

**Department of Legislative Services**

Maryland General Assembly

2016 Session

**FISCAL AND POLICY NOTE**

**Third Reader - Revised**

House Bill 1552

(Prince George's County Delegation and Montgomery  
County Delegation)

Environment and Transportation

Finance

---

**Washington Suburban Sanitary Commission - Polybutylene Connection Pipe  
Replacement Loan Program  
PG/MC 115-16**

---

This bill requires the Washington Suburban Sanitary Commission (WSSC) to establish a Polybutylene Connection Pipe Replacement Loan Program. WSSC may not provide more than \$1 million in total loans through the program.

The bill takes effect October 1, 2016, and terminates September 30, 2026.

---

**Fiscal Summary**

**State Effect:** None.

**Local Effect:** WSSC expenditures increase for administering the loan program, including recording, holding, and processing liens, depending on the number of loans issued under the program. Revenues increase upon repayment of loans. WSSC may not provide more than \$1.0 million in total loans. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

---

**Analysis**

**Bill Summary:** The purpose of the program is to provide loans to residential customers to finance the replacement of malfunctioning polybutylene pipes on customer property

located in the commission's service territory that connect from service connections to customer residences. The loan program must (1) provide for eligibility requirements for participation in the program, including eligibility requirements for the type of connection pipe that is being installed to replace the existing polybutylene connection pipe and customers applying for a loan through the program; (2) provide for loan terms and conditions, including an interest rate that may not exceed the prime rate applicable on the day the loan is made; (3) require that the replacement of malfunctioning polybutylene pipes under the program be performed by a licensed plumber; and (4) prohibit the commission from replacing malfunctioning polybutylene pipes under the program.

Customers who are provided loans must repay a loan through a separate charge on the customer's water and sewer bill or by another method determined by the commission. WSSC may not set a charge greater than an amount that allows the commission to recover the costs associated with financing the loan and administering the program. A person who acquires property subject to a charge assumes the obligation to pay the charge.

Each loan provided under the program must be a lien against the property on which the malfunctioning polybutylene pipe has been replaced that continues until the loan is paid in full to the commission. The commission is the sole holder of the lien. WSSC is required to record a lien in the land records of the county where the property is located. A lien must secure payment of a loan, including the principal, interest, late charges, cost of collection, and reasonable attorney's fees. Liens must be enforced in accordance with the Maryland Contract Lien Act. If a loan will be in the principal amount of \$15,000 or greater, a lien may not be established without the express prior consent of any holder of a mortgage or deed of trust on a property on which the malfunctioning polybutylene pipe is expected to be replaced through a loan provided under the program. A lien may not take priority over a lien, mortgage, deed of trust, or other security interest that is (1) already attached to the property at the time the lien established under this program is recorded or (2) given to secure a loan to purchase the property subject to the lien or refinance a loan that is already attached to the property at the time the lien is recorded.

The bill establishes the Polybutylene Connection Pipe Replacement Fund, administered by WSSC, to provide funding for the polybutylene connection pipe replacement loan program. The fund consists of (1) money appropriated by the commission from ratepayer funds only; (2) any investment earnings of the fund; and (3) any other money from any other source accepted for the benefit of the fund. The fund may be used only for providing loans through the program.

**Current Law:** WSSC does not have a Polybutylene Connection Pipe Replacement Loan Program.

**Background:** WSSC is among the largest water and wastewater utilities in the country, providing water and sewer services to 1.8 million residents in Montgomery and Prince George’s counties. It has over 460,000 customer accounts, serves an area of around 1,000 square miles, and currently employs more than 1,500 people. The commission operates three reservoirs, two water filtration plants, and six wastewater treatment plants. The six wastewater treatment facilities, as well as the Blue Plains Advanced Wastewater Treatment Plant, handle over 200 million gallons of wastewater per day. The commission maintains nearly 5,600 miles of water main lines and nearly 5,500 miles of sewer main lines.

WSSC reports that over 20 years ago, there were several class action lawsuits against the makers of polybutylene pipe that were ultimately settled in favor of property owners. These settlements provided coverage of a specified percentage of the replacement costs of faulty pipes.

**Local Fiscal Effect:** WSSC expenditures may increase depending on the number of loans issued under the loan program. WSSC revenues increase upon repayment of the loans through the charge imposed on customer water and sewer bills. The amount of the increase cannot be reliably estimated but depends on the number of customers using the loan program and the repayment schedule of each loan. Under the bill, WSSC may not provide more than \$1.0 million in total loans over the 10-year life of the program.

WSSC reports that for fiscal 2017, the commission will increase water and sewer rates by approximately 0.2% to fund the loan program required by the bill.

---

### **Additional Information**

**Prior Introductions:** HB 910 of 2015 passed the House and was amended by the Senate Finance Committee. The House refused to concur with the Senate amendments, and a conference committee was appointed. No further action was taken.

**Cross File:** None.

**Information Source(s):** Prince George’s County, Washington Suburban Sanitary Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2016  
min/hlb Revised - House Third Reader - April 1, 2016

---

Analysis by: Michael Sanelli

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510