SENATE BILL 316

M3, L2 4lr0339
CF HB 55

By: **Senator Simonaire**
Introduced and read first time: January 17, 2014
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Anne Arundel County – Watershed Protection and Restoration Program – Exemption
(Anne Arundel County Rain Tax Exemption Act of 2014)

FOR the purpose of exempting Anne Arundel County from the requirement to establish a watershed protection and restoration program on or before a certain date; and generally relating to stormwater management in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Environment
Section 4–202.1
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

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

Article – Environment

4–202.1.

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

(2) This section does not apply to **[**a**]:**

(I) **A** county or municipality that, on or before July 1, 2012, has enacted and implemented a system of charges under § 4–204 of this subtitle for the

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

purpose of funding a watershed protection and restoration program, or similar program, in a manner consistent with the requirements of this section**; OR**

(II) ANNE ARUNDEL COUNTY.

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

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

(1) A stormwater remediation fee; and

(2) A local watershed protection and restoration fund.

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

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

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

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

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

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

1. A flat rate;

2. An amount that is graduated, based on the amount of impervious surface on each property; or

3. Another method of calculation selected by the county or municipality.

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

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

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

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

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

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

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

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

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

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

(i) Conduct on–site inspections;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Funds received from the stormwater remediation fee;

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

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

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

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

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

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

(iv) Stormwater management planning, including:

1. Mapping and assessment of impervious surfaces; and

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

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

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

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

2. Stream and wetland restoration; and

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

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

(5) A county or municipality may use its local watershed protection and restoration fund as an environmental fund, and may deposit to and expend from the fund additional money made available from other sources and dedicated to environmental uses, provided that the funds received from the stormwater

remediation fee are expended only for the purposes authorized under paragraph (4) of this subsection.

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

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

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

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

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

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

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

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

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

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