge, or  
23 threatened release of oil, as defined in § 4–401 of the Environment Article, that is  
24 subject to Title 4 of the Environment Article.

25           (2)    “Brownfields site” does not include property that is owned or  
26 operated by:

27                   (i)    a responsible person as defined in § 7–201 of the  
28 Environment Article; or

1 (ii) a person responsible for the discharge, as defined in § 4-401  
2 of the Environment Article.

3 **[(k)] (J)** “Child care facility” means a facility that is required to be licensed  
4 as a child care center under Title 5, Subtitle 5, Part VII of the Family Law Article.

5 **[(l)] (K)** “Child care special loan” means a direct loan to expand or improve  
6 child care services at a child care facility, as provided in Part VII of this subtitle.

7 **[(m)] (L)** “Corporation” means the Maryland Economic Development  
8 Corporation.

9 **[(n)] (M)** “Financial assistance” means a grant, loan, or investment provided  
10 under this subtitle.

11 **[(o)] (N)** “Fund” means the Maryland Economic Development Assistance  
12 Fund.

13 **[(p)] (O)** “Local economic development fund” means a revolving, nonlapsing  
14 fund that one or more local governments establish for economic development in the  
15 areas under their jurisdiction.

16 **[(q)] (P)** “Local economic development opportunity” means a project that:

17 (1) is determined by the Department or Authority to provide a  
18 valuable economic development opportunity to the jurisdiction in which the project is  
19 located; and

20 (2) is a priority for and endorsed by the governing body of that  
21 jurisdiction.

22 **[(r)] (Q)** “Local government” means:

23 (1) a county;

24 (2) a municipal corporation;

25 (3) a designated agency or instrumentality of a county; or

26 (4) a designated agency or instrumentality of a municipal corporation.

27 **[(s)] (R)** “Qualified brownfields site” means a brownfields site that is  
28 determined by the Department to be eligible for financial assistance under this  
29 subtitle.

1           **[(t)] (S)**       “Qualified distressed county project” means a project that a local  
2 government or the Corporation carries out in a qualified distressed county.

3           **[(u)] (T)**       “Responsible person” has the meaning stated in § 7–201 of the  
4 Environment Article.

5           **[(v)] (U)**       “Significant strategic economic development opportunity” means a  
6 project that is determined by the Department or Authority to provide a valuable  
7 economic development opportunity of statewide, regional, or strategic industry impact.

8           **[(w)] (V)**       “Specialized economic development opportunity” means:

9                   (1)    [an animal waste technology project;

10                   (2)] an aquaculture project;

11                   **[(3)] (2)**     an arts and entertainment enterprise;

12                   **[(4)] (3)**     an arts and entertainment project;

13                   **[(5)] (4)**     the redevelopment of a qualified brownfields site; or

14                   **[(6)] (5)**     a project to create or expand a child care facility.

15           **[(x)] (W)**       “Working capital” means money to be used for current operations  
16 of a business.

17 5–311.

18           The purposes of the Fund are to:

19                   (1)    expand employment opportunities in the State by providing  
20 financial assistance to businesses that are engaged in eligible industry sectors,  
21 including financial assistance for:

22                           (i)    [animal waste technology projects;

23                           (ii)] aquaculture projects;

24                           **[(iii)] (II)**     arts and entertainment enterprises;

25                           **[(iv)] (III)**     arts and entertainment projects; and

26                           **[(v)] (IV)**     creation and expansion of child care facilities;

1           (2)    provide financial assistance for the redevelopment of qualified  
2 brownfields sites;

3           (3)    provide financial assistance to local governments and the  
4 Corporation for economic development projects; and

5           (4)    provide grants to local economic development funds.

6 5–313.

7           The Fund consists of:

8           (1)    money appropriated in the State budget to the Fund;

9           (2)    money made available to the Fund through federal programs or  
10 private contributions;

11          (3)    repayments of principal and interest from loans made from the  
12 Fund;

13          (4)    proceeds from the sale, disposition, lease, or rental of collateral  
14 related to financial assistance provided by the Department under this subtitle;

15          (5)    application or other fees paid to the Fund to process requests for  
16 financial assistance;

17          (6)    recovery of an investment made by the Department in a business,  
18 including an arrangement under which part of the investment is recovered through:

19               (i)    a requirement that the Department receive a proportion of  
20 cash flow, commissions, royalties, or license fees;

21               (ii)   the repurchase from the Department of any of its investment  
22 interest; or

23               (iii)  the sale of an appreciated asset;

24          (7)    repayments received from recipients of conditional grants from the  
25 Department;

26          (8)    money collected under § 9–229 of the Tax – Property Article;

27          (9)    repayments on or recoveries from financial assistance provided  
28 from the former:

29               (i)    [Animal Waste Technology Fund;

- 1                   (ii)]   Brownfields Revitalization Incentive Fund;
- 2                   [(iii)] (II)   Child Care Facilities Direct Loan Fund;
- 3                   [(iv)] (III)   Child Care Special Loan Fund;
- 4                   [(v)] (IV)    Maryland Industrial and Commercial Redevelopment  
5 Fund;
- 6                   [(vi)] (V)     Maryland Industrial Land Fund;
- 7                   [(vii)] (VI)   Maryland Seafood and Aquaculture Loan Fund; and
- 8                   [(viii)] (VII) Smart Growth Economic Development Infrastructure  
9 Fund; and
- 10               (10)   any other money made available to the Fund.

11   5–316.

12               Financial assistance is deemed authorized under this subtitle if it was provided,  
13 or approved to be provided, from the following programs that have been incorporated  
14 into the Fund:

- 15               (1)    [the Animal Waste Technology Fund;
- 16               (2)]   the Brownfields Revitalization Incentive Fund;
- 17               [(3)] (2)    the Child Care Facilities Direct Loan Fund;
- 18               [(4)] (3)    the Child Care Special Loan Fund;
- 19               [(5)] (4)    the Maryland Industrial and Commercial Redevelopment  
20 Fund;
- 21               [(6)] (5)    the Maryland Industrial Land Act;
- 22               [(7)] (6)    the Maryland Seafood and Aquaculture Loan Fund; and
- 23               [(8)] (7)    the Smart Growth Economic Development Infrastructure  
24 Fund.

25   5–321.

26               (b)   (1)   For the purpose of providing financial assistance under this  
27 subtitle, the following are deemed to be in eligible industry sectors:

- 1 (i) [animal waste technology projects;
- 2 (ii)] aquaculture projects;
- 3 [(iii)] (II) arts and entertainment enterprises;
- 4 [(iv)] (III) arts and entertainment projects;
- 5 [(v)] (IV) redevelopment of qualified brownfields sites;
- 6 [(vi)] (V) creation or expansion of child care facilities;
- 7 [(vii)] (VI) projects in areas that are declared to be federal  
 8 disaster areas within 1 year before the Department receives an application for  
 9 financial assistance under this subtitle; and
- 10 [(viii)] (VII) feasibility studies.

### 11 Article – Agriculture

#### 12 SUBTITLE 7A. ANIMAL WASTE TECHNOLOGY FUND.

##### 13 8-7A-101.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
 15 INDICATED.

16 (B) “ANIMAL WASTE TECHNOLOGY PROJECT” MEANS THE RESEARCH,  
 17 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF  
 18 TECHNOLOGY THAT IS INTENDED TO:

- 19 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
- 20 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
- 21 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES;
- 22 OR
- 23 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

24 (C) “FUND” MEANS THE ANIMAL WASTE TECHNOLOGY FUND.

##### 25 8-7A-102.



1           **(A) THERE IS AN ANIMAL WASTE TECHNOLOGY FUND IN THE**  
2 **DEPARTMENT.**

3           **(B) THE PURPOSE OF THE ANIMAL WASTE TECHNOLOGY FUND IS TO**  
4 **PROVIDE FINANCIAL ASSISTANCE TO INDIVIDUALS AND BUSINESS ENTERPRISES**  
5 **THAT:**

6                   **(1) CONDUCT RESEARCH OR DEVELOP TECHNOLOGIES THAT ARE**  
7 **INTENDED TO REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;**

8                   **(2) ALTER THE COMPOSITION OF ANIMAL WASTE;**

9                   **(3) DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT**  
10 **STRATEGIES; OR**

11                   **(4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.**

12           **(C) THE GOAL OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT**  
13 **AND IMPLEMENTATION OF ECONOMICALLY FEASIBLE TECHNOLOGIES THAT**  
14 **HELP PROTECT THE PUBLIC HEALTH AND THE ENVIRONMENT BY REDUCING**  
15 **THE AMOUNT OF NUTRIENTS FROM ANIMAL WASTE TO ENABLE FARMERS TO**  
16 **MEET NUTRIENT MANAGEMENT REQUIREMENTS AND PROVIDE ALTERNATIVE**  
17 **ANIMAL WASTE MANAGEMENT STRATEGIES TO FARMERS.**

18           **(D) (1) THE DEPARTMENT SHALL ADMINISTER THE FUND;**

19                   **(2) THE SECRETARY MAY:**

20                           **(I) DELEGATE TO ANY UNIT IN THE DEPARTMENT THE**  
21 **UNDERWRITING, CLOSING, MONITORING, AND WORKOUT FUNCTIONS FOR FUND**  
22 **LOANS; OR**

23                           **(II) CONTRACT WITH ANOTHER ENTITY TO PERFORM THESE**  
24 **FUNCTIONS.**

25           **(E) (1) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND**  
26 **THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE**  
27 **AND PROCUREMENT ARTICLE.**

28                   **(2) THE STATE TREASURER SHALL HOLD THE FUND**  
29 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

1           **(F) THE FUND CONSISTS OF:**

2                   **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

3                   **(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**  
4 **FOR THE BENEFIT OF THE FUND;**

5                   **(3) ANY INVESTMENT EARNINGS OF THE FUND;**

6                   **(4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS**  
7 **MADE FROM THE FUND;**

8                   **(5) INCOME FROM EQUITY INVESTMENTS THAT THE STATE**  
9 **TREASURER MAKES FROM THE FUND;**

10                   **(6) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL**  
11 **BY THE DEPARTMENT OF COLLATERAL RELATED TO ANY FINANCING PROVIDED**  
12 **BY THE DEPARTMENT UNDER THIS SUBTITLE; AND**

13                   **(7) APPLICATION OR OTHER FEES PAID TO THE DEPARTMENT IN**  
14 **CONNECTION WITH THE PROCESSING OF REQUESTS FOR ASSISTANCE.**

15           **(G) THE DEPARTMENT MAY USE MONEY IN THE FUND TO:**

16                   **(1) PROVIDE FINANCIAL ASSISTANCE TO DEFRAY THE COSTS OF**  
17 **ANIMAL WASTE TECHNOLOGY PROJECTS; AND**

18                   **(2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL,**  
19 **AND TECHNICAL SERVICES ASSOCIATED WITH OPERATING THE FUND.**

20           **(H) THE DEPARTMENT MAY IMPOSE TERMS AND CONDITIONS ON**  
21 **FINANCIAL ASSISTANCE PROVIDED FROM THE FUND, INCLUDING**  
22 **ADMINISTRATION AND TRANSACTION FEES.**

23           **(I) FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:**

24                   **(1) USED ONLY TO PAY THE COSTS OF CARRYING OUT AN ANIMAL**  
25 **WASTE TECHNOLOGY PROJECT; AND**

26                   **(2) IN THE FORM OF:**

27                           **(I) A GRANT;**

- 1                   (II) A LOAN;
- 2                   (III) A LOAN GUARANTEE; OR
- 3                   (IV) A LOAN THAT IS CONVERTIBLE IN WHOLE OR IN PART  
4 TO A GRANT ON THE SATISFACTION OF SPECIFIED CONDITIONS.

5 **8-7A-103.**

6           (A) TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN ANIMAL  
7 WASTE TECHNOLOGY PROJECT SHALL HAVE STRONG POTENTIAL FOR:

- 8                   (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;
- 9                   (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL  
10 INDUSTRY; AND
- 11                   (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN  
12 THE STATE.

13           (B) IF THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED EXCEEDS  
14 THE AMOUNT OF MONEY AVAILABLE IN THE FUND, THE DEPARTMENT SHALL  
15 GIVE PREFERENCE TO THE ANIMAL WASTE TECHNOLOGY PROJECTS THAT  
16 DEMONSTRATE THE GREATEST POTENTIAL FOR:

- 17                   (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;
- 18                   (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL  
19 INDUSTRY; AND
- 20                   (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN  
21 THE STATE.

22 **8-7A-104.**

23           (A) THE DEPARTMENT SHALL ESTABLISH AN ANIMAL WASTE  
24 TECHNOLOGY FUND ADVISORY COMMITTEE.

25           (B) THE SECRETARY OF AGRICULTURE SHALL BE THE CHAIR OF THE  
26 ADVISORY COMMITTEE AND THE DEPARTMENT WILL PROVIDE STAFF SUPPORT.

27           (C) EX OFFICIO MEMBERSHIP OF THE ADVISORY COMMITTEE SHALL  
28 INCLUDE:

1           **(1) THE SECRETARY OF BUSINESS AND ECONOMIC**  
2 **DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;**

3           **(2) THE SECRETARY OF THE ENVIRONMENT, OR THE**  
4 **SECRETARY'S DESIGNEE;**

5           **(3) THE SECRETARY OF NATURAL RESOURCES, OR THE**  
6 **SECRETARY'S DESIGNEE;**

7           **(4) THE DIRECTOR OF THE MARYLAND ENERGY**  
8 **ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE; AND**

9           **(5) THE DEAN OF THE COLLEGE OF AGRICULTURE AND**  
10 **NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, OR THE DEAN'S**  
11 **DESIGNEE.**

12           **(D) THE SECRETARY SHALL APPOINT COMMITTEE REPRESENTATIVES**  
13 **TO INCLUDE THE POULTRY AND LIVESTOCK INDUSTRIES, AGRICULTURAL**  
14 **COMMUNITY, ENVIRONMENTAL COMMUNITY, AGRICULTURAL FERTILIZER**  
15 **INDUSTRIES, ENERGY SECTOR, AND OTHER AREAS OF EXPERTISE AS DEEMED**  
16 **APPROPRIATE.**

17           **(E) IN CONSULTATION WITH THE ANIMAL WASTE TECHNOLOGY FUND**  
18 **ADVISORY COMMITTEE, THE DEPARTMENT SHALL:**

19           **(1) DEVELOP PROGRAM CRITERIA;**

20           **(2) REVIEW PROPOSALS; AND**

21           **(3) MAKE PROJECT FUNDING DETERMINATIONS.**

22 **8-7A-105.**

23           **THE SECRETARY MAY TAKE ALL REASONABLE ACTIONS TO PROTECT THE**  
24 **INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL, LOANS,**  
25 **GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO FINANCING**  
26 **TRANSACTIONS, INCLUDING FORGIVING A LOAN, EXPENDING FUNDS FROM ITS**  
27 **GENERAL AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT,**  
28 **ENHANCE, OR MAINTAIN COLLATERAL OR LIENS.**

29           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
30 **October 1, 2012.**