

# HOUSE BILL 987

M3  
HB 1064/11 – ENV

2lr1842  
CF SB 614

By: **Delegates Hucker, Bobo, Carr, Frush, Gilchrist, Glenn, Gutierrez, Holmes, Kramer, Lafferty, Luedtke, Niemann, S. Robinson, Waldstreicher, ~~and Zucker~~ Zucker, and Cardin**

Introduced and read first time: February 10, 2012  
Assigned to: Environmental Matters

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 19, 2012  
Returned to second reading: March 19, 2012  
House action: Adopted with floor amendments  
Read second time: March 19, 2012

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

1 AN ACT concerning

2 **Stormwater Management – Watershed Protection and Restoration Program**

3 FOR the purpose of requiring ~~each~~ a county ~~and~~ or municipality subject to a certain  
4 municipal stormwater permit to adopt certain laws or ordinances to establish a  
5 watershed protection and restoration program on or before a certain date;  
6 exempting a certain county or municipality from the requirements of this Act if  
7 the county or municipality has enacted and implemented a certain system of  
8 charges in a certain manner by a certain date; requiring a watershed protection  
9 and restoration program to include a stormwater remediation fee and a local  
10 watershed protection and restoration fund; requiring ~~each~~ a county ~~and~~ or  
11 municipality to maintain ~~and~~ or administer a local watershed protection and  
12 restoration fund in accordance with this Act; establishing the purpose of a local  
13 watershed protection and restoration fund; requiring ~~each~~ a county ~~and~~ or  
14 municipality to collect a stormwater remediation fee in accordance with this  
15 Act; requiring ~~each~~ a county ~~and~~ or municipality to set the amount of a  
16 ~~residential~~ stormwater remediation fee in a certain manner; ~~requiring each a~~  
17 ~~county and or municipality to set the amount of a nonresidential stormwater~~  
18 ~~remediation fee in a certain manner~~; providing that a stormwater remediation  
19 fee is separate from certain other charges; ~~authorizing~~ requiring a county or  
20 municipality to reduce a stormwater remediation fee in accordance with certain

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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 policies and procedures for a certain purpose; requiring the policies and  
 2 procedures to include certain items; prohibiting, with certain exception, a  
 3 county from imposing a stormwater remediation fee on a property located  
 4 within a municipality; authorizing a municipality to authorize a county to  
 5 impose a stormwater remediation fee on a property located within a  
 6 municipality in place of a municipal stormwater remediation fee; requiring ~~each~~  
 7 a county ~~and~~ or municipality to establish a procedure for a property owner to  
 8 appeal the imposition of a stormwater remediation fee; requiring ~~each~~ a county  
 9 ~~and~~ or municipality to determine the method, frequency, and enforcement of the  
 10 collection of the stormwater remediation fee and to deposit the fee into a local  
 11 watershed protection and restoration fund; specifying the money to be deposited  
 12 in a local watershed protection and restoration fund and the uses of the money  
 13 in the fund; providing that money in a local watershed and restoration fund  
 14 may not revert or be transferred to the general fund of any county or  
 15 municipality; requiring each county and municipality to make publicly available  
 16 a report on certain information; requiring a county or municipality to establish  
 17 a certain hardship program; authorizing the Department of the Environment to  
 18 adopt certain regulations; defining a certain term; and generally relating to  
 19 stormwater management in the State.

20 BY repealing and reenacting, with amendments,  
 21 Article – Environment  
 22 Section 4–201.1  
 23 Annotated Code of Maryland  
 24 (2007 Replacement Volume and 2011 Supplement)

25 BY adding to  
 26 Article – Environment  
 27 Section 4–202.1  
 28 Annotated Code of Maryland  
 29 (2007 Replacement Volume and 2011 Supplement)

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

32 **Article – Environment**

33 4–201.1.

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

35 (b) “Environmental site design” means using small–scale stormwater  
 36 management practices, nonstructural techniques, and better site planning to mimic  
 37 natural hydrologic runoff characteristics and minimize the impact of land development  
 38 on water resources.

39 (c) “Environmental site design” includes:

1 (1) Optimizing conservation of natural features, such as drainage  
2 patterns, soils, and vegetation;

3 (2) Minimizing use of impervious surfaces[, such as paved surfaces,  
4 concrete channels, roofs, and pipes];

5 (3) Slowing down runoff to maintain discharge timing and to increase  
6 infiltration and evapotranspiration; and

7 (4) Using other nonstructural practices or innovative stormwater  
8 management technologies approved by the Department.

9 (D) (1) "IMPERVIOUS SURFACE" MEANS A SURFACE THAT DOES NOT  
10 ALLOW STORMWATER TO INFILTRATE INTO THE GROUND.

11 (2) "IMPERVIOUS SURFACE" INCLUDES ROOFTOPS, DRIVEWAYS,  
12 SIDEWALKS, OR PAVEMENT.

13 **4-202.1.**

14 (A) ~~ON OR BEFORE JULY 1, 2013, A COUNTY OR MUNICIPALITY SHALL~~  
15 ~~ADOPT AND IMPLEMENT LOCAL LAWS OR ORDINANCES NECESSARY TO~~  
16 ~~ESTABLISH A WATERSHED PROTECTION AND RESTORATION PROGRAM.~~

17 ~~(B)~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
18 SUBSECTION, THIS SECTION APPLIES TO A COUNTY OR MUNICIPALITY THAT IS  
19 SUBJECT TO A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE  
20 I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT.

21 (2) THIS SECTION DOES NOT APPLY TO A COUNTY OR  
22 MUNICIPALITY THAT, ON OR BEFORE JULY 1, 2012, HAS ENACTED AND  
23 IMPLEMENTED A SYSTEM OF CHARGES UNDER § 4-204 OF THIS SUBTITLE FOR  
24 THE PURPOSE OF FUNDING A WATERSHED PROTECTION AND RESTORATION  
25 PROGRAM, OR SIMILAR PROGRAM, IN A MANNER CONSISTENT WITH THE  
26 REQUIREMENTS OF THIS SECTION.

27 (B) ON OR BEFORE JULY 1, 2013, A COUNTY OR MUNICIPALITY SHALL  
28 ADOPT AND IMPLEMENT LOCAL LAWS OR ORDINANCES NECESSARY TO  
29 ESTABLISH A WATERSHED PROTECTION AND RESTORATION PROGRAM.

30 (C) A WATERSHED PROTECTION AND RESTORATION PROGRAM  
31 ESTABLISHED UNDER THIS SECTION SHALL INCLUDE:

32 (1) A STORMWATER REMEDIATION FEE; AND

1 (2) A LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

2 (D) (1) ~~EACH A COUNTY AND OR MUNICIPALITY SHALL MAINTAIN~~  
 3 ~~AND OR ADMINISTER A LOCAL WATERSHED PROTECTION AND RESTORATION~~  
 4 ~~FUND IN ACCORDANCE WITH THIS SECTION.~~

5 (2) THE PURPOSE OF A LOCAL WATERSHED PROTECTION AND  
 6 RESTORATION FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE  
 7 IMPLEMENTATION OF LOCAL STORMWATER MANAGEMENT PLANS THROUGH  
 8 STORMWATER MANAGEMENT PRACTICES AND STREAM AND WETLAND  
 9 RESTORATION ACTIVITIES.

10 (E) (1) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,  
 11 ~~EACH A COUNTY AND OR MUNICIPALITY SHALL ESTABLISH AND ANNUALLY~~  
 12 ~~COLLECT A STORMWATER REMEDIATION FEE FROM PROPERTY OWNERS WITHIN~~  
 13 ~~THE COUNTY OR MUNICIPALITY IN ACCORDANCE WITH THIS SECTION.~~

14 (2) (I) ~~EACH A COUNTY AND OR MUNICIPALITY SHALL SET A~~  
 15 ~~RESIDENTIAL STORMWATER REMEDIATION FEE FOR PROPERTY IN AN AMOUNT~~  
 16 ~~THAT IS BASED ON THE SHARE OF STORMWATER MANAGEMENT SERVICES~~  
 17 ~~RELATED TO THE PROPERTY AND PROVIDED BY THE COUNTY OR MUNICIPALITY.~~

18 (II) ~~A COUNTY OR MUNICIPALITY MAY SET A STORMWATER~~  
 19 ~~REMEDICATION FEE UNDER THIS PARAGRAPH IN AN AMOUNT THAT IS~~  
 20 ~~GRADUATED, BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH~~  
 21 ~~PROPERTY.~~

22 (I) ~~IS THE SAME FOR ALL RESIDENTIAL PROPERTY OWNERS~~  
 23 ~~WITHIN THE COUNTY OR MUNICIPALITY;~~

24 (II) ~~VARIABLES BASED ON THE TYPE OF RESIDENTIAL~~  
 25 ~~PROPERTY, INCLUDING SINGLE FAMILY OR MULTIPLE OCCUPANCY~~  
 26 ~~PROPERTIES; OR~~

27 (III) ~~IS GRADUATED, BASED ON THE AMOUNT OF~~  
 28 ~~IMPERVIOUS SURFACE ON EACH RESIDENTIAL PROPERTY.~~

29 (3) ~~EACH A COUNTY AND OR MUNICIPALITY SHALL SET A~~  
 30 ~~NONRESIDENTIAL STORMWATER REMEDIATION FEE IN AN AMOUNT THAT:~~

31 (I) ~~IS GREATER THAN OR EQUAL TO THE RESIDENTIAL~~  
 32 ~~STORMWATER REMEDIATION FEE SET UNDER PARAGRAPH (2) OF THIS~~  
 33 ~~SUBSECTION; AND~~

1                    ~~(H) CONSISTS OF:~~

2                    ~~1. A BASE AMOUNT THAT IS THE SAME FOR ALL~~  
3 ~~NONRESIDENTIAL PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY;~~  
4 ~~AND~~

5                    ~~2. AN AMOUNT THAT IS GRADUATED BASED ON THE~~  
6 ~~AMOUNT OF IMPERVIOUS SURFACE ON EACH NONRESIDENTIAL PROPERTY.~~

7                    (4) A STORMWATER REMEDIATION FEE ESTABLISHED UNDER  
8 THIS SECTION IS SEPARATE FROM ANY CHARGES THAT A COUNTY OR  
9 MUNICIPALITY ESTABLISHES RELATED TO STORMWATER MANAGEMENT FOR  
10 NEW DEVELOPMENTS UNDER § 4-204 OF THIS SUBTITLE, INCLUDING FEES FOR  
11 PERMITTING, REVIEW OF STORMWATER MANAGEMENT PLANS, INSPECTIONS, OR  
12 MONITORING.

13                    (F) (1) ~~IN ACCORDANCE WITH A COUNTY OR MUNICIPALITY MAY~~  
14 ~~SHALL ESTABLISH~~ POLICIES AND PROCEDURES ~~ESTABLISHED BY A COUNTY OR~~  
15 ~~MUNICIPALITY AND,~~ APPROVED BY THE DEPARTMENT, ~~A COUNTY OR~~  
16 ~~MUNICIPALITY MAY~~ TO REDUCE ANY PORTION OF A STORMWATER  
17 REMEDIATION FEE ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION  
18 THAT IS BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON A PROPERTY TO  
19 ACCOUNT FOR ON-SITE AND OFF-SITE SYSTEMS, FACILITIES, SERVICES, OR  
20 ACTIVITIES THAT REDUCE THE QUANTITY OR IMPROVE THE QUALITY OF  
21 STORMWATER DISCHARGED FROM THE PROPERTY.

22                    (2) THE POLICIES AND PROCEDURES ESTABLISHED BY A COUNTY  
23 OR MUNICIPALITY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL  
24 INCLUDE:

25                    (I) GUIDELINES FOR DETERMINING WHICH ON-SITE  
26 SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES MAY BE THE BASIS FOR A FEE  
27 REDUCTION, INCLUDING GUIDELINES:

28                    1. RELATING TO PROPERTIES WITH EXISTING  
29 ADVANCED STORMWATER BEST MANAGEMENT PRACTICES;

30                    2. RELATING TO AGRICULTURAL ACTIVITIES OR  
31 FACILITIES THAT ARE OTHERWISE EXEMPTED FROM STORMWATER  
32 MANAGEMENT REQUIREMENTS BY THE COUNTY OR MUNICIPALITY; AND

1                                   **3.    THAT ACCOUNT FOR THE COSTS OF, AND THE**  
2 **LEVEL OF TREATMENT PROVIDED BY, STORMWATER MANAGEMENT FACILITIES**  
3 **THAT ARE FUNDED AND MAINTAINED BY A PROPERTY OWNER;**

4                                   **(II)   THE METHOD FOR CALCULATING THE AMOUNT OF A**  
5 **FEE REDUCTION; AND**

6                                   **(III)   PROCEDURES FOR MONITORING AND ANNUALLY**  
7 **VERIFYING THE EFFECTIVENESS OF THE ON-SITE SYSTEMS, FACILITIES,**  
8 **SERVICES, OR ACTIVITIES IN REDUCING THE QUANTITY OR IMPROVING THE**  
9 **QUALITY OF STORMWATER DISCHARGED FROM THE PROPERTY.**

10                                  **(G)   (1)   A PROPERTY MAY NOT BE ASSESSED A STORMWATER**  
11 **REMEDICATION FEE BY BOTH A COUNTY AND A MUNICIPALITY.**

12                                   **(2)   (I)   EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
13 **PARAGRAPH, A COUNTY MAY NOT IMPOSE A COUNTY STORMWATER**  
14 **REMEDICATION FEE ON A PROPERTY LOCATED WITHIN A MUNICIPALITY.**

15                                   **(II)   A MUNICIPALITY MAY AUTHORIZE A COUNTY TO IMPOSE**  
16 **A COUNTY STORMWATER REMEDIATION FEE ON A PROPERTY LOCATED WITHIN**  
17 **THE MUNICIPALITY IN PLACE OF A MUNICIPAL STORMWATER REMEDIATION**  
18 **FEE.**

19                                   **(3)   ~~EACH A~~ COUNTY ~~AND OR~~ MUNICIPALITY SHALL ESTABLISH A**  
20 **PROCEDURE FOR A PROPERTY OWNER TO APPEAL A STORMWATER**  
21 **REMEDICATION FEE IMPOSED UNDER THIS SECTION.**

22                                   **(H)   (1)   ~~EACH A~~ COUNTY ~~AND OR~~ MUNICIPALITY SHALL DETERMINE**  
23 **THE METHOD, FREQUENCY, AND ENFORCEMENT OF THE COLLECTION OF THE**  
24 **STORMWATER REMEDIATION FEE.**

25                                   **(2)   ~~EACH A~~ COUNTY ~~AND OR~~ MUNICIPALITY SHALL DEPOSIT THE**  
26 **STORMWATER REMEDIATION FEES IT COLLECTS INTO ITS LOCAL WATERSHED**  
27 **PROTECTION AND RESTORATION FUND.**

28                                   **(3)   THERE SHALL BE DEPOSITED IN A LOCAL WATERSHED**  
29 **PROTECTION AND RESTORATION FUND:**

30                                   **(I)   FUNDS    RECEIVED    FROM    THE    STORMWATER**  
31 **REMEDICATION FEE;**

1                   **(II) INTEREST OR OTHER INCOME EARNED ON THE**  
2 **INVESTMENT OF MONEY IN THE LOCAL WATERSHED PROTECTION AND**  
3 **RESTORATION FUND; AND**

4                   **(III) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY**  
5 **SOURCES FOR THE PURPOSES FOR WHICH THE LOCAL WATERSHED PROTECTION**  
6 **AND RESTORATION FUND HAS BEEN ESTABLISHED.**

7                   **(4) ~~EACH~~ A COUNTY ~~AND~~ OR MUNICIPALITY SHALL USE THE**  
8 **MONEY IN ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND FOR**  
9 **THE FOLLOWING PURPOSES ONLY:**

10                   **(I) CAPITAL IMPROVEMENTS FOR STORMWATER**  
11 **MANAGEMENT, INCLUDING STREAM AND WETLAND RESTORATION PROJECTS;**

12                   **(II) OPERATION AND MAINTENANCE OF STORMWATER**  
13 **MANAGEMENT SYSTEMS AND FACILITIES;**

14                   **(III) PUBLIC EDUCATION AND OUTREACH RELATING TO**  
15 **STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION;**

16                   **(IV) STORMWATER MANAGEMENT PLANNING, INCLUDING:**

17                               **1. MAPPING AND ASSESSMENT OF IMPERVIOUS**  
18 **SURFACES; AND**

19                               **2. MONITORING, INSPECTION, AND ENFORCEMENT**  
20 **ACTIVITIES TO CARRY OUT THE PURPOSES OF THE WATERSHED PROTECTION**  
21 **AND RESTORATION FUND;**

22                   **(V) TO THE EXTENT THAT FEES IMPOSED UNDER §**  
23 **4-204 OF THIS SUBTITLE ARE DEPOSITED INTO THE LOCAL WATERSHED**  
24 **PROTECTION AND RESTORATION FUND, REVIEW OF STORMWATER**  
25 **MANAGEMENT PLANS AND PERMIT APPLICATIONS FOR NEW DEVELOPMENT;**

26                   **(VI) GRANTS TO NONPROFIT ORGANIZATIONS FOR UP TO**  
27 **100% OF A PROJECT'S COSTS FOR WATERSHED RESTORATION AND**  
28 **REHABILITATION PROJECTS RELATING TO:**

29                               **1. PLANNING, DESIGN, AND CONSTRUCTION OF**  
30 **STORMWATER MANAGEMENT PRACTICES;**

31                               **2. STREAM AND WETLAND RESTORATION; AND**

1                                   **3. PUBLIC EDUCATION AND OUTREACH RELATED TO**  
2 **STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION; AND**

3                                   **(VII) REASONABLE COSTS NECESSARY TO ADMINISTER THE**  
4 **LOCAL WATERSHED PROTECTION AND RESTORATION FUND.**

5                                   **(5) THE FUNDS DISBURSED UNDER THIS SUBSECTION ARE**  
6 **INTENDED TO BE IN ADDITION TO ANY EXISTING STATE OR LOCAL**  
7 **EXPENDITURES FOR STORMWATER MANAGEMENT.**

8                                   **(6) MONEY IN A LOCAL WATERSHED PROTECTION AND**  
9 **RESTORATION FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL**  
10 **FUND OF ANY COUNTY OR MUNICIPALITY.**

11                                  **(I) BEGINNING JULY 1, 2014, AND EVERY 2 YEARS THEREAFTER, A**  
12 **COUNTY OR MUNICIPALITY SHALL MAKE PUBLICLY AVAILABLE A REPORT ON:**

13                                  **(1) THE NUMBER OF PROPERTIES SUBJECT TO A STORMWATER**  
14 **REMEDIATION FEE;**

15                                  **(2) THE AMOUNT OF MONEY DEPOSITED INTO THE WATERSHED**  
16 **PROTECTION AND RESTORATION FUND OVER THE PREVIOUS 2 FISCAL YEARS;**  
17 **AND**

18                                  **(3) THE PERCENTAGE OF FUNDS IN THE LOCAL WATERSHED**  
19 **PROTECTION AND RESTORATION FUND SPENT ON EACH OF THE PURPOSES**  
20 **PROVIDED IN SUBSECTION (H)(4) OF THIS SECTION.**

21                                  **(J) A COUNTY OR MUNICIPALITY SHALL ESTABLISH A PROGRAM TO**  
22 **EXEMPT FROM THE REQUIREMENTS OF THIS SECTION A PROPERTY ABLE TO**  
23 **DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE**  
24 **STORMWATER REMEDIATION FEE.**

25                                  ~~**(J)**~~ **(K) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT**  
26 **AND ENFORCE THIS SECTION.**

27                                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 July 1, 2012.