

HOUSE BILL 481

M3
HB 97/14 – ENV

5lr0132
CF SB 588

By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Arentz, Aumann, Bromwell, Buckel, Carozza, Cassilly, Ciliberti, Cluster, Fisher, Flanagan, Folden, Ghrist, Grammer, Hornberger, S. Howard, Impallaria, Jacobs, Kipke, Kittleman, Krebs, Long, Mautz, McComas, McConkey, McDonough, McKay, McMillan, Metzgar, Miele, Morgan, O'Donnell, Otto, Parrott, Rey, Saab, Shoemaker, Szeliga, Vitale, Vogt, West, and B. Wilson**

Introduced and read first time: February 9, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 term; repealing the definition of a certain term; and generally relating to stormwater
2 management in the State.

3 BY repealing and reenacting, with amendments,
4 Article – Environment
5 Section 4–201.1
6 Annotated Code of Maryland
7 (2013 Replacement Volume and 2014 Supplement)

8 BY repealing
9 Article – Environment
10 Section 4–202.1
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2014 Supplement)

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

15 **Article – Environment**

16 4–201.1.

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

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

22 (c) “Environmental site design” includes:

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

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

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

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

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

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

3 [4–202.1.

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

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

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

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

16 (1) A stormwater remediation fee; and

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

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

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

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

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

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

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

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

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

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

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

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

- 19 1. Relating to properties with existing advanced stormwater
20 best management practices;
- 21 2. Relating to agricultural activities or facilities that are
22 otherwise exempted from stormwater management requirements by the county or
23 municipality; and
- 24 3. That account for the costs of, and the level of treatment
25 provided by, stormwater management facilities that are funded and maintained by a
26 property owner;

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

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

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

1 (i) Conduct on-site inspections;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (iv) Stormwater management planning, including:

16 1. Mapping and assessment of impervious surfaces; and

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

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

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

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

26 2. Stream and wetland restoration; and

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

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

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

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

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

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

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

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

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2015.