

**SB0863/940519/1**

BY: Environment and Transportation Committee

AMENDMENTS TO SENATE BILL 863  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 13, after the semicolon, insert “authorizing a certain county or municipality that established a certain fee on or before a certain date to repeal or reduce a fee before a certain date under certain circumstances;”; in line 16, strike “includes” and substitute “funds”; and in line 17, strike “in the county’s capital budget or operating budget” and substitute “by using certain revenues”.

On page 2, strike beginning with “repealing” in line 4 down through “manner;” in line 6; in line 8, after “bill” insert “or insert to a bill”; strike beginning with “requiring” in line 9 down through “management;” in line 11; in line 14, strike “annual”; in line 15, after “plan” insert “every 2 years”; in line 16, after “on” insert “or before”; strike beginning with “requiring” in line 17 down through “filing” in line 18 and substitute “prohibiting a certain county or municipality from filing a certain financial assurance plan until a certain local governing body holds a public hearing and approves the financial assurance plan”; strike beginning with “prohibiting” in line 20 down through “determination;” in line 22 and substitute “specifying that certain funding in a certain financial assurance plan is sufficient under certain circumstances; requiring the Department to issue a certain warning and impose certain administrative penalties under certain circumstances;”; in line 27, strike “requiring” and substitute “authorizing”; in the same line, after “plan;” insert “providing that certain regulations adopted by the Department do not apply in a county that has implemented a certain program before a certain date;”; in line 29, strike “and” and substitute a comma; in the same line, after “department” insert “, or certain roads”; in line 37, after “plans;” insert “altering certain definitions relating to the Maryland Water Quality Revolving Loan Fund; modifying certain conditions for loans issued under the Maryland Water Quality Revolving Loan Fund; authorizing certain money in the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to be used for certain purposes; requiring a county that owns property located in a municipality that has adopted certain stormwater charges to”

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enter into a certain memorandum of understanding with the municipality to mutually agree on an amount to be paid by the county to defray certain costs of stormwater pollution control services; requiring a municipality that owns property located in a county that has adopted certain stormwater charges to enter into a certain memorandum of understanding with the county to mutually agree on an amount to be paid by the municipality to defray certain costs of stormwater pollution control services; providing for the construction of this Act;”; strike beginning with the first “providing” in line 38 down through “Act;” in line 39; and in line 43, after “4-202.1” insert “and 4-204(d)”.

On page 3, strike in their entirety lines 1 through 5, inclusive; after line 10, insert:

“BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9-1601(a) and 9-1605(a)(1)  
Annotated Code of Maryland  
(2014 Replacement Volume)”;

in line 13, after “Section” insert “9-1601(ee)(1) and (ii), 9-1605(d)(1), and”; and strike in their entirety lines 16 through 21, inclusive, and substitute:

“BY repealing and reenacting, without amendments,  
Article - Natural Resources  
Section 8-2A-02(a) and (f)(1)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,  
Article - Natural Resources  
Section 8-2A-02(f)(2)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2014 Supplement)”.

AMENDMENT NO. 2

On page 4, in line 4, after “(c)” insert “**(1)**”; in lines 6 and 7, strike “(1)” and “(2)”, respectively, and substitute “**(I)**” and “**(II)**”, respectively; after line 7, insert:

**“(2) (I) IF A COUNTY OR MUNICIPALITY ESTABLISHED A STORMWATER REMEDIATION FEE UNDER THIS SECTION ON OR BEFORE JULY 1, 2013, THE COUNTY OR MUNICIPALITY MAY REPEAL OR REDUCE THE FEE BEFORE JULY 1, 2016, IF:**

**1. THE COUNTY OR MUNICIPALITY IDENTIFIES DEDICATED REVENUES, FUNDS, OR OTHER SOURCES OF FUNDS THAT WILL BE:**

**A. DEPOSITED INTO ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND; AND**

**B. UTILIZED BY THE COUNTY OR MUNICIPALITY TO MEET THE REQUIREMENTS OF ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT;**

**2. SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE COUNTY OR MUNICIPALITY HAS FILED WITH THE DEPARTMENT A FINANCIAL ASSURANCE PLAN IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION; AND**

**3. THE DEPARTMENT DETERMINES THE FINANCIAL ASSURANCE PLAN DEMONSTRATES GOOD FAITH TOWARD ACHIEVING SUFFICIENT FUNDING IN ACCORDANCE WITH SUBSECTION (J)(4)(II) OF THIS SUBSECTION.**

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(II) THIS PARAGRAPH MAY NOT BE CONSTRUED AS PROHIBITING A COUNTY OR MUNICIPALITY FROM REPEALING OR REDUCING A FEE ON OR AFTER JULY 1, 2016.”;

in line 17, strike “IF” and substitute “BEGINNING FISCAL YEAR 2017, IF”; in the same line, strike “INCLUDES” and substitute “FUNDS”; in line 18, strike “IN THE COUNTY’S CAPITAL BUDGET OR OPERATING BUDGET” and substitute “BY USING GENERAL REVENUES”; in line 24, after “SECTION” insert “OR § 4-204 OF THIS SUBTITLE”; in the same line, after “COUNTY” insert “PROPERTY”; in line 22, strike “OR”; and in line 26, after “MUNICIPALITY” insert “; OR”

3. NEGOTIATE A MEMORANDUM OF UNDERSTANDING WITH THE MUNICIPALITY TO MUTUALLY AGREE UPON ANY OTHER ACTION”.

AMENDMENT NO. 3

On page 5, in line 1, after “(II)” insert “1.”; in the same line, strike “PROPERTY” and substitute “EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, PROPERTY”; in lines 4, 5, and 7, in each instance, after “STATE” insert “OR A UNIT OF STATE GOVERNMENT”; in lines 4, 8, and 13, strike “1.”, “2.”, and “3.”, respectively, and substitute “A.”, “B.”, and “C.”, respectively; in line 7, after “TO” insert “PROPERTY OF THE”; in the same line, strike “PROPERTY”; in line 14, strike “DEPARTMENT’S”; in the same line, after “SATISFACTION” insert “OF THE STATE OR A UNIT OF STATE GOVERNMENT”; in the same line, strike “1” and substitute “A”; in line 15, strike “2” and substitute “B”; and in line 17, after “FUND.” insert:

“2. A COUNTY OR MUNICIPALITY MAY NOT CHARGE A STORMWATER REMEDIATION FEE TO PROPERTY SPECIFICALLY COVERED BY A CURRENT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MUNICIPAL

**SEPARATE STORM SEWER PERMIT OR INDUSTRIAL STORMWATER PERMIT HELD BY THE STATE OR A UNIT OF STATE GOVERNMENT.**

**AMENDMENT NO. 4**

On page 6, in line 1, strike “A”; in line 2, before “county” insert “**IF A COUNTY OR MUNICIPALITY ESTABLISHES A STORMWATER REMEDIATION FEE UNDER THIS SECTION, A**”; in the same line, strike the brackets; and in the same line, strike “MAY”.

**AMENDMENT NO. 5**

On page 8, in line 11, after “BILL” insert “**OR ON AN INSERT TO A BILL**”; in line 22, strike “SUBSECTION” and substitute “**SUBSECTIONS (C)(2) AND**”.

**AMENDMENT NO. 6**

On page 9, strike in their entirety lines 26 through 29, inclusive; and in line 30, strike “(7)” and substitute “**(6)**”.

**AMENDMENT NO. 7**

On page 10, in line 6, strike “FEE” and substitute “**FUNDING**”; in line 8, after “FEE” insert “**, IF ANY**”; in line 11, after “YEAR” insert “**BY SOURCE**”; in the same line, strike the second “and”; in line 12, after “percentage” insert “**AND AMOUNT**”; in line 13, after “section” insert “;

**(5) ALL STORMWATER MANAGEMENT PROJECTS IMPLEMENTED IN THE PREVIOUS FISCAL YEAR; AND**

**(6) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY**”.

**AMENDMENT NO. 8**

On page 10, in line 14, after “(1)” insert “(I)”; in the same line, strike “BEGINNING” and substitute “ON OR BEFORE”; in the same line, strike “YEAR” and substitute “2 YEARS”; in the same line, after “THEREAFTER” insert “ON THE ANNIVERSARY OF THE DATE OF ISSUANCE OF ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT”; in lines 17, 21, 25, and 30, strike “(I)”, “(II)”, “(III)”, and “(IV)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively.

On page 11, in line 1, strike “(V)” and substitute “5.”; in line 3, strike “YEAR” and substitute “YEARS”; after line 5, insert:

“(II) A COUNTY OR MUNICIPALITY THAT FILES A FINANCIAL ASSURANCE PLAN UNDER SUBSECTION (C)(2) OF THIS SECTION SHALL FILE ON OR BEFORE JULY 1, 2016, A FINANCIAL ASSURANCE PLAN THAT MEETS THE REQUIREMENTS OF PARAGRAPH (4) OF THIS SUBSECTION.”;

in line 8, after “YEAR” insert “AND SUBSEQUENT FISCAL YEAR”; in the same line, strike “BUDGET” and substitute “BUDGETS”; in the same line, strike “ANNUAL”; in the same line, after “COSTS” insert “FOR THE 2-YEAR PERIOD IMMEDIATELY FOLLOWING THE FILING DATE OF THE FINANCIAL ASSURANCE PLAN”; strike beginning with “THE” in line 9 down through “DEPARTMENT” in line 11 and substitute “A COUNTY OR MUNICIPALITY MAY NOT FILE A FINANCIAL ASSURANCE PLAN UNDER THIS SUBSECTION UNTIL THE LOCAL GOVERNING BODY OF THE COUNTY OR MUNICIPALITY:

(I) HOLDS A PUBLIC HEARING ON THE FINANCIAL ASSURANCE PLAN; AND

(II) APPROVES THE FINANCIAL ASSURANCE PLAN”;

in line 12, after “~~(4)~~” insert “**(I)**”; in the same line, strike “~~THE~~” and substitute “**SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE**”; after line 15, insert:

**“(II) FOR A FINANCIAL ASSURANCE PLAN THAT IS FILED ON OR BEFORE JULY 1, 2016, FUNDING IN THE FINANCIAL ASSURANCE PLAN IS SUFFICIENT IF THE FINANCIAL ASSURANCE PLAN DEMONSTRATES THAT THE COUNTY OR MUNICIPALITY HAS DEDICATED REVENUES, FUNDS, OR SOURCES OF FUNDS TO MEET, FOR THE 2-YEAR PERIOD IMMEDIATELY FOLLOWING THE FILING DATE OF THE FINANCIAL ASSURANCE PLAN, 75% OF THE PROJECTED COSTS OF COMPLIANCE WITH THE IMPERVIOUS SURFACE RESTORATION PLAN REQUIREMENTS OF THE COUNTY OR MUNICIPALITY UNDER ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT OVER THAT 2-YEAR PERIOD.**

**“(III) FOR THE FILING OF A SECOND AND SUBSEQUENT FINANCIAL ASSURANCE PLAN, FUNDING IN THE FINANCIAL ASSURANCE PLAN IS SUFFICIENT IF THE FINANCIAL ASSURANCE PLAN DEMONSTRATES THAT THE COUNTY OR MUNICIPALITY HAS DEDICATED REVENUES, FUNDS, OR SOURCES OF FUNDS TO MEET, FOR THE 2-YEAR PERIOD IMMEDIATELY FOLLOWING THE FILING DATE OF THE FINANCIAL ASSURANCE PLAN, 100% OF THE PROJECTED COSTS OF COMPLIANCE WITH THE IMPERVIOUS SURFACE RESTORATION PLAN REQUIREMENTS OF THE COUNTY OR MUNICIPALITY UNDER ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT OVER THE 2-YEAR PERIOD.”.**

On pages 11 and 12, strike beginning with line 16 on page 11 through line 3 on page 12 and substitute:

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“(5) (I) IF THE DEPARTMENT DETERMINES THAT THE FUNDING IN THE FINANCIAL ASSURANCE PLAN FILED ON OR BEFORE JULY 1, 2016, IS INSUFFICIENT TO MEET, FOR THE 2-YEAR PERIOD IMMEDIATELY FOLLOWING THE FILING DATE OF THE FINANCIAL ASSURANCE PLAN, 75% OF THE PROJECTED COSTS OF COMPLIANCE WITH THE IMPERVIOUS SURFACE RESTORATION PLAN REQUIREMENTS OF THE COUNTY OR MUNICIPALITY UNDER ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT, THE DEPARTMENT SHALL ISSUE A WARNING TO THE COUNTY OR MUNICIPALITY AND ENGAGE WITH THE COUNTY OR MUNICIPALITY ON THE DEVELOPMENT OF A PLAN FOR MEETING THE PROJECTED COSTS OF COMPLIANCE.

(II) 1. IF THE DEPARTMENT DETERMINES THAT THE FUNDING IN THE SECOND OR SUBSEQUENT FINANCIAL ASSURANCE PLAN IS INSUFFICIENT TO MEET, FOR THE 2-YEAR PERIOD IMMEDIATELY FOLLOWING THE FILING DATE OF THE FINANCIAL ASSURANCE PLAN, 100% OF THE PROJECTED COSTS OF COMPLIANCE WITH THE IMPERVIOUS SURFACE RESTORATION PLAN REQUIREMENTS OF THE COUNTY OR MUNICIPALITY UNDER ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT, IN ADDITION TO ANY OTHER REMEDY AVAILABLE AT LAW OR IN EQUITY THE DEPARTMENT SHALL IMPOSE AN ADMINISTRATIVE PENALTY OF:

A. FOR A FIRST OFFENSE, UP TO \$5,000 FOR EACH DAY UNTIL THE FUNDING IN THE FINANCIAL ASSURANCE PLAN IS DETERMINED TO BE SUFFICIENT IN ACCORDANCE WITH SUBSECTION (J)(4)(III) OF THIS SUBSECTION; AND

**B. FOR A SECOND AND SUBSEQUENT OFFENSE, UP TO \$10,000 FOR EACH DAY UNTIL THE FUNDING IN THE FINANCIAL ASSURANCE PLAN IS DETERMINED TO BE SUFFICIENT IN ACCORDANCE WITH SUBSECTION (J)(4)(III) OF THIS SUBSECTION.**

**2. ANY PENALTY COLLECTED BY THE DEPARTMENT FROM A COUNTY OR MUNICIPALITY UNDER THIS SUBPARAGRAPH SHALL BE PAID INTO AN ESCROW ACCOUNT TO BE USED BY THE COUNTY OR MUNICIPALITY FOR STORMWATER MANAGEMENT PROJECTS PENDING A DETERMINATION BY THE DEPARTMENT THAT FUNDING IN THE FINANCIAL ASSURANCE PLAN IS SUFFICIENT.**

On page 12, in line 6, after “SITE” insert “WITHIN 14 DAYS AFTER THE COUNTY OR MUNICIPALITY FILED THE FINANCIAL ASSURANCE PLAN WITH THE DEPARTMENT”.

AMENDMENT NO. 9

On page 12, in line 28, strike “THE” and substitute “**1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE**”; in the same line, strike “SHALL” and substitute “MAY”; and after line 30, insert:

**“2. THE REGULATIONS ADOPTED BY THE DEPARTMENT UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH DO NOT APPLY IN A COUNTY THAT HAS IMPLEMENTED AN ALTERNATE COMPLIANCE PROGRAM BEFORE JULY 1, 2015.”**

AMENDMENT NO. 10

On page 13, after line 13, insert:

**“(4) THE CHARGES SHALL BE ASSESSED IN A MANNER CONSISTENT WITH § 4-202.1(E)(3) AND (F) OF THIS SUBTITLE.”**

AMENDMENT NO. 11

On page 13, in line 20, strike the second **“OR”** and substitute a comma; in line 21, after **“PURPOSES”** insert **“, OR ON ROADS, NOT INCLUDING PARKING AREAS, THAT ARE OWNED BY A HOMEOWNERS ASSOCIATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(4) OF THE INTERNAL REVENUE CODE IF THE ROADS QUALIFY FOR A STATE OR COUNTY ROADWAY MAINTENANCE REIMBURSEMENT FUND”**; in lines 25 and 26, in each instance, after **“STATE”** insert **“OR A UNIT OF STATE GOVERNMENT”**; in line 27, strike **“STATE”**; and in the same line, after **“PROPERTY”** insert **“OF THE STATE OR A UNIT OF STATE GOVERNMENT”**.

On page 14, in line 4, strike **“DEPARTMENT’S”**; and in line 5, after **“SATISFACTION”** insert **“OF THE STATE OR A UNIT OF STATE GOVERNMENT”**.

AMENDMENT NO. 12

On page 14, after line 32, insert:

“9-1601.

(a) Unless the context clearly requires otherwise, in this subtitle the following words have the meanings indicated.

(ee) (1) “Person” means an individual, corporation, partnership, association, NONPROFIT ENTITY, the State, any unit of the State, commission, special taxing district, or the federal government.

(ii) (1) “Wastewater facility” means any equipment, plant, treatment works, structure, machinery, apparatus, interest in land, or any combination of these, which is acquired, used, constructed, or operated [for]:

(I) FOR the storage, collection, treatment, neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of wastewater[.];

(II) TO IMPROVE WATER CONSERVATION, REDUCE ENERGY CONSUMPTION, OR INCREASE SECURITY; or [for]

(III) FOR the final disposal of residues resulting from the treatment of wastewater[, including:].

(2) “WASTEWATER FACILITY” INCLUDES:

(I) [treatment] TREATMENT or disposal plants; outfall sewers, interceptor sewers, and collector sewers; pumping and ventilating stations, facilities, and works; [programs and projects for controlling nonpoint sources of water pollution and for estuarine conservation and management;] and other real or personal property and appurtenances incident to their development, use, or operation;

(II) ANY PROGRAMS AND PROJECTS FOR MANAGING, REDUCING, TREATING, RECAPTURING, ABATING, OR CONTROLLING NONPOINT SOURCES OF WATER POLLUTION, INCLUDING STORMWATER OR SUBSURFACE DRAINAGE WATER; AND

(III) ANY PROGRAMS AND PROJECTS FOR IMPROVING ESTUARINE CONSERVATION AND MANAGEMENT.

9-1605.

(a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water Quality Fund shall be maintained and administered by the Administration in

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accordance with the provisions of this subtitle and such rules or program directives as the Secretary or the Board may from time to time prescribe.

(d) Amounts in the Water Quality Fund may be used only:

(1) To make loans, on the condition that:

(i) The loans are made at or below market interest rates, including interest free loans, at terms not to exceed [20 years] **THE LESSER OF 30 YEARS OR THE PROJECTED USEFUL LIFE OF THE PROJECT;**

(ii) Annual principal and interest payments will commence not later than 1 year after completion of any wastewater facility and all loans will be fully amortized [not later than 20 years after project completion] **ON THE EXPIRATION OF THE TERM OF THE LOAN;**

(iii) The local government borrower will establish a dedicated source of revenue for repayment of loans;

(iv) In the case of a wastewater facility owned by a borrower other than a local government, the borrower will provide adequate security for repayment of loans; and

(v) The Water Quality Fund will be credited with all payments of principal and interest on all loans;

#### Article – Natural Resources

8-2A-02.

(a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

(f) (1) The Fund may be used only for the implementation of nonpoint source pollution control projects to achieve the State’s tributary strategy developed in accordance with the Chesapeake 2000 Agreement and to improve the health of the Atlantic Coastal Bays and their tributaries.

(2) It is the intent of the General Assembly that, when possible, moneys in the Fund shall be granted to local governments and other political subdivisions for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater nonpoint source pollution control projects, INCLUDING UP TO 25% IN MATCHING FUNDS TO LOCAL GOVERNMENTS AND OTHER POLITICAL SUBDIVISIONS THAT HAVE ENACTED A STORMWATER REMEDIATION FEE UNDER § 4-202.1 OF THE ENVIRONMENT ARTICLE.”;

and strike in their entirety lines 33 through 35, inclusive.

AMENDMENT NO. 13

On pages 16 through 18, strike in their entirety the lines beginning with line 17 on page 16 through line 7 on page 18, inclusive.

On page 18, after line 7, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2015, a county that owns property located within a municipality that has adopted a system of charges under § 4-204 of the Environment Article shall enter into a memorandum of understanding with the municipality and mutually agree on an amount to be paid by the county to the municipality to defray the municipality’s costs of providing stormwater pollution control services to county property.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2015, a municipality that owns property located within a county that has adopted a system of charges under § 4-204 if the Environment Article shall enter into a memorandum of understanding with the county and mutually agree on an amount to

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be paid by the municipality to defray the county's costs of providing stormwater pollution control services to municipality property.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be construed to diminish, modify, or affect any county's or municipality's responsibility to comply with all terms and conditions of its national pollutant discharge elimination system Phase I municipal separate storm sewer system permit.”;

and in line 8, strike beginning with “subject” in line 8 down through “Act,” in line 9.