

# SENATE BILL 464

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CF HB 50

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By: **Senators Jennings, Brinkley, Colburn, Edwards, Getty, Glassman, Hershey, Jacobs, Kittleman, Reilly, Shank, and Simonaire**

Introduced and read first time: January 27, 2014

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of repealing the requirement that on or before a certain date a  
5 county or municipality subject to a certain municipal stormwater permit adopt  
6 and implement laws or ordinances to establish a watershed protection and  
7 restoration program; repealing the exemption of a county or municipality from  
8 certain requirements if the county or municipality has enacted and  
9 implemented a certain system of charges in a certain manner on or before a  
10 certain date; repealing the requirement that a county or municipality maintain  
11 or administer a local watershed protection and restoration fund in accordance  
12 with certain provisions of law; repealing the requirement that a county or  
13 municipality establish and annually collect a stormwater remediation fee in  
14 accordance with certain provisions of law; repealing the requirement that a  
15 county or municipality establish certain policies and procedures to reduce a  
16 certain stormwater remediation fee to account for certain measures; repealing  
17 certain provisions of law relating to the prohibition against the assessment of a  
18 stormwater remediation fee on a property by both a county and a municipality;  
19 repealing the requirement that a county or municipality determine the method,  
20 frequency, and enforcement of the collection of the stormwater remediation fee;  
21 repealing the requirement that certain money be deposited in a local watershed  
22 protection and restoration fund; repealing certain provisions of law relating to  
23 the uses of money in a local watershed protection and restoration fund;  
24 repealing the requirement that a county or municipality make publicly  
25 available a certain report beginning on a certain date; repealing the  
26 requirement that a county or municipality establish a certain hardship  
27 exemption program; repealing the authorization of the Department of the  
28 Environment to adopt certain regulations; altering the definition of a certain  
29 term; repealing the definition of a certain term; and generally relating to  
30 stormwater management in the State.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Environment  
3 Section 4–201.1  
4 Annotated Code of Maryland  
5 (2013 Replacement Volume)

6 BY repealing  
7 Article – Environment  
8 Section 4–202.1  
9 Annotated Code of Maryland  
10 (2013 Replacement Volume)

11 Preamble

12 WHEREAS, The State has required 10 affected counties to impose a taxing  
13 regime, commonly referred to as the “rain tax”, with the amounts to be determined in  
14 the sole discretion of each county; and

15 WHEREAS, Under the State mandate, the affected counties have taken  
16 disparate approaches to implementing the requirements, imposing a variety of rates  
17 and categorizing properties differently; and

18 WHEREAS, Under other provisions of law, each affected county is authorized to  
19 impose alternatives to the taxing regime mandated by the State to provide financial  
20 assistance for the implementation of local stormwater management plans; now,  
21 therefore,

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

24 **Article – Environment**

25 4–201.1.

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

27 (b) “Environmental site design” means using small-scale stormwater  
28 management practices, nonstructural techniques, and better site planning to mimic  
29 natural hydrologic runoff characteristics and minimize the impact of land development  
30 on water resources.

31 (c) “Environmental site design” includes:

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

1           (2) Minimizing use of impervious surfaces, **SUCH AS PAVED**  
2 **SURFACES, CONCRETE CHANNELS, ROOFS, AND PIPES;**

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

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

7           [(d) (1) “Impervious surface” means a surface that does not allow  
8 stormwater to infiltrate into the ground.

9           (2) “Impervious surface” includes rooftops, driveways, sidewalks, or  
10 pavement.]

11 [4–202.1.

12           (a) (1) Except as provided in paragraph (2) of this subsection, this section  
13 applies to a county or municipality that is subject to a national pollutant discharge  
14 elimination system Phase I municipal separate storm sewer system permit.

15           (2) This section does not apply to a county or municipality that, on or  
16 before July 1, 2012, has enacted and implemented a system of charges under § 4–204  
17 of this subtitle for the purpose of funding a watershed protection and restoration  
18 program, or similar program, in a manner consistent with the requirements of this  
19 section.

20           (b) On or before July 1, 2013, a county or municipality shall adopt and  
21 implement local laws or ordinances necessary to establish a watershed protection and  
22 restoration program.

23           (c) A watershed protection and restoration program established under this  
24 section shall include:

25           (1) A stormwater remediation fee; and

26           (2) A local watershed protection and restoration fund.

27           (d) (1) A county or municipality shall maintain or administer a local  
28 watershed protection and restoration fund in accordance with this section.

29           (2) The purpose of a local watershed protection and restoration fund is  
30 to provide financial assistance for the implementation of local stormwater  
31 management plans through stormwater management practices and stream and  
32 wetland restoration activities.

1 (e) (1) Except as provided in paragraph (2) of this subsection and  
2 subsection (f) of this section, a county or municipality shall establish and annually  
3 collect a stormwater remediation fee from owners of property located within the  
4 county or municipality in accordance with this section.

5 (2) Property owned by the State, a unit of State government, a county,  
6 a municipality, or a regularly organized volunteer fire department that is used for  
7 public purposes may not be charged a stormwater remediation fee under this section.

8 (3) (i) A county or municipality shall set a stormwater remediation  
9 fee for property in an amount that is based on the share of stormwater management  
10 services related to the property and provided by the county or municipality.

11 (ii) A county or municipality may set a stormwater remediation  
12 fee under this paragraph based on:

- 13 1. A flat rate;
- 14 2. An amount that is graduated, based on the amount of  
15 impervious surface on each property; or
- 16 3. Another method of calculation selected by the county  
17 or municipality.

18 (4) A stormwater remediation fee established under this section is  
19 separate from any charges that a county or municipality establishes related to  
20 stormwater management for new developments under § 4–204 of this subtitle,  
21 including fees for permitting, review of stormwater management plans, inspections, or  
22 monitoring.

23 (f) (1) A county or municipality shall establish policies and procedures,  
24 approved by the Department, to reduce any portion of a stormwater remediation fee  
25 established under subsection (e) of this section to account for on–site and off–site  
26 systems, facilities, services, or activities that reduce the quantity or improve the  
27 quality of stormwater discharged from the property.

28 (2) The policies and procedures established by a county or  
29 municipality under paragraph (1) of this subsection shall include:

30 (i) Guidelines for determining which on–site systems, facilities,  
31 services, or activities may be the basis for a fee reduction, including guidelines:

- 32 1. Relating to properties with existing advanced  
33 stormwater best management practices;

1                   2.     Relating to agricultural activities or facilities that are  
2 otherwise exempted from stormwater management requirements by the county or  
3 municipality; and

4                   3.     That account for the costs of, and the level of  
5 treatment provided by, stormwater management facilities that are funded and  
6 maintained by a property owner;

7                   (ii)    The method for calculating the amount of a fee reduction;  
8 and

9                   (iii)   Procedures for monitoring and verifying the effectiveness of  
10 the on-site systems, facilities, services, or activities in reducing the quantity or  
11 improving the quality of stormwater discharged from the property.

12                  (3)     For the purpose of monitoring and verifying the effectiveness of  
13 on-site systems, facilities, services, or activities under paragraph (2)(iii) of this  
14 subsection, a county or municipality may:

15                  (i)     Conduct on-site inspections;

16                  (ii)    Authorize a third party, certified by the Department, to  
17 conduct on-site inspections on behalf of the county or municipality; or

18                  (iii)   Require a property owner to hire a third party, certified by  
19 the Department, to conduct an on-site inspection and provide to the county or  
20 municipality the results of the inspection and any other information required by the  
21 county or municipality.

22                  (g)    (1)    A property may not be assessed a stormwater remediation fee by  
23 both a county and a municipality.

24                  (2)    (i)     Before a county may impose a stormwater remediation fee  
25 on a property located within a municipality, the county shall:

26                               1.     Notify the municipality of the county's intent to  
27 impose a stormwater remediation fee on property located within the municipality; and

28                               2.     Provide the municipality reasonable time to pass an  
29 ordinance authorizing the imposition of a municipal stormwater remediation fee  
30 instead of a county stormwater remediation fee.

31                               (ii)   If a county currently imposes a stormwater remediation fee  
32 on property located within a municipality and the municipality decides to implement  
33 its own stormwater remediation fee under this section or § 4-204 of this subtitle, the  
34 municipality shall:

1                   1.     Notify the county of the municipality's intent to  
2 impose its own stormwater remediation fee; and

3                   2.     Provide the county reasonable time to discontinue the  
4 collection of the county stormwater remediation fee within the municipality before the  
5 municipality's stormwater remediation fee becomes effective.

6                   (3)    A county or municipality shall establish a procedure for a property  
7 owner to appeal a stormwater remediation fee imposed under this section.

8                   (h)    (1)    A county or municipality shall determine the method, frequency,  
9 and enforcement of the collection of the stormwater remediation fee.

10                  (2)    A county or municipality shall deposit the stormwater remediation  
11 fees it collects into its local watershed protection and restoration fund.

12                  (3)    There shall be deposited in a local watershed protection and  
13 restoration fund:

14                         (i)    Funds received from the stormwater remediation fee;

15                         (ii)   Interest or other income earned on the investment of money  
16 in the local watershed protection and restoration fund; and

17                         (iii)   Any additional money made available from any sources for  
18 the purposes for which the local watershed protection and restoration fund has been  
19 established.

20                  (4)    Subject to paragraph (5) of this subsection, a county or  
21 municipality shall use the money in its local watershed protection and restoration  
22 fund for the following purposes only:

23                         (i)    Capital improvements for stormwater management,  
24 including stream and wetland restoration projects;

25                         (ii)   Operation and maintenance of stormwater management  
26 systems and facilities;

27                         (iii)   Public education and outreach relating to stormwater  
28 management or stream and wetland restoration;

29                         (iv)   Stormwater management planning, including:

30                                 1.     Mapping and assessment of impervious surfaces; and

31                                 2.     Monitoring, inspection, and enforcement activities to  
32 carry out the purposes of the watershed protection and restoration fund;

1 (v) To the extent that fees imposed under § 4–204 of this  
2 subtitle are deposited into the local watershed protection and restoration fund, review  
3 of stormwater management plans and permit applications for new development;

4 (vi) Grants to nonprofit organizations for up to 100% of a  
5 project's costs for watershed restoration and rehabilitation projects relating to:

6 1. Planning, design, and construction of stormwater  
7 management practices;

8 2. Stream and wetland restoration; and

9 3. Public education and outreach related to stormwater  
10 management or stream and wetland restoration; and

11 (vii) Reasonable costs necessary to administer the local  
12 watershed protection and restoration fund.

13 (5) A county or municipality may use its local watershed protection  
14 and restoration fund as an environmental fund, and may deposit to and expend from  
15 the fund additional money made available from other sources and dedicated to  
16 environmental uses, provided that the funds received from the stormwater  
17 remediation fee are expended only for the purposes authorized under paragraph (4) of  
18 this subsection.

19 (6) The funds disbursed under this subsection are intended to be in  
20 addition to any existing State or local expenditures for stormwater management.

21 (7) Money in a local watershed protection and restoration fund may  
22 not revert or be transferred to the general fund of any county or municipality.

23 (i) Beginning July 1, 2014, and every 2 years thereafter, a county or  
24 municipality shall make publicly available a report on:

25 (1) The number of properties subject to a stormwater remediation fee;

26 (2) The amount of money deposited into the watershed protection and  
27 restoration fund over the previous 2 fiscal years; and

28 (3) The percentage of funds in the local watershed protection and  
29 restoration fund spent on each of the purposes provided in subsection (h)(4) of this  
30 section.

31 (j) (1) A county or municipality shall establish a program to exempt from  
32 the requirements of this section a property able to demonstrate substantial financial  
33 hardship as a result of the stormwater remediation fee.

1                   (2) A county or municipality may establish a separate hardship  
2 exemption program or include a hardship exemption as part of a system of offsets  
3 established under subsection (f)(1) of this section.

4                   (k) The Department may adopt regulations to implement and enforce this  
5 section.]

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 July 1, 2014.