

# STORMWATER REMEDIATION FEES IN MARYLAND

LOCAL IMPLEMENTATION OF HOUSE BILL 987 OF 2012



DEPARTMENT OF LEGISLATIVE SERVICES 2013

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**Stormwater Remediation Fees in Maryland:  
Local Implementation of  
House Bill 987 of 2012**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

**November 2013**

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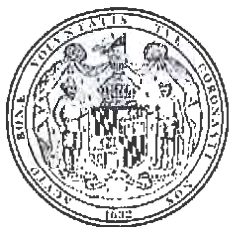
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF POLICY ANALYSIS  
MARYLAND GENERAL ASSEMBLY

Karl S. Aro  
Executive Director

November 19, 2013

Warren G. Deschenaux  
Director

The Honorable Thomas V. Mike Miller, Jr., President of the Senate  
The Honorable Michael E. Busch, Speaker of the House of Delegates  
Members of the Maryland General Assembly

Ladies and Gentlemen:

As a means of assisting local governments in meeting their local stormwater management needs, the General Assembly passed Chapter 151 of 2012, which required the 10 jurisdictions subject to the National Pollutant Discharge Elimination System (NPDES) Phase I municipal separate storm sewer system (MS4) permit to adopt local laws or ordinances necessary to establish an annual stormwater remediation fee and a local watershed protection and restoration fund by July 1, 2013. Chapter 151 provided flexibility for each jurisdiction to decide the level and structure of the fee, how it is collected, and other details of the fee and fund, subject to specified requirements. The dedicated funding source is to be used to finance the implementation of the local MS4 permits, including the requirement of each permit to meet the stormwater-related targets under the Chesapeake Bay Total Maximum Daily Load.

In an effort to better understand the structure and amount of fees established by each jurisdiction, the Natural Resources, Environment, and Transportation Workgroup within the Office of Policy Analysis prepared this report on the implementation of Chapter 151 by the 10 NPDES Phase I MS4 permit jurisdictions. Specifically, the report (1) provides an overview of the federal laws and regulations governing stormwater management; (2) discusses the types of fee structures established by each of the 10 Phase I MS4 jurisdictions; (3) provides a comparative analysis (based upon information provided by each jurisdiction) of the estimated amount of stormwater remediation fee revenues generated by the implementation of Chapter 151 and the level of funding required by each jurisdiction to meet its additional stormwater management obligations; and (4) presents several policy considerations.

We trust that this report will prove useful to the General Assembly in better understanding the stormwater management funding efforts that are currently underway in Maryland's 10 NPDES Phase I MS4 permit jurisdictions to meet the additional federal and State requirements. If you would like additional information regarding this report, please contact Evan M. Isaacson at (410) 946-5510.

Sincerely,

Warren G. Deschenaux  
Director

WGD/kjl  
cc: Mr. Karl S. Aro

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## Executive Summary

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Local jurisdictions play an important role in managing stormwater discharges and are required to make significant investments to remediate the amount of untreated impervious surface within each jurisdiction. To assist local governments in meeting the stormwater management requirements, the General Assembly passed House Bill 987 (Chapter 151 of 2012). Chapter 151 requires local jurisdictions subject to a Phase I municipal separate storm sewer system (MS4) permit to establish a fee to help cover stormwater remediation costs. Under the Act, each jurisdiction has the flexibility to decide the level and structure of the fee, how it is collected, and other details of the fee and fund, subject to specified requirements. In an effort to understand the structure and amount of the fees established by each jurisdiction, the Department of Legislative Services (DLS) contacted each of the 10 jurisdictions subject to Chapter 151. As part of its inquiry, DLS asked each jurisdiction to provide information on (1) stormwater remediation fee revenue estimates; (2) what, if any, other revenue sources are dedicated toward stormwater management; and (3) projected stormwater management expenditures through fiscal 2018.

Chapter 1 of this report provides additional background information on stormwater management and fees in Maryland and across the country. As discussed in Chapter 2 of this report, 9 of the 10 Phase I MS4 jurisdictions have adopted a fee as required by Chapter 151. Many of the jurisdictions have adopted credits, rebates, and exemptions as part of their stormwater management fee program.

As discussed in Chapter 3 of this report, stormwater fee revenues for the 10 jurisdictions are estimated to total about \$103 million in fiscal 2014. When normalizing the estimated revenue generated using the amount of impervious acreage in each jurisdiction to better compare the fees, the average annual fee revenue per impervious acre ranges from just under \$500 per acre to just over \$1,600 per acre (excluding Carroll County, which did not establish a fee, and Frederick County, which established a nominal fee of \$0.01 per property). Chapter 3 also shows that several jurisdictions are contributing other sources of revenue to their stormwater management efforts. In fact, between fiscal 2014 and 2018, the revenues generated from the fees associated with Chapter 151 are estimated to account for less than half (39.3%) of all revenues projected to be spent on stormwater management by these jurisdictions.

As discussed in Chapter 4 of this report, the total projected stormwater costs as reported by the jurisdictions through fiscal 2018 is about \$2.07 billion, or about \$415 million annually. When looking at the cost per acre of untreated impervious surface by jurisdiction, there is a wide variance in the estimated annual costs, ranging from between \$1,057 and \$5,410 per acre. Using bonds and other revenues, 6 of the 10 jurisdictions plan to fund at least 80% of projected stormwater management costs.

Given that the stormwater remediation fee is relatively new to the State, several policy issues the General Assembly may



want to consider are discussed in Chapter 5 of this report.

**Appendix 1** provides additional information on each jurisdiction's new

stormwater remediation fee structure, as well as the revenues and expenditures associated with stormwater management from fiscal 2014 to 2018.

# Chapter 1. An Overview of Stormwater Management

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## Federal Law and Regulations

### The Clean Water Act

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and for setting water quality standards for surface waters. The CWA makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a National Pollutant Discharge Elimination System (NPDES) permit is obtained.

### NPDES Permit Program and Municipal Separate Storm Sewer Systems

The NPDES Stormwater Program is a comprehensive two-phased national program (Phase I and Phase II) for addressing the nonagricultural sources of stormwater discharges that adversely affect the quality of our nation's waters. According to the U.S. Environmental Protection Agency (EPA), the NPDES Stormwater Program regulates stormwater discharges from three potential sources: municipal separate storm sewer systems (MS4); construction activities; and industrial activities. Most stormwater discharges are considered point sources, such as any sort of drain, pipe, tunnel, or similar conveyance; and the persons responsible for these sources may be required to receive an NPDES permit before they can discharge. The CWA authorizes the delegation of NPDES permit issuance authority from EPA to the states.

Stormwater, or polluted runoff, is rain after it picks up pollutants such as animal waste, oils, and chemicals, and runs into local streams and rivers. Polluted stormwater runoff is commonly transported through MS4s, from which it is often discharged untreated into local water bodies. An MS4 is defined as a conveyance or system of conveyances that is (1) owned by a state, city, town, village, or other public entity that discharges to waters of the United States; (2) designed or used to collect or convey stormwater (including storm drains, pipes, ditches, etc.); (3) not a combined sewer; and (4) not part of a Publicly Owned Treatment Works (sewage treatment plant). To prevent pollutants from being washed or dumped into an MS4, operators must obtain a NPDES permit and develop a stormwater management program.

Phase I of the NPDES permit program, initiated in 1990, requires medium and large cities or certain counties with populations of 100,000 or more to obtain NPDES permit coverage for their stormwater discharges. After receiving applications from Phase I municipalities in 1991 and 1992, the Maryland Department of the Environment (MDE) began issuing NPDES municipal stormwater permits in 1993. These permits are updated every five years. This first "generation" of permit issuances established relatively inexpensive requirements, such as mapping of the MS4 system, inventorying stormwater facilities, monitoring for illicit discharges, and basic pollution prevention activities such as street sweeping. However, in subsequent five-year permit cycles, MDE began to introduce more capital-intensive watershed restoration

requirements and, specifically, the requirement to restore a percentage of the jurisdiction's untreated impervious surfaces. Generally, "untreated impervious surface" refers to the extent of land within an MS4 jurisdiction that is covered by impenetrable land cover that has not already been restored to the "maximum extent practicable" as defined by the State's stormwater laws and regulations.

By the beginning of the twenty-first century, most Phase I permits were requiring the restoration of 10% of untreated impervious surfaces. Each jurisdiction's permit cycle is different; however, at this time, MDE is phasing in the requirement to treat an additional 20% of untreated impervious surfaces. For example, Montgomery County is expected to restore 30% of previously untreated impervious surfaces by the end of its most recently issued permit. Similarly, the Phase II MS4 permits, initiated in 1999, require regulated small MS4s to obtain NPDES permit coverage for their stormwater discharges. The new NPDES Phase II MS4 general permits being issued by MDE under the authority of the CWA will require jurisdictions to meet the CWA requirements and will also require permit holders to install pollution controls on a specified percentage of untreated impervious surface in each jurisdiction.

Currently, 10 local jurisdictions in Maryland are subject to the NPDES Phase I MS4 permit due to their population: Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City. The State Highway Administration is also subject to a Phase I MS4 permit. **Exhibit 1.1** shows the most recent permit issuance date for each of the Phase I MS4 local permit holders, as well as the permit renewal status for these jurisdictions. There are also 51 municipal corporations and counties and 36 State and federal facilities subject to the Phase II general permit.

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**Exhibit 1.1**  
**Current Phase I MS4 Permit Issuance Date and Renewal Status**

<u>Jurisdiction</u>	<u>Last Permit Issue Date</u>	<u>Status of Permit Renewal</u>
Anne Arundel	November 8, 2004	Draft Permit Available
Baltimore City	January 3, 2005	Draft Permit Available
Baltimore	June 15, 2005	Draft Permit Available
Carroll	July 14, 2005	No Update on Renewal
Charles	July 31, 2002	No Update on Renewal
Frederick	March 11, 2002	No Update on Renewal
Harford	November 1, 2004	No Update on Renewal
Howard	June 20, 2005	No Update on Renewal
Montgomery	February 16, 2010	No Update on Renewal
Prince George's	October 13, 2004	Draft Permit Available

Source: Maryland Department of the Environment, website accessed on 11/6/2013

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## Chesapeake Bay Total Maximum Daily Load

The CWA also requires Maryland and other states to meet specified water quality standards to protect public health and restore streams, rivers, groundwater, and drinking water. In December 2010, under the authority of the CWA, and in response to consent decrees in Virginia and the District of Columbia, EPA developed the Chesapeake Bay Total Maximum Daily Load (TMDL), which sets the maximum amount of nitrogen, phosphorus, and sediment pollution the bay can receive and still attain water quality standards. It also identifies specific pollution reduction requirements; all reduction measures must be in place by 2025, with at least 60.0% of the actions completed by 2017. As shown in **Exhibit 1.2**, the State must establish pollution control measures by 2025 that, based on 2012 levels, will reduce nitrogen loads to the bay by 17.6%, phosphorus loads by 11.6%, and sediment loads by 1.7%.

**Exhibit 1.2**  
**Maryland's Pollution Reduction Goals in the Bay TMDL**  
**(Million Pounds Per Year)**

<u>Pollutant</u>	<u>2012 Loads</u>	<u>Phase II WIP Targets</u>	<u>Percent Reduction</u>
Nitrogen	49.96	41.17	17.6%
Phosphorus	3.18	2.81	11.6%
Sediment	1,373	1,350	1.7%

TMDL: Total Maximum Daily Load

Source: Maryland Department of the Environment; U.S. Environmental Protection Agency

The bay TMDL was challenged in federal court (*American Farm Bureau et al v. EPA*) shortly after the pollution limits were established in December 2010. Specifically, the court considered three main arguments made by the plaintiffs: (1) that the TMDL exceeded EPA's authority; (2) that the TMDL was based on faulty science; and (3) that the plaintiffs did not have adequate time to participate in the comment process. In September 2013, the court rejected all three arguments. Specifically, the court affirmed that the pollution limits established by EPA in December 2010 are within EPA's purview and based on sound science. Further, the court affirmed that the litigants had ample time to review and comment. While the ruling has been appealed to the U.S. Court of Appeals for the Fourth Circuit, the District Court's ruling does reduce the uncertainty regarding the need for the bay states to move forward with implementing their bay restoration plans.

### Maryland's Watershed Implementation Plan

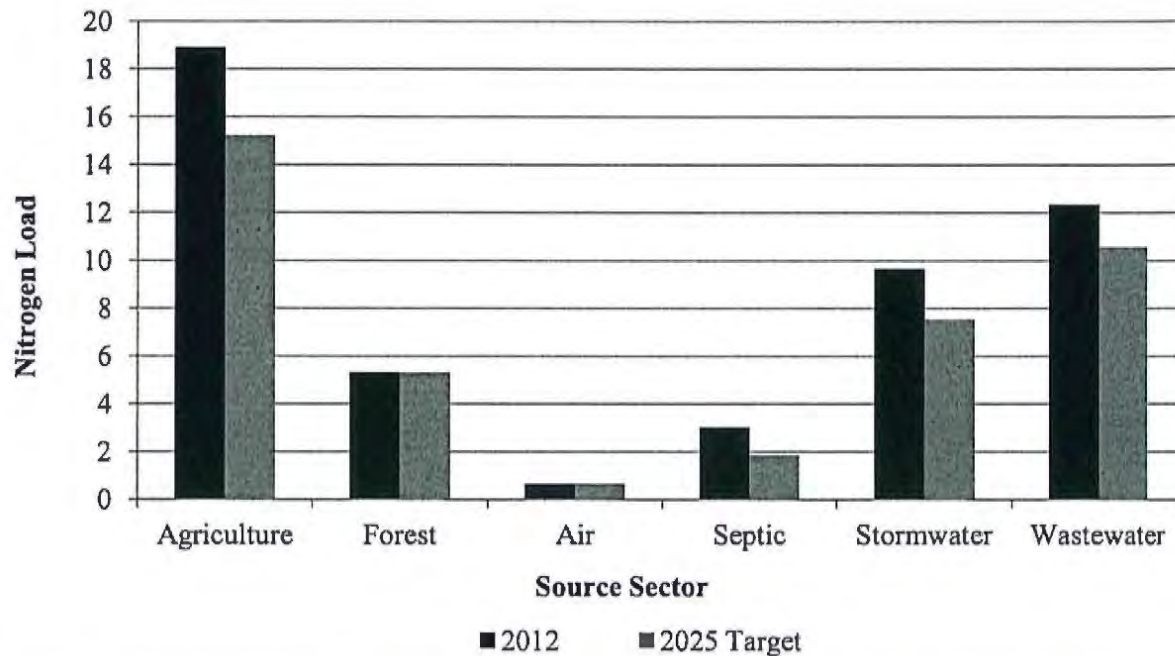
As part of the TMDL, bay jurisdictions must develop Watershed Implementation Plans (WIP) that identify the measures being put in place to reduce pollution and restore the bay. The WIPs (1) identify pollution load reductions to be achieved by various source sectors and in different geographic areas; and (2) help to provide “reasonable assurance” that sources of pollution will be cleaned up, which is a basic requirement of all TMDLs. Sources of pollution include agriculture, forest, air, septic, stormwater, and wastewater. In Maryland, MDE has primary responsibility for this effort but works in cooperation with several other agencies in developing and implementing the State's WIP.

In 2010, bay jurisdictions submitted Phase I WIPs that detail how the jurisdiction plans to achieve its pollution reduction goals under the TMDL. Maryland's Phase I WIP proposed an aggressive schedule for reducing nutrient and sediment pollution and focused on (1) developing new pollution reduction technology and approaches before 2017; (2) expanding implementation of existing strategies, such as wastewater treatment plant (WWTP) upgrades and stormwater control projects; and (3) improving regulatory requirements.

The bay jurisdictions were required to submit Phase II WIPs in early 2012 that established more detailed strategies to achieve the bay TMDL on a geographically smaller scale. In the Phase II WIP, MDE allocated the final target pollution loads (*i.e.*, nitrogen, phosphorous, and sediment) by county-geographic area and by source sector. In order to allocate the pollution loads across sectors, MDE used an equity-based allocation process rather than a process based on cost effectiveness. **Exhibit 1.3** shows Maryland's current and 2025 target nitrogen pollution loads, the largest pollutant, by source sector and illustrates that agriculture, wastewater, and stormwater are the major sources of pollution and are being targeted for significant load reductions. A Phase III WIP, which must be submitted to EPA in 2017, will ensure that all practices are in place by 2025 so that water quality standards can be met. EPA will modify the TMDL, if necessary, in December 2017 after all the bay jurisdictions have submitted their final Phase III plans.



**Exhibit 1.3**  
**Current and Target Nitrogen Pollution Loads by Source**  
**(Million Pounds Per Year)**



Source: Maryland Department of the Environment, Maryland's Phase II Watershed Implementation Plan

### Stormwater and the WIP

In recent years, Maryland has taken several steps to reduce pollution from a variety of sources. For example, the establishment of the Bay Restoration Fund (BRF) in 2004 has provided funding, through the imposition of a bay restoration fee, to upgrade the State's 67 major publicly owned WWTPs with enhanced nutrient removal technology (to reduce both nitrogen and phosphorus loading to the bay). The BRF also provides financing to upgrade septic systems with best available technology (BAT) to remove nitrogen and to plant cover crops that soak up excess nutrients from the soil. Other recent efforts, such as BAT regulations, agricultural nutrient management regulations, and growth management legislation, have also helped the State move closer to its nutrient reduction goals for certain sectors.

According to MDE, the NPDES Phase I MS4 permit requirements are an important component of Maryland's WIP and are critical for the protection of water quality in Maryland's streams, rivers, and reservoirs. While local jurisdictions were required to address stormwater in previous permits, MDE has included in the next round of MS4 permits a requirement that

jurisdictions must remediate an additional 20% of its impervious surface through stormwater measures. One important component of the MS4 permit is to comply with pollution reduction allocations established under the bay TMDL. It is important to note that meeting the MS4 requirements only relates to the stormwater component of the WIP.

## **Stormwater Management in Maryland**

### **History of Stormwater Law and Regulations**

Maryland began reducing the adverse effects of stormwater runoff in 1982 with the passage of the Stormwater Management Act. While this law focused primarily on flood control, a preferred set of best management practices was established for treating water quality. State regulations followed in 1983, which required each county and municipality to adopt and implement ordinances necessary to implement a stormwater management program. In 1984, MDE also began administering the Stormwater Pollution Control Cost Share Program to provide competitive grants to local governments for stormwater management retrofits. In 1992, the General Assembly passed enabling legislation that allows localities to develop a “system of charges” to finance stormwater programs.

Maryland’s stormwater management regulations were significantly strengthened in 2000 with the adoption of the Stormwater Design Manual in State regulations. Chapters 121 and 122 of 2007 attempted to further enhance the State’s stormwater management program by requiring a new form of management practice known as Environmental Site Design (ESD). ESD involves using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural runoff characteristics and minimize the impact of land development on water resources. Emergency regulations to implement Chapters 121 and 122 were approved in April 2010.

In addition to requiring ESD, Chapters 121 and 122 required MDE to evaluate options for a stormwater management fee system and an appropriate fee schedule necessary to improve enforcement of stormwater management laws. In its May 2008 report developed in response to that charge, MDE noted that Maryland’s stormwater management program was implemented locally with little financial support from the State, and that it did not have the authority under current law to assess fees or charges at the State level. Further, MDE noted its continuing support for the development of a system of charges by local governments to provide the funding needed to meet local obligations under State and federal law.

In an effort to provide additional State funding for nonpoint source pollution (*e.g.*, stormwater or agricultural runoff) control projects, during the 2007 special session and the 2008 regular session, the General Assembly passed legislation that established the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. The 2010 Trust Fund, which is administered by the

Department of Natural Resources, provides State funding for various nonpoint source pollution control projects and for local stormwater projects.

Despite the establishment of the 2010 Trust Fund, it was clear that additional funding was needed for stormwater management. Although local jurisdictions had been implementing local stormwater management programs for several years, most local jurisdictions did not have a dedicated local funding source for their stormwater management efforts. Legislation was introduced, but did not pass, during the 2009, 2010, and 2011 sessions, that would have required counties and municipalities to establish their own stormwater remediation fees to fund the implementation of local stormwater management plans. The fees would have been based on the amount of impervious surface on certain types of property.

### **Local Stormwater Management**

Despite prior failed attempts, Chapter 151 of 2012 was enacted to generate local funding for stormwater management programs. The legislation was limited in application to the most populated local jurisdictions in the State (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George's counties, and Baltimore City). These jurisdictions are already required by the CWA to address stormwater requirements through their NPDES Phase I MS4 permits.

As a means of assisting local governments in meeting their local stormwater management needs, Chapter 151 required each county and municipal corporation subject to a NPDES Phase I MS4 permit to adopt local laws or ordinances necessary to establish an annual stormwater remediation fee and a local watershed protection and restoration fund by July 1, 2013. These funds must be used to provide financial assistance for the implementation of local stormwater management plans. Additionally, property owned by the State, a local government, or a volunteer fire department is exempt from the fee. The Act also establishes specified reporting requirements for local governments.

Each of the 10 local jurisdictions covered by the Act was given flexibility to decide not only the amount of the fee but also how it is collected. Specifically, a county or municipality subject to a Phase I MS4 permit must determine the method, frequency, and enforcement of the collection of the stormwater remediation fee, and the fee must be separate from any existing or future stormwater management charges that a jurisdiction establishes for new development, including fees for permitting, review of stormwater management plans, inspection, or monitoring.

Under Chapter 151, the stormwater remediation fee must be based on the share of stormwater management services related to the property and provided by the county or municipality. The fee may be a flat rate, graduated based on the amount of impervious surface on each property, or based on another method of calculation. A county or municipal corporation must establish a procedure for a property owner to appeal a stormwater remediation fee. In



addition, a county or municipal corporation must establish an exemption based on financial hardship, which may include an exemption as part of a system of offsets. Fee revenue from each jurisdiction must be deposited into its local watershed protection and restoration fund established under the Act, and it may not revert or be transferred to a local general fund. Money in each fund is intended to be used only to support additional (not existing or ongoing) efforts for specified stormwater management activities.

### **NPDES Non-phase I MS4 Permit Jurisdictions**

Many of the jurisdictions that are not required to obtain a NPDES Phase I permit will be required to obtain Phase II permit coverage. Approximately 51 counties and municipalities with populations in excess of 1,000 have been designated for Phase II permit coverage by MDE. The Phase II permit addresses six minimum control measures: (1) public education and outreach; (2) public participation and involvement; (3) illicit discharge detection and elimination; (4) construction site runoff control; (5) post-construction runoff control; and (6) pollution prevention/good housekeeping. Implementation of these minimum control measures will help improve the quality of Maryland's streams, rivers, and the Chesapeake Bay through the continued enhancement of stormwater management and erosion and sediment control programs, the removal of illicit discharges, and public education.

### **Enforcement**

Under current law, MDE has the responsibility to ensure that Maryland's counties and municipalities have an acceptable stormwater management program, including the required components of Chapter 151. Under Chapter 151, MDE is specifically authorized to adopt regulations for implementation and enforcement. While such regulations have not been promulgated to date, the Environment Article provides MDE with general enforcement authority relating to the State's stormwater management laws. Specifically, current law provides for civil penalties of up to \$10,000 per day for violations. In addition, MDE may impose administrative penalties of up to \$1,000 per day not exceeding \$20,000 total for any action.

State law also provides for enforcement of the State's water pollution control laws. Specifically, a person who violates any provision of the Water Pollution Control Subtitle or any regulation, order, or permit adopted or issued under that subtitle (including NPDES MS4 permits) is liable to a civil penalty of up to \$10,000 per day. MDE is also authorized to impose an administrative penalty of up to \$5,000 per violation not exceeding \$50,000 total; each day is considered a separate violation. Finally, there are separate and greater penalties available under the CWA.

## Stormwater Utility Fees in Other States

Stormwater utility fees are a common method of generating funds needed to develop stormwater infrastructure and have been implemented in the United States since at least the early 1970s. According to a national survey conducted by Western Kentucky University in 2013, there are at least 1,412 stormwater utility fees in 39 states. Among these jurisdictions, the average (mean) fee was \$4.57 per month (about \$55 annually), per household. Maryland was tied for twenty-second among states in terms of the number of local stormwater utilities, with eight counted at the time of publication of the survey.

Within the Chesapeake Bay Watershed, New York is the only state in which no stormwater utility fees have been enacted. According to the Western Kentucky University survey, there are 16 stormwater utility fees in Virginia, 8 in West Virginia, 3 in Pennsylvania, 2 in Delaware, and 1 in the District of Columbia. In order to finance and implement the bay TMDL, the number of stormwater utility fees enacted and the average fee within the watershed is expected to increase. For example, in Virginia, several of the 16 jurisdictions with a stormwater utility fee enacted the fee after the completion of the bay TMDL. In addition, according to Virginia's Senate Finance Committee projections, local stormwater fees are expected to become the main source of support for implementing the stormwater sector of the state's WIP. Additionally, the District of Columbia has imposed two separate charges since 2009 to raise revenues for the treatment of impervious surfaces; and in Pennsylvania, the City of Lancaster – one of the state's largest municipalities within the watershed – is now considering the establishment of a new stormwater utility fee.

## Chapter 151 Fees and Stormwater Management Costs

The Department of Legislative Services (DLS) contacted each of the 10 jurisdictions subject to Chapter 151 to learn what, if any, fee was created to comply with the law. In addition, DLS asked each of the jurisdictions to provide information on fee revenue estimates, estimates of other revenues spent on stormwater remediation, and projected spending on stormwater management through fiscal 2018. Information on each county is summarized in the following chapters and included as individual county fact sheets as **Appendix 1**. The information provided in the following chapters represents information that was provided by each jurisdiction, with additional assumptions and estimates made by DLS for consistency and uniformity, and reflects legislative action as of November 7, 2013.



## **Chapter 2. Local Implementation of the Stormwater Remediation Fee Requirement in Chapter 151 of 2012**

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### **Overview of County Fee Actions**

The structure and amount of the fees established pursuant to Chapter 151 of 2012 vary greatly by jurisdiction. As shown in **Exhibit 2.1**, two counties (Charles and Frederick) chose to implement flat fees for both residential and nonresidential properties and did not establish separate rates to distinguish between the two types of properties. Moreover, seven jurisdictions varied their approaches by property and unit type. One jurisdiction, Carroll County, elected not to establish a fee for residential or nonresidential properties. Following is a brief description of the types of fee structures established by the 10 jurisdictions.

#### **Residential Fees**

With respect to residential fees, four counties (Baltimore, Charles, Frederick, and Harford) chose to establish a flat dollar fee per property or per unit (for multifamily properties). For example, in Baltimore County, annual fees range from \$21 per type (for a single-family attached property) to \$39 (for a single-family detached property). Of the counties with a flat dollar fee, Frederick County established the lowest annual fee (\$0.01 per property), while Harford County established the highest annual fee (\$125 per property).

Four jurisdictions (Baltimore City, Anne Arundel, Howard, and Montgomery counties) established residential fees based on the amount of impervious surface on a property, type or size of property, or home size. In Anne Arundel County, the annual residential fee is \$34, \$85, or \$170 depending on the zoning district, or tier, in which the property is located. The tiers are based on the estimated impervious surface a property has. In Baltimore City, the fee ranges from \$40 to \$120 annually depending on the amount of impervious surface. In Howard County, the fee ranges from \$15 to \$90 annually depending on the type and size of property. In Montgomery County, the fee ranges from about \$29 to about \$265 annually depending on home size.

One county (Prince George's) assesses residential properties using both a flat dollar fee and an impervious unit (IU) approach; in that county, the annual fee is \$20.58 per property, plus \$20.90 per IU (where an IU is 2,456 square feet).

#### **Nonresidential Properties**

For nonresidential properties, most counties chose to establish a rate based on the amount of impervious surface (as defined through an equivalent residential unit (ERU) or IU). For example, in Harford and Howard counties, an IU is 500 square feet, whereas in Prince George's County, an IU is 2,456 square feet. In Baltimore City, an ERU is 1,050 square feet, whereas in Anne Arundel County, an ERU is 2,940 square feet. Generally, nonresidential fees range from

**Exhibit 2.1**  
**Local Stormwater Remediation Fees**

<u>Jurisdiction</u>	<u>Annual Residential Rate</u>	<u>ERU or IU Size</u>	<u>Annual Nonresidential Fee/ERU or IU</u>	<u>Nonresidential Fee Per Acre Equivalent</u>
Anne Arundel	\$34, \$85, or \$170 annually depending on zoning district	Equivalent residential unit (ERU) = 2,940 sq. ft.	Generally, \$85 per ERU and capped at 25% of the property's base property tax. Fees vary for specified types of properties	\$1,259.39
Baltimore	\$21 per unit (single-family attached); \$32 per unit (condos); \$39 (single-family detached and agricultural residential)	ERU = 2,000 sq. ft.	Generally, \$69 per ERU for nonresidential properties; \$20 per ERU for nonresidential institutional properties	\$1,502.81
Baltimore City	\$40, \$60, or \$120 depending on amount of impervious surface	ERU = 1,050 sq. ft.	Generally, \$60 per ERU; \$12 per ERU for religious nonprofits	\$2,489.11
Carroll	None	n/a	None	None
Charles	\$43 per property (an increase of \$29 over fiscal 2013 levels)	n/a	\$43 per property	n/a
Frederick	\$0.01 per property	n/a	\$0.01 per property	n/a
Harford	\$125 per property	impervious unit (IU) = 500 sq. ft.	\$7 per IU	\$609.86
Howard	\$15, \$45, or \$90 depending on type and size of property	IU = 500 sq. ft.	\$15 per IU	\$1,306.85
Montgomery	Varies, ranges from \$29.17 to \$265.20 depending on home size	IU = 2,406 sq. ft.	\$88.40 per IU	\$1,593.22
Prince George's	\$20.58 per property plus \$20.90 per IU	IU = 2,456 sq. ft.	\$20.90 per IU	\$371.10 (plus \$20.58 admin. fee), or \$391.68

Note: This represents the fee before any phase-in occurs and reflects the actions of jurisdictions as of November 7, 2013.

Source: Department of Legislative Services

\$7 per IU in Harford County to \$88.40 per IU in Montgomery County. Normalizing for the differences in the definitions of ERUs and IUs across jurisdictions, nonresidential fees range from \$392 per impervious acre (in Prince George's County) to \$2,489 per impervious acre (in Baltimore City).

As noted earlier, both Charles and Frederick counties assess nonresidential properties with the same flat fee as residential properties. In addition, fees vary for certain types of properties in some counties; for example, in Anne Arundel County, nonprofit organizations and religious groups or organizations are charged a flat fee of \$1.

### **Phase-in of the Fee Adopted by Some Jurisdictions**

As shown in **Exhibit 2.2**, four counties (Anne Arundel, Harford, Howard, and Montgomery) are phasing in their local stormwater remediation fees, at least for some types of properties. In Montgomery County, the fee is phased in only for those property owners whose fees are increasing. (Montgomery County already assessed a stormwater utility fee prior to Chapter 151.) In Howard County, the fee is phased in only for nonresidential property owners who owe more than \$10,000. In both Anne Arundel and Montgomery counties, the phase-in period is three years. In Harford County, the phase-in period is one year with residential and nonresidential properties required to pay only 10% of the fee in the first year.

Other counties may have not formally established a phase-in through legislation but may informally do so by increasing their fees over time as needed. For example, Baltimore County requires the county executive to annually review the fee rates and to adjust accordingly through an executive order. In Charles County, the fee is to be set by the county commissioners through the annual budget process. Montgomery County also assumes future fee increases to fully fund its stormwater management needs.

### **Fee Collection**

All nine jurisdictions that have established stormwater remediation fees pursuant to Chapter 151 began assessing the fee effective July 1, 2013, as required by statute. Seven of the 10 counties subject to Chapter 151 included the fee on the July 1, 2013 property tax bills. Baltimore City included its fee on the quarterly water bill. Howard County has not yet billed for the fee but will include the fee (based on the amount owed since July 1, 2013) on its December 2013 property tax bill.

**Exhibit 2.2**  
**Implementation of Stormwater Remediation Fees**

<u>Jurisdiction</u>	<u>Is the Fee Phased in Over Time?</u>	<u>Comments</u>
Anne Arundel	Yes	For single-family residential properties and those multifamily residential and nonresidential properties with a fee exceeding \$500, the charges will be phased in at 60% for fiscal 2014, 80% for fiscal 2015, and 100% beginning in fiscal 2016.
Baltimore	No	
Baltimore City	No	According to the city, these fees will remain stable for the next four years.
Carroll	n/a	n/a
Charles	No	
Frederick	No	
Harford	Yes	Residential properties will only be required to pay \$12.50, which is 10% of the total residential fee for the tax year beginning July 1, 2013. Nonresidential properties will likewise only be required to pay \$0.70/500 square feet of impervious surface (10% of the total nonresidential fee) for the tax year beginning July 1, 2013. During this initial phase-in, a task force set up by the county council will determine what the fees will be for subsequent years.
Howard	Yes	The fee is only phased in for nonresidential property owners that qualify for the cap in fiscal 2014. For those properties, the fee is 50% of the fee or \$10,000, whichever is greater.
Montgomery	Yes	Any increase in fees for a property owner is phased in over three years.
Prince George's	No	

Source: Department of Legislative Services

## Fee Credits, Rebates, and Exemptions

### Fee Credits

Chapter 151 requires a county or municipality that is subject to a Phase I municipal separate storm sewer system (MS4) permit to establish Maryland Department of the Environment (MDE)-approved policies that reduce a portion of the stormwater fee assessed 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 a property. As shown in **Exhibit 2.3**, every Phase I MS4 jurisdiction that has established a stormwater remediation fee has implemented or intends to implement a fee credit program, as required by Chapter 151. To date, six jurisdictions have outlined the requirements of the fee credit program, while three jurisdictions (Frederick, Harford, and Prince George's counties) have indicated that a fee credit program will be established in the future. While the eligibility requirements for the fee credit program vary by jurisdiction, many of the programs cap the percentage by which a fee may be reduced and specify that a fee may only be reduced by certain amounts depending on the type of property and best management practice. For example, in Montgomery County, property owners may reduce their fee by up to 60% depending on the type of practice and the volume of water treated. By contrast, in Howard County, the fee reduction and the eligibility requirements for the fee reduction vary based on the type of property owned (*i.e.*, residential, nonresidential, and nonprofit).

### Rebates

Although Chapter 151 does not specifically authorize the creation of a rebate program, several jurisdictions have established rebate programs to incentivize the installation of stormwater best management practices (BMPs) by property owners. To date, four jurisdictions (Anne Arundel, Charles, Howard, and Prince George's counties) have authorized the establishment of a rebate program to help defray some of the costs of implementing BMPs. Additionally, Montgomery County has a preexisting rebate program to assist in the construction of BMPs, including special rebates for those in designated target neighborhoods. The remaining jurisdictions have not established a rebate program.



**Exhibit 2.3**  
**Fee Credits, Rebates, and Exemptions**

<u>County</u>	<u>Credits</u>	<u>Rebates</u>	<u>Exemptions</u>
Anne Arundel	For multifamily residential and nonresidential properties, fees may be reduced by up to 50% for properties containing a NPDES permit that includes stormwater controls or for existing onsite BMPs. Marinas are also entitled to a reduction of up to 50%.	For residential properties, the county will provide rebates for the purchase, construction, and installation of qualifying stormwater management practices.	Government properties, unimproved properties, property located in Annapolis, and financial hardship (subject to specified conditions and regulations).
Baltimore City	For a variety of on-site BMPs like installing rain gardens, planting trees, participating in organized clean ups, and other approved activities. Credits vary by type of activity. Property owners approved for senior citizen or low-income discounts for water/wastewater bills will automatically receive a stormwater fee discount. Additionally, nonsingle-family properties may qualify to have the fee capped at 20% of their combined State and local property taxes.	n/a	Government properties; fire departments; and substantial financial hardship.
Baltimore	Fees may be reduced to no less than 26% of the calculated fee for onsite and offsite systems that improve water quality. The fee reduction is based on the amount of impervious surface that drains to the BMP and the efficiency of the practice at removing pollutants.	n/a	Government properties, volunteer fire departments, unimproved residential properties, agricultural nonresidential properties, and financial hardship.
Carroll	n/a	n/a	n/a

<u>County</u>	<u>Credits</u>	<u>Rebates</u>	<u>Exemptions</u>
Charles	Fees may be reduced by up to 50% for on-site systems, facilities, activities, or services that comply with the <i>2000 Maryland Stormwater Design Manual</i> ; for agricultural properties covered by specified plans; or for properties built before July 1, 2001, that possesses specified stormwater treatments.	County legislation authorizes the creation of a rebate program to incentivize the installation of stormwater BMPs by property owners.	Government properties, volunteer fire and emergency medical services, disabled veterans, properties with NPDES permits with a provision to contain 20% of impervious surface within a five-year period, and financial hardship (residential and agricultural properties only).
Frederick	A fee credit program will be adopted in the future under the direction of the Community Development Division.	n/a	Government properties, volunteer fire companies, property located within an incorporated municipality, and financial hardship.
Harford	According to the county, rules and regulations to be adopted by the Harford County Department of Public Works will allow for credits of up to 50% of the fee for specified BMPs. Additionally, new communities and commercial sites that meet current design standards may be eligible for credits.	n/a	Government properties, regularly organized fire departments used for public purposes, property located within the municipal boundaries of an incorporated town or city, unimproved property, and financial hardship.
Howard	Fees may be reduced by up to 20% for residential properties if the BMP manages a certain amount of impervious surface area (based on the size of the lot). For nonresidential properties, the fee may be reduced by up to 50% under specified circumstances. For properties owned by a nonprofit, the fee may be reduced by up to 100% after implementing a county approved treatment plan.	Properties that are not currently treated to the levels of the <i>2000 Maryland Stormwater Design Manual</i> are eligible for a one-time reimbursement payment for an investment made by the property owner that benefits the public stormwater system. Reimbursements are granted for specified practices.	Government properties, regularly organized volunteer fire departments that are used for public purposes and that have entered into an agreement with the county to provide fire protection services, and financial hardship (residential property owners).

<u>County</u>	<u>Credits</u>	<u>Rebates</u>	<u>Exemptions</u>
Montgomery	By installing stormwater BMPs, property owners may reduce their fee by up to 60% depending on the type of practice and the volume of water treated.	Preexisting law contains a rebate program to assist in the construction of stormwater BMPs. The program includes target neighborhoods identified by the county with an inventory of priority projects for property owners within those neighborhoods to undertake with rebate funds.	Hardship exemption available for residential and nonprofit properties.
Prince George's	The county is in the process of developing regulations that would provide for a fee reduction 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.	Property owners that install approved BMPs may be eligible for a rebate. Rebate ceilings are set at \$2,000 for residential properties and \$20,000 for commercial properties, multifamily dwellings, and nonprofit organizations.	Government properties; regularly organized volunteer fire departments used for public purposes, certain qualified tax-exempt religious organizations, and financial hardship.

BMP: best management practices

NPDES: National Pollutant Discharge Elimination System

Source: Department of Legislative Services

## Exemptions

Chapter 151 specifies that property owned by the State, a local government, or a volunteer fire department is exempt from the stormwater fee and requires exemptions to be available based on financial hardship. Every Phase I MS4 jurisdiction<sup>1</sup> that has established a stormwater remediation fee provides for an exemption for government properties, volunteer fire departments, and financial hardship. Several jurisdictions also provide fee exemptions for unimproved properties. In some cases, properties with certain National Pollutant Discharge Elimination System permits, properties owned by disabled veterans, and agricultural nonresidential properties are also exempt from the fee.

<sup>1</sup> Although Montgomery County did not specifically exempt government properties and properties owned by volunteer fire departments under its legislation, those actors are exempt by State law and, therefore, exempt under the county's program.

Some jurisdictions have exempted properties located within some, or all, municipalities from the stormwater remediation fee. In Harford and Frederick counties, all properties located within a municipality are exempt from the fee. In Anne Arundel County, the stormwater fee may not be imposed on real property located in the city of Annapolis, because the city of Annapolis already imposes its own stormwater fee. Similarly, although not exempt under the county's legislation, the Prince George's County fee will not be imposed on properties located in the city of Bowie. There are no similar exemptions in the remaining Phase I MS4 jurisdictions.

## **Nonprofit and Religious Property Owner Fees and Credits**

As shown in **Exhibit 2.4**, five jurisdictions (Baltimore City and Anne Arundel, Baltimore, Harford, and Montgomery counties) have established a separate stormwater fee structure for nonprofit and/or religious organizations. Most of the fees that apply to nonprofits and religious organizations are determined by the amount of impervious surface area on a property. Of the five jurisdictions with separate fee structures for nonprofit and/or religious organizations, Anne Arundel County is the only jurisdiction that has established an annual flat fee of \$1 for nonprofits and religious organizations. Similarly, Montgomery County is the only jurisdiction with a tiered fee structure for nonprofit organizations.

It should be noted that although Howard County did not implement a separate fee structure for nonprofit and religious organizations, fees assessed to nonprofit property owners may be reduced by up to 100% after implementing a county-approved treatment plan. Similarly, under the Prince George's County program, a qualifying nonprofit organization may be exempt from the stormwater fee if an approved alternative compliance plan is submitted to the county.

While Chapter 151 required jurisdictions to establish a stormwater remediation fee, Chapter 3 of this report provides information on the amount of funding that each local jurisdiction anticipates providing for stormwater management, both from existing funds and from the new stormwater remediation fee revenues, in order to meet the additional MDE requirements relating to the treatment of impervious surfaces.

**Exhibit 2.4**  
**Nonprofit and Religious Property Owner Fees and Credits**

<u>County</u>	<u>Nonprofits</u>	<u>Religious Organizations</u>
Anne Arundel	Nonprofit organizations are assessed a flat fee of \$1.	Same as nonprofits.
Baltimore City	Same as fee for nonsingle-family properties. Nonsingle-family properties may qualify for credits under the city's stormwater program. (See Exhibit 2.3).	Religious groups' or organizations' structures (buildings) are assessed \$3/quarter per 1,050 square feet of impervious surface per year if (1) the property is not subject to State property taxes; and (2) the structures are used exclusively for places of worship or K-12 education.
Baltimore	Institutional properties such as nonprofit organizations, churches, hospitals and private schools, are assessed a fee of \$20 per 2,000 square feet of impervious surface per year.	Same as nonprofits.
Carroll	n/a	n/a
Charles	Same as fee for nonresidential properties. Nonresidential properties may qualify for credits under the county's stormwater program. (See Exhibit 2.3).	Same as nonprofits.
Frederick	Unknown: A fee credit program will be adopted in the future under the direction of the Community Development Division.	Same as nonprofits.
Harford	Nonprofits are assessed the same fee as improved residential properties. Improved residential properties may qualify for a fee credit under the county's stormwater program. (See Exhibit 2.3).	For certain nonresidential properties, including religious institutions, the fee is \$7 per 500 square feet of impervious surface per year.
Howard	For properties owned by nonprofit organizations, the fee may be reduced by up to 100% after implementing a county-approved treatment plan.	There is no specific mention of religious organizations in the county's legislation. Presumably, most religious organizations qualify as nonprofit organizations and, therefore, receive the same credits as nonprofit organizations.

<u>County</u>	<u>Nonprofits</u>	<u>Religious Organizations</u>
Montgomery	Properties owned by nonprofits are placed into tiers based on the amount of impervious surface area on the property. Each tier has a fee cap.	There is no specific mention of religious organizations in the county's legislation. Presumably, most religious organizations qualify as nonprofit organizations and, therefore, receive the same credits as nonprofit organizations.
Prince George's	Nonprofit organizations may be exempt from the fee. The county is in the process of developing regulations that require nonprofits that qualify for the exemption to submit an Alternative Compliance Plan.	Same as nonprofits.

Source: Department of Legislative Services

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## Chapter 3. Revenue Available for Stormwater Management

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### Total Estimated Revenue Generated from the Local Stormwater Remediation Fees

As discussed in Chapter 2 of this report, 9 of the 10 jurisdictions required by Chapter 151 of 2012 to establish local stormwater remediation fees have done so; only Carroll County has not established a fee at the time of publication of this report. Overall, \$80.2 million in new revenue is estimated to be generated in fiscal 2014 as a result of local fee actions taken pursuant to Chapter 151; if revenues from the restructured Montgomery County fee are included, total fee revenues amount to \$103.0 million. Estimates of fiscal 2014 revenue range from \$488 in Frederick County to \$24.3 million in Baltimore County.

**Exhibit 3.1** shows the estimated Chapter 151 fee revenues for fiscal 2014 and for the fiscal 2014 to 2018 period. The exhibit also reflects additional calculations and assumptions made by the Department of Legislative Services, where needed, to address information gaps or adjust timeframes for uniformity and consistency in reporting. With the exception of Carroll and Frederick counties, each jurisdiction has committed to raising significant additional local revenues for stormwater management. Based upon information provided by the jurisdictions, an additional \$671 million in fee revenue could be available for additional stormwater management spending from fiscal 2014 through 2018. It should be noted that the amount of revenue a jurisdiction generates from the fee is driven, in part, by the jurisdiction's estimated costs, discussed in Chapter 4 of this report, and by how much a jurisdiction was already spending on stormwater management prior to the implementation of Chapter 151.

For context, the estimated fiscal 2014 through 2018 average annual fee revenues for these eight jurisdictions range from an equivalent of 0.7% of fiscal 2012 property tax revenues in Charles County to 3.7% in Anne Arundel County, and from 0.2% of fiscal 2012 total local revenues for Charles County to 1.0% in Anne Arundel County. Additionally, as a measure of median household income, the estimated average annual revenues represent between 0.03% in Charles County and 0.28% in Baltimore City. Finally, if compared with the fiscal 2013 per capita revenues from the bay restoration fee (another major source of funding for bay Total Maximum Daily Load implementation), the fiscal 2014 estimate of per capita stormwater fee revenues for the 10 jurisdictions is about 9.0% greater; by fiscal 2018, estimated stormwater fee revenues per capita may be more than 50.0% greater than fiscal 2013 bay restoration fee revenues.

The nominal fee levels, as discussed in Chapter 2 of this report and shown in detail in Appendix 1, vary widely, as each jurisdiction has a unique fee structure that differs for residential and nonresidential properties, with additional property class distinctions made and criteria used. However, based on the jurisdictions' fee revenue estimates, a more useful comparison of the fees can be developed to see how the jurisdictions differ. For example, **Exhibit 3.2** compares fee revenues to each jurisdiction's population. It should be noted that these per-capita fee figures only represent the total (residential and nonresidential) county fee



**Exhibit 3.1**  
**Estimated Chapter 151 of 2012 Fee Revenues**

<u>Jurisdiction</u>	<u>Fiscal 2014 Estimated Revenue</u>	<u>Fiscal 2014-2018 Total Fee Revenues</u>
Anne Arundel	\$ 13,900,000	\$110,200,000
Baltimore City	16,700,000	129,200,000
Baltimore	24,300,000	121,500,000
Carroll	n/a	n/a
Charles	1,416,186	7,361,650
Frederick	488	2,440
Harford	1,050,000	43,050,000
Howard	10,800,000	54,400,000
Montgomery	22,882,420	147,250,922
Prince George's	12,000,000	58,000,000
<b>Total</b>	<b>\$103,049,094</b>	<b>\$670,965,012</b>
Montgomery	\$22,882,420	\$147,250,922
<b>New (Chapter 151) Revenue</b>	<b>\$80,166,674</b>	<b>\$523,714,090</b>

Note: Future year fee revenues may be based on local projections of future fee levels where specific fees have not been established by local enactment. For some jurisdictions, projected fee revenues in certain fiscal years are based on fee levels or specified local plans from previous fiscal years.

Source: Department of Legislative Services

**Exhibit 3.2**  
**Fiscal 2014 and 2018 Per-capita Fee**

<u>Jurisdiction</u>	<u>2014</u>	<u>2018</u>
Anne Arundel	\$27.16	\$45.33
Baltimore	29.73	29.73
Baltimore City	26.88	57.94
Carroll	n/a	n/a
Charles	10.28	11.11
Frederick	0.00	0.00
Harford	5.00	50.01
Howard	36.07	36.74
Montgomery	27.19	41.09
Prince George's	19.35	17.74
<b>Median</b>	<b>\$23.11</b>	<b>\$33.23</b>

Source: Department of Legislative Services

revenues divided by the jurisdiction's population. The increase from fiscal 2014 to 2018 in the per-capita fee is due to the phase-in of the fee in some jurisdictions as well as future anticipated fee increases.

Another way to compare each jurisdiction's revenues is to account for the extent of impervious surface within each jurisdiction. There are vastly different levels of untreated impervious surfaces within each of the 10 jurisdictions, ranging from just under 1% of the total land in Charles County to more than 46% in Baltimore City.

**Exhibit 3.3** shows the fee per acre of untreated impervious surface. This may be the most meaningful method to measure or compare fees among jurisdictions, since one principal reason for establishing the fee is to remediate untreated impervious surfaces. The exhibit shows the wide variation in normalized fee revenues, as well as how each jurisdiction ranks in terms of the percentage of land surface covered by untreated impervious surfaces. One of the reasons that the fee per acre varies so much across jurisdictions is that the cost of the strategies used to address the jurisdiction's impervious surfaces, as well as other geographic and economic factors, differ considerably; this is discussed further in Chapter 4 of this report. Also, if a jurisdiction already had a robust stormwater management program prior to the enactment of Chapter 151, it likely did not need to generate as much revenue from the new stormwater remediation fee as a jurisdiction that did not.

**Exhibit 3.3**  
**Fee Per Acre of Untreated Impervious Surface**

<u>Jurisdiction</u>	<u>FY 2014 Fee Per Acre</u>	<u>FY 2018 Fee Per Acre</u>	<u>Impervious Surface Percentage Rank</u>
Anne Arundel	\$933.70	\$1,558.41	6
Baltimore	838.42	838.42	2
Baltimore City	714.50	1,540.24	1
Carroll	n/a	n/a	8
Charles	543.22	587.00	10
Frederick	0.07	0.07	9
Harford	126.38	1,263.84	7
Howard	942.98	960.45	3
Montgomery	1,066.38	1,611.35	5
Prince George's	544.96	499.55	4
<b>Median</b>	<b>\$629.73</b>	<b>\$899.43</b>	

Source: Department of Legislative Services

## Other Local Revenues Dedicated to Stormwater Management Efforts

Chapter 151 envisioned that the new fee would supplement other local revenue sources, in recognition that each of these Phase I municipal separate storm sewer system jurisdictions was already implementing a stormwater program. Any analysis of these jurisdictions' stormwater financing needs is, therefore, incomplete without a discussion of other dedicated sources of revenue. For example, 9 of the 10 jurisdictions plan to finance stormwater programs with other, or existing, sources of revenue in fiscal 2014, including such revenue sources as plastic bag charges, bond proceeds, and environmental services fees.

In some jurisdictions, as shown in **Exhibit 3.4**, these other dedicated revenue sources actually represent a substantial majority of the revenues available for stormwater requirements. In total, local jurisdictions have identified approximately \$1,705.4 million of available revenue from all sources to fund stormwater management activities from fiscal 2014 to 2018. This estimate is based on local projections provided to the Department of Legislative Services through November 7, 2013, and will continue to evolve as jurisdictions obtain more precise estimates of fee revenues and gain a better understanding of local stormwater management costs. The fee revenue from implementing Chapter 151 (including Montgomery County fee revenues) total \$671.0 million, or 39.3%, of the total available revenue.

**Exhibit 3.4**  
**Fiscal 2014-2018 Fee Revenues and Total Revenues**  
**(\$ in Millions)**

<u>Jurisdiction</u>	<u>Fee Revenues</u>	<u>Bond Revenues</u>	<u>Other Revenues</u>	<u>Fee Revenue as % of Total Revenue</u>
Anne Arundel	\$110.2	\$292.5	n/a	27.4%
Baltimore City	129.2	103.8	n/a	55.5%
Baltimore	121.5	n/a	\$50.0	70.8%
Carroll	n/a	n/a	23.0	0.0%
Charles	7.4	31.7	3.6	17.3%
Frederick	0.0	n/a	22.4	0.0%
Harford	43.1	n/a	n/a	n/a
Howard	54.4	n/a	43.2	55.7%
Montgomery	147.3	120.0	6.2	53.9%
Prince George's	58.0	338.0	n/a	14.6%
<b>Total</b>	<b>\$671.0</b>	<b>\$886.0</b>	<b>\$148.4</b>	

Source: Department of Legislative Services

The share of total revenue generated from Chapter 151 varies by jurisdiction. For example, Carroll County, which did not enact the required fee, and Frederick County, which adopted a nominal fee, have chosen to rely principally on the counties' general funds. Harford County is the only jurisdiction where the new fee revenue represents 100% of total revenue for future stormwater requirements.

It is also important to note that bond revenues play an important role in some jurisdictions' plans to fund stormwater management. Currently, local jurisdictions report that bond revenues may total \$886 million in the fiscal 2014 to 2018 period. This amount is greater than the amount of fees generated and accounts for 52% of the total revenue available for stormwater management.



## Chapter 4. Progress in Meeting Local Stormwater Requirements

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### Local Stormwater Costs

Each of the 10 jurisdictions subject to Chapter 151 of 2012 have developed preliminary estimates of the level of resources needed to comply with the federally required and State-issued municipal separate storm sewer system (MS4) permits and the local Phase II Watershed Implementation Plans (WIP) requirements, as well as to assist in setting an appropriate fee under Chapter 151. In general, this process is not new for these jurisdictions, which have been developing such projections for several years as part of the ongoing MS4 permit renewal process. However, the level of effort involved in projecting stormwater compliance costs for fiscal 2014 may have been unprecedented for many of these jurisdictions and often included contracting with engineering and environmental services consultants. Despite the significant work undertaken to explore the extent of resources needed to comply with all local stormwater management obligations, the costs reported by local jurisdictions in Chapter 4 of this report are preliminary only and are likely to change throughout fiscal 2014 and in the future.

**Exhibit 4.1** reflects the result of each jurisdiction's efforts to forecast these stormwater management costs for the next five fiscal years and on an annualized basis. The jurisdictions' forecasted costs include operating and maintenance (including personnel) costs, capital costs, and debt service associated with the issuance of any bonds to support the capital component of the local stormwater program. The exhibit also reflects additional calculations and assumptions made by the Department of Legislative Services, where needed, to address information gaps or adjust timeframes for uniformity and consistency in reporting. In general, this report focuses on the costs local jurisdictions expect to incur over the next five years for stormwater management.

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#### Exhibit 4.1 Local Projections of Stormwater Management Costs

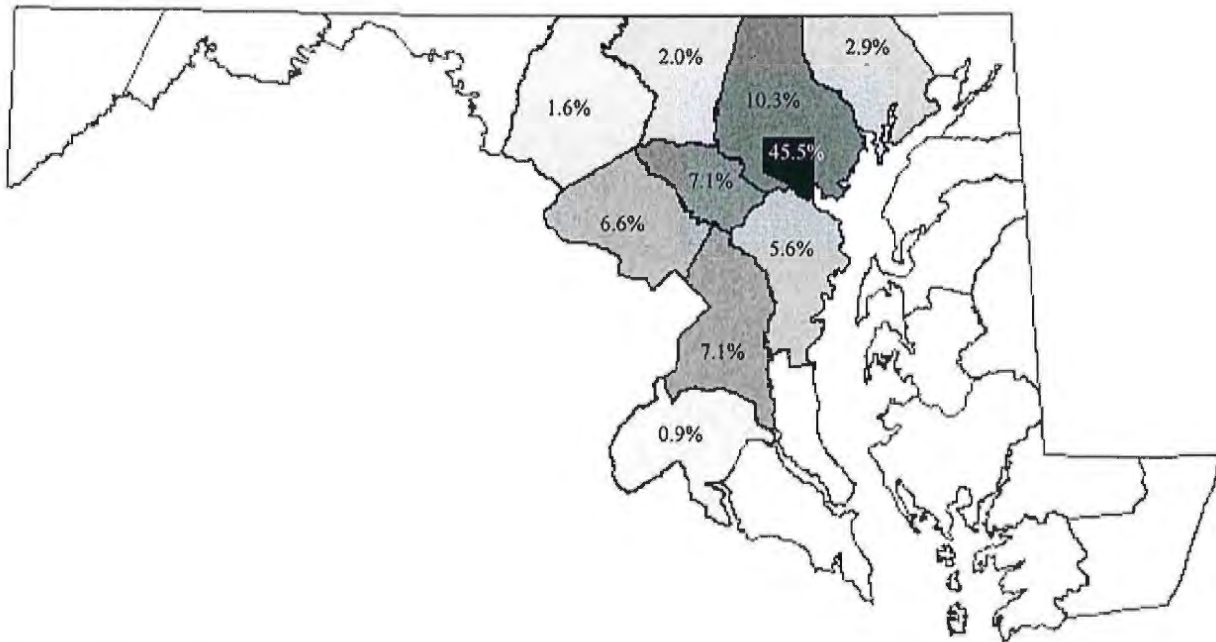
<u>Jurisdiction</u>	<u>Total Revenues</u>	<u>Fiscal 2014-2018 Projected Costs</u>	<u>Projected Costs Annualized</u>
Anne Arundel	\$402,700,000	\$402,700,000	\$80,540,000
Baltimore City	233,000,000	228,500,000	45,700,000
Baltimore	171,500,000	167,000,000	33,400,000
Carroll	23,049,460	34,069,366	6,813,873
Charles	42,654,350	47,440,600	9,488,120
Frederick	22,402,440	112,000,000	22,400,000
Harford	43,050,000	90,000,000	18,000,000
Howard	97,600,000	210,000,000	42,000,000
Montgomery	273,409,373	332,904,709	66,580,942
Prince George's	396,000,000	449,000,000	89,800,000
<b>Total</b>	<b>\$1,705,365,623</b>	<b>\$2,073,614,675</b>	<b>\$414,722,935</b>

Source: Department of Legislative Services

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As shown in Exhibit 4.1, there is a considerable range in each jurisdiction's estimated stormwater compliance costs, from about \$6.8 million annually for Carroll County to about \$89.8 million annually for Prince George's County. Prince George's and Anne Arundel counties have the highest estimated costs over the fiscal 2014 to 2018 period at \$449 million and \$403 million, respectively. While this range may, in part, be explained simply by the size and level of urbanization of each jurisdiction (see **Exhibit 4.2**), the significant variability in cost projections may also reflect several other factors. For example, each jurisdiction has utilized different staff and consultants, and it is unclear to what extent there was communication or coordination between jurisdictions. Additionally, each jurisdiction may have established a fee designed to meet slightly different requirements; for example, a jurisdiction may seek to collect revenues sufficient to meet projected costs of implementing its Phase I MS4 permit, to cover all stormwater-related costs of meeting its WIP, and/or meeting other stormwater-related goals.

**Exhibit 4.2**  
**Percent of Untreated Impervious Surface in Phase I MS4 Jurisdictions**



MS4: municipal separate storm sewer system

Note: Darker colors represent greater percentages of a jurisdiction's surface area covered by untreated impervious surfaces. Shading is not to scale for clarity. Non-shaded counties are not subject to the requirements of Chapter 151 of 2012.

Source: Department of Legislative Services; Maryland Department of the Environment

The variation in local jurisdictions' cost projections is best illustrated by controlling for the amount of untreated impervious surface, similar to the adjustment made for fee revenues in



Chapter 3 of this report. Exhibit 4.3 shows the projected cost per acre of untreated impervious surfaces, based upon the annualized cost reported by each jurisdiction for stormwater management spending and on the acreage of untreated impervious surface reported by the Maryland Department of the Environment (MDE). The highest projected cost per acre is 68% higher than the projected median cost per acre, while the lowest cost per acre is three times less than the median.

**Exhibit 4.3**  
**Average Annual Cost Per Acre of Impervious Surfaces**

	<u>Acres of Untreated Impervious Surface</u>	<u>Projected Costs Annualized</u>	<u>Average Annual Cost Per Acre</u>
Anne Arundel	14,887	\$80,540,000	\$5,410
Baltimore	23,373	45,700,000	1,955
Baltimore City	28,983	33,400,000	1,152
Carroll	6,449	6,813,873	1,057
Charles	2,607	9,488,120	3,639
Frederick	6,725	22,400,000	3,331
Harford	8,308	18,000,000	2,167
Howard	11,453	42,000,000	3,667
Montgomery	21,458	66,580,942	3,103
Prince George's	22,020	89,800,000	4,078
<b>Median</b>	<b>13,170</b>	<b>\$414,722,935</b>	<b>\$3,217</b>

Source: Department of Legislative Services; Maryland Department of the Environment

The significant variability in projected costs should not be interpreted to imply that certain jurisdictions have overstated or understated actual costs. Instead, the wide differences may reflect the difficulty inherent in a relatively new jurisdiction-wide planning effort involving a complex, technical activity. Additionally, MDE has advised that there are significant differences in the underlying costs of various stormwater best management practices and that each jurisdiction will utilize different strategies in selecting which practices to prioritize. Indeed, Chapter 151 and the bay Total Maximum Daily Load provide such flexibility to determine the stormwater strategies that most appropriately reflect each jurisdiction's unique geographic, economic, and other conditions. Thus, a jurisdiction that chooses to prioritize capital or labor intensive practices such as bioretention cells, infiltration basins, or stream restoration is likely to have higher than average projected costs to restore an untreated acre of impervious surface.

County-level stormwater management cost projections have also been developed by MDE, which may help put these local estimates into context. However, it should be noted that the MDE estimates were produced based on data from 2011 and predicated on the assumption



that the average cost to retrofit one acre of impervious surface is \$70,000 per untreated impervious acre over a five-year period. Thus, this projection does not allow for interjurisdiction variability in geographical or economic conditions.

For six of the jurisdictions, the MDE-projected cost was higher than the local estimated cost. The lower projections developed by the other four jurisdictions (Baltimore, Carroll, and Harford counties, and Baltimore City) may reflect newer data and more geographically tailored analysis, and is not necessarily an indication that costs have declined since 2011 for these jurisdictions. Moreover, it is not clear whether cost reductions may be realized in the future. While technology and economies of scale tend to reduce costs over time, there is also the potential for short-term cost increases to the extent that the substantial new increase in demand for stormwater services outstrips the supply of servicers; it may take several years for industry growth to adapt to the scope of work needed across Maryland. Overall, the 2011 MDE estimate for the 10 jurisdictions closely approximates the current locally projected costs, with the local projections representing about 96% of the costs projected by MDE in 2011.

### **Financing Shortfalls Still Estimated for Most Jurisdictions**

No jurisdiction has established a fee under Chapter 151 that is capable of fully supporting local stormwater program costs without other revenue sources through fiscal 2018. A fee capable of fully supporting local stormwater management programs is not necessary since each jurisdiction, as noted earlier, had already supported their stormwater programs through general funds or other types of charges prior to the effective date of the law. However, even with these multiple revenue sources, several of the jurisdictions appear to still face a long-term shortfall for local stormwater programs. As shown in **Exhibit 4.4**, while most jurisdictions have not yet enacted long-term plans to fully fund planned stormwater management obligations, 6 of the 10 jurisdictions are covering at least 80% of the estimated costs. In fact, several jurisdictions that are not reporting full coverage of projected expenditures are planning to fully cover such costs through authorized bond issuances, existing fund balances, and other revenue sources, as needed. Thus, any differences between projected revenues and identified costs shown in Exhibit 4.4 do not necessarily reflect deficiencies in the jurisdictions' fiscal plans.

**Exhibit 4.4**  
**Stormwater Revenues as a Percent of Projected Stormwater**  
**Management Costs**  
**Fiscal 2014-2018**

<u>Jurisdiction</u>	<u>Total Revenues to Expenditures</u>	<u>Fee Revenues to Expenditures</u>
Anne Arundel	100.0%	27.4%
Baltimore City	102.0%	56.5%
Baltimore	102.7%	72.8%
Carroll	67.7%	0.0%
Charles	89.9%	15.5%
Frederick	20.0%	0.0%
Harford	47.8%	47.8%
Howard	46.5%	25.9%
Montgomery	82.1%	44.2%
Prince George's	88.2%	12.9%

Source: Department of Legislative Services

The projected shortfalls shown in Exhibit 4.4 may reflect confidence from local officials that future events may improve the fiscal situation for local stormwater programs. Such changes may include (1) lower cost projections made possible by better planning and learning from interjurisdictional communication; (2) approved sector allocation amendments to local WIPs or changes to the State WIP; (3) future revenues that may be available and reprogrammed for supporting stormwater costs; or (4) additional bonding capacity within the local capital improvement program. Some jurisdictions may also be planning to cover remaining shortfalls by seeking additional State funds, including the Water Quality Revolving Loan Fund administered by MDE, the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund, the Watershed Assistance Grant Program, one of several other smaller grant and loan programs from various agencies, or, beginning in fiscal 2018, significant funds from the Bay Restoration Fund that may be available as grants to local governments. Finally, some or all of the shortfalls may be covered by the issuance of local bonds supported by the new fees and any additional State funds, or both. A more full discussion of each of the jurisdictions' fee structure, estimated revenues, stormwater costs, and projected shortfall, if any, can be found in Appendix 1.



## Chapter 5. Policy Considerations and Conclusions

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As the first full year of implementation of Chapter 151 of 2012 continues, the General Assembly is likely to address various issues relating to local stormwater remediation fees during the 2014 session. The General Assembly may want to consider the following:

- Based on projections and assumptions by the 10 municipal separate storm sewer system (MS4) permit holders and the Department of Legislative Services, total revenues may cover roughly 80% of projected local stormwater costs through fiscal 2018.
- Most of the Phase I MS4 jurisdictions subject to Chapter 151 have established a stormwater remediation fee in accordance with statutory requirements. This new fee revenue will fund approximately 32% of the estimated cost through fiscal 2018.
- For some jurisdictions, the issuance of bonds to supplement the fee revenue is an important part of the financing of stormwater management costs and accounts for 52% of the projected revenue for the 10 jurisdictions from fiscal 2014 to 2018. Other counties may wish to consider this approach (if they have the ability to do so) or explore other innovative financing strategies or sources of State funding in the future to address any funding shortfalls that may exist.
- Chapter 151 requires local jurisdictions to make certain information publicly available on the amount and uses of the fees collected. The General Assembly may want to consider requiring the Maryland Department of the Environment to report annually on the fee structure established by each local jurisdiction, the costs associated with meeting the stormwater requirements under the Watershed Implementation Plan (WIP/MS4 permit), fee revenues collected under Chapter 151, and the overall plan identified by each jurisdiction.
- Some jurisdictions that may be planning to increase their stormwater remediation fees over time to meet their stormwater management costs may find it difficult to do so. In fact, some jurisdictions have recently proposed or discussed repealing their stormwater remediation fees.
- The projected costs of meeting the MS4 permit requirements vary significantly by jurisdiction. To the extent possible, local jurisdictions should explore best management practices that may reduce the overall cost of compliance. Another option is to explore innovative financing options to help reduce costs.
- Significant variation exists in the structure and levels of the fees established across jurisdictions due to the flexibility provided by Chapter 151. The General Assembly intentionally provided this flexibility so that local jurisdictions could tailor their local

programs to best meet their needs; however, the General Assembly may wish to revisit this decision to the extent it desires more uniformity and/or equity in fee structure, levels, or exemptions.

- Given the legislative intent that revenue generated from the stormwater remediation fee be used to *supplement*, and not *supplant*, existing funding sources for stormwater management efforts, the General Assembly may wish to modify Chapter 151 to more explicitly indicate that the new fee revenue should not be used to reduce existing spending on stormwater.
- The cost estimates presented in this report are based on the presumption that the MS4 requirements and stormwater sector requirements of the WIP remain unchanged. To the extent that the State is able to rely more heavily on other sectors for nutrient reductions to meet the bay Total Maximum Daily Load, costs could be less.
- As noted in Appendix 1, in October 2013, MDE sent a letter to Frederick County expressing its concern that the county has not adopted a stormwater remediation fee sufficient to adequately implement its local stormwater management program. MDE specifically noted that if the county fails to fully implement the requirements of its MS4 permit, it could be subject to penalties for violations of the Clean Water Act. Also in October 2013, the Maryland Office of the Attorney General sent a letter to Carroll County indicating that because the county failed to establish a stormwater remediation fee, the county is in violation of Chapter 151 and is subject to applicable penalties. The State should continue to enforce the requirements of Chapter 151 pursuant to its current authority. For transparency reasons, MDE may also wish to consider promulgating regulations regarding enforcement specific to Chapter 151, as authorized by the Act.

## County-by-county Fact Sheets

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### Anne Arundel County

#### Fees

- Residential Fee:** Base rate is \$85 annually per equivalent residential unit (ERU). An ERU is 2,940 square feet, which represents the median amount of imperviousness in specified residential zones (Tier 2). Properties are divided into separate billing tiers and represent zoning districts with a median imperviousness that is less than, equal to, or greater than the base ERU. Residential properties in Tier 1 pay twice the base rate, or \$170. Residential properties in Tier 2 pay the base rate, or \$85. Residential properties in Tier 3 pay 40% of the base rate, or \$34. Fees are phased in over three years, as described below. Multifamily residential properties pay based on actual imperviousness of the property in the amount of 40% of the base rate per ERU, or \$34 per ERU. For multifamily residential properties, if the fee exceeds \$500 annually, it is phased in over three years.
- Nonresidential Fee:** Generally, nonresidential properties pay \$85 per ERU, capped at 25% of the property's base property tax (prior to the application of any credit, deferrals, or exemptions). If the fee exceeds \$500 annually, it is phased in over three years. Property owned by a nonprofit organization or a religious group or organization is charged a flat fee of \$1. Farms are charged 40% of the base rate, or \$34. Private roads are charged the base rate, or \$85. Airports and private schools are charged two times the base rate, or \$170. The fee for property owned by homeowners' associations is capped at a multiplier of the number of residential accounts times 40% of the base rate (\$34). Nonresidential properties subject to a National Pollutant Discharge Elimination System (NPDES) permit with stormwater management controls are charged 30% of the base rate, or \$25.50, per ERU. Clean marinas are charged 25% of the base rate, or \$21.25, per ERU, for each acre or fraction thereof in excess of 7.5 acres.
- Method of Billing:** Fees are collected annually via property tax bills, beginning July 1, 2013.

#### Credits, Exemptions, and Other Features

- Credits:** For multifamily residential and nonresidential properties, fees may be reduced by up to 50% for property with a NPDES permit that includes stormwater management controls or to account for existing onsite systems, facilities, services, or activities that

reduce the quantity or improve the quality of stormwater discharged from a property. Marinas with a NPDES permit with stormwater management controls are entitled to a 25% reduction in the fee, and clean marinas are entitled to a reduction of up to 50%.

- **Exemptions:** (1) State and local government properties; (2) unimproved properties; and (3) financial hardship, subject to specified conditions and regulations.
- **Applicability to Municipalities:** The fee may not be imposed on real property in Annapolis. (Annapolis already assesses its own stormwater fee.)
- **Phase-in:** For single-family residential properties and those multifamily residential and nonresidential properties with a fee exceeding \$500, the charges will be phased in at 60% for fiscal 2014, 80% for fiscal 2015, and 100% beginning in fiscal 2016.
- **Associated Regulations or Other Implementing Documents:** The Office of Finance administers the financial hardship program, and the controller must adopt implementing regulations.
- **Other Features or Programs:** For residential properties, the county will provide an incentive in the form of rebates for the purchase, construction, and installation of qualifying stormwater management practices. The legislation that established the stormwater remediation fee in the county also repealed an existing storm drainage fee of 1.5 cents per square foot of the gross area disturbed by construction. The county's credit program will also allow credits for residential properties that have executed an Inspection and Maintenance Agreement for Private Stormwater Management with the county. The agreement provides for the private (*i.e.*, not county) installation and maintenance of stormwater infrastructure on private property.

## **Fiscal Discussion**

Stormwater remediation fee revenue is anticipated to total approximately \$13.9 million in fiscal 2014, which reflects the phase-in of 60% for the first year and the fact that about \$360,000 in credits will be approved. Stormwater remediation fee revenue is anticipated to total \$18.6 million in fiscal 2015 and \$23.2 million annually beginning in fiscal 2016, reflecting the phase-in. The county also plans to issue bonds backed by this fee revenue each year in an amount necessary to cover annual capital costs. Total costs are estimated at \$32.2 million in fiscal 2014, which reflect \$12.0 million in operating costs, \$19.9 million in capital costs, and \$0.3 million in debt service costs. The county expects a balance of about \$1.6 million in fiscal 2014 and, despite the fact that there is a projected shortfall in fiscal 2017, the overall costs from fiscal 2014 through 2017 are slightly less than the available revenue (fee revenue and bond proceeds).

The county's Department of Public Works previously estimated the total cost to meet its stormwater pollution obligations under the Watershed Implementation Plans (WIP) through 2025 at approximately \$1.1 billion. (The county currently estimates that the capital cost to comply with the WIP is estimated at \$897.1 million, with \$195.4 million projected to be incurred by the end of fiscal 2017 and the balance to be incurred after fiscal 2017.) In order to fully fund that obligation, the county estimated that the stormwater remediation fee would need to be approximately \$227 per ERU per year through 2025 if no debt was assumed. By leveraging the ongoing revenue stream with bonds, the annual revenue need was projected to be significantly lower; however, this plan also increases the long-term costs to the county due to interest payments in future years.

In order to adequately fund the immediate obligations of the county's near-term municipal separate storm sewer system (MS4) permit, which requires new capital investment of an estimated \$195.4 million over the next four years, the county estimated that a fee of \$85 per year per ERU was required, not accounting for population growth. However, the county's expected income from this fee was reduced after accounting for the phase-in and fee reductions for certain groups.

The county's total stormwater cost is estimated at about \$274.0 million through fiscal 2017, which is based on estimated \$195.4 million in capital costs, plus \$14.7 million in anticipated new debt service costs and \$63.9 million in operating costs to comply with the near-term MS4 permit requirements. The county expects to generate fee revenue of \$78.9 million and bond proceeds of \$195.4 million during this period and, therefore, anticipates no shortfall through fiscal 2017. However, because debt service costs are expected to grow significantly after fiscal 2017, additional funding will be required to meet the 2025 WIP obligations. According to the county, with the exception of existing debt service costs of \$4.7 million, which are being paid with general funds, no other revenue sources will be directed to the county's stormwater program.

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**Fiscal Summary**  
**Fiscal 2014-2017**  
**(\$ in Millions)**

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Phase-in	60%	80%	100%	100%
Fee Revenue	\$13.9	\$18.6	\$23.2	\$23.2
Other Revenue	19.9	39.2	58.5	77.8
Projected Cost	32.2	57.8	80.2	103.8
<b>Difference</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-\$2.8</b>

Note: Other Revenue is local bond proceeds. The fiscal 2017 shortfall can be covered by prior year fund balance.

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## **Other Issues**

The county advises that, in fiscal 2013, it spent approximately \$7.6 million in operating and capital funds on stormwater management. Of this amount, \$2.9 million were redirected to other activities in fiscal 2014 as a result of the establishment of the stormwater remediation fee. Thus, it appears that the new stormwater remediation fee may be supplanting existing funds historically used for stormwater activities, despite the legislative intent expressed in Chapter 151 of 2012 that the revenue generated by the new fee supplement, and not supplant, existing funds.

# Baltimore City

## Fees

- **Residential Fee:** Three-tiered flat rate structure for single-family properties based on impervious surface; according to the city, these fees will remain stable for the next four years.

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### Residential Fees

<u>Impervious Surface</u>	<u>Flat Fee</u>
≤ 820 square feet	\$10/quarter
820-1,500 square feet	\$15/quarter
> 1,500 square feet	\$30/quarter

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- **Nonresidential Fee:** (1) \$15 per ERU per quarter; and (2) religious nonprofits: \$3 per ERU per quarter for *structures* that are used exclusively for places of worship or elementary, middle, or high school education. According to the city, these fees will remain stable for the next four years. An ERU is 1,050 square feet of impervious surface.
- **Method of Billing:** Fees are assessed quarterly via water utility bills. The fee is listed as a single line item and labeled as “stormwater fee.” The fees for the quarter that began July 1, 2013, were billed starting in mid-September. If a property does not receive a water bill, a separate “stormwater only” bill is sent quarterly.

## Credits, Exemptions, and Other Features

- **Credits:** Credits may be earned for residential properties by removing impervious surface from the property or by adopting best management practices (BMP) such as rain gardens or trees. Single-family properties may also earn credits by participating in organized clean-ups or other approved activities. Credits are available for nonsingle-family properties for installation of BMPs, compliance with an industrial NPDES permit, direct discharge to the Inner Harbor (under certain circumstances), and having little or no impervious surface area (vacant and small development credits).
- **Exemptions:** (1) State and local government property; (2) substantial financial hardship; and (3) properties with certain site conditions.
- **Phase-in:** None.

- **Associated Regulations or Other Implementing Documents:** On September 9, 2013, the Baltimore City Department of Public Works released the final version of the Baltimore City Stormwater Remediation Fee Regulations governing the city's implementation of the fee.
- **Other Features or Programs:** Customers already approved for senior citizen or low-income discounts for water/wastewater bills will automatically receive a discount for their stormwater remediation fees. Nonsingle-family properties may qualify to have their stormwater remediation fees capped at 20% of their combined State and local property taxes if they meet specified requirements.

## Fiscal Summary

The stormwater remediation fees are expected to generate \$16.7 million in fiscal 2014, which reflects the collection of fees for three quarters, an assumption regarding unpaid fees, and credits granted to property owners; fee revenues are anticipated to increase through fiscal 2018. In addition, Baltimore City plans to issue general obligation and transportation bonds each year through fiscal 2016 and bonds backed by the new fee beginning in fiscal 2017. Fee revenues and bond proceeds are anticipated to cover the city's projected costs over the five-year period from fiscal 2014 through 2018, with minor shortfalls covered by prior year fund balances.

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### Fiscal Summary Fiscal 2014-2018 (\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Fee Revenue	\$16.7	\$24.6	\$25.6	\$26.3	\$36.0
Other Revenue	11.6	20.2	9.0	30.2	32.8
Projected Cost	31.4	38.9	33.3	58.3	66.6
<b>Difference</b>	<b>-\$3.1</b>	<b>\$5.9</b>	<b>\$1.3</b>	<b>-\$1.8</b>	<b>\$2.2</b>

Note: Negative numbers reflect projected expenditures in excess of revenues for that fiscal year. Any projected annual shortfall does not reflect the availability of funds carried from prior year balances.

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## **Fiscal Discussion**

The city provides street-related stormwater services consisting mostly of managing storm drainage systems. However, in order to decrease roadway flooding and protect public safety, the city must significantly increase its level of service. Several recent infrastructure failures have caused road collapses, significant roadway flooding, and threats to public safety. In addition, more stringent environmental regulations, especially the costs to comply with its new MS4 permit, are causing the city's stormwater management program costs to increase.

Historically, the city has spent approximately \$14.5 million annually on its Stormwater Management Program; however, according to the city, \$31.4 million annually is needed to maintain baseline services and improve the level of service.

According to the city, the costs associated with improving its stormwater management program to meet an improved level of service *and* to comply with its MS4 permit are expected to more than double historic annual budget expenditures for stormwater-related activities. The city estimates that it will cost more than \$200 million just to comply with its five-year MS4 permit. As noted above, the city is planning to meet this obligation with a combination of stormwater remediation fee revenues and annual bond issuances.

## **Other Issues**

Section 4-202.1(h)(6) states that "funds disbursed under this subsection are intended to be in addition to any existing State or local expenditures for stormwater management." However, the city is planning to use its fee revenue to pay for existing stormwater management baseline services that it currently provides. This use of funds may be inconsistent with the statutory intent of § 4-202.1(h)(6) of the Environment Article.

## Baltimore County

### Fees

- **Residential Fee:** For fiscal 2014, single-family detached and agricultural residential properties pay \$39. Single-family attached properties pay \$21 per unit, and condos pay \$32 per unit.
- **Nonresidential Fee:** Per an executive order issued in June 2013, for fiscal 2014, an ERU is 2,000 square feet of impervious surface. Nonresidential, noninstitutional properties pay \$69 per ERU, while nonresidential institutional properties (e.g., private schools, churches, etc.) pay \$20 per ERU.
- **Method of Billing:** Fees are collected annually via property tax bills, beginning July 1, 2013.

### Credits, Exemptions, and Other Features

- **Credits:** Per the executive order, fees may be reduced to no less than 26% of the calculated fee for on and off-site systems that improve water quality; the fee reduction is based on the amount of impervious surface that drains to the BMP and the efficiency of the practice at removing pollutants.
- **Exemptions:** (1) State government; (2) local government; (3) volunteer fire departments; (4) unimproved residential properties; (5) agricultural nonresidential properties; and (6) financial hardship.
- **Applicability to Municipalities:** There are no municipalities in Baltimore County.
- **Phase-in:** None.
- **Associated Regulations or Other Implementing Documents:** The legislation establishing the stormwater remediation fee only specified fee rates for fiscal 2014. The local law requires the county executive to annually issue an executive order that implements the bill, including setting future year fee levels. An executive order was issued in June 2013 that implements the program for fiscal 2014.
- **Other Features or Programs:** The county executive is required to annually review the fee rates. Reporting requirements are also established.

## Fiscal Discussion

The county's Department of Environmental Protection estimates a cost of \$33.4 million annually through fiscal 2017 to meet its MS4/Total Maximum Daily Load (TMDL) requirements. The county assumes that the estimated fee revenue will generate approximately \$24.3 million annually, or about 73% of its total anticipated costs, assuming fee levels remain at the fiscal 2014 level. The fiscal 2014 budget includes \$20.8 million in capital funds and approximately \$2.6 million in operating costs, including 21 new positions, which will be funded through the fee revenue.

The county also plans to provide \$10 million annually in other funds (Metropolitan District Funds) to fully offset the county's anticipated costs. According to the Maryland Department of the Environment, Baltimore County has historically provided about \$5 million to \$10 million annually in capital funding for its program.

Assuming the county maintains the current fee level in subsequent years, the county should meet its stormwater obligations.

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### Fiscal Summary Fiscal 2014-2017 (\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Fee Revenue	\$24.3	\$24.3	\$24.3	\$24.3
Other Revenue	10.0	10.0	10.0	10.0
Projected Cost*	33.4	33.4	33.4	33.4
<b>Difference</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Includes compliance with both the municipal separate storm sewer systems and the Total Maximum Daily Load requirements.

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## Carroll County

### Fees

- On June 27, 2013, the Carroll County Board of Commissioners adopted resolution 888-2013-A-D to address the stormwater fee requirement outlined in Chapter 151 of 2012. The resolution does not provide for a stormwater fee, but instead provides that, beginning in fiscal 2015, the county will:
  - create and fund a Watershed Protection and Restoration Fund;
  - continue to fund stormwater management projects by placing funds from a variety of sources (*e.g.*, grants, capital funds, and operating funds) into the fund;
  - continue its commitment to provide funding for stormwater services under the county's NPDES Phase I MS4 permit;
  - annually review and recommend to the board of commissioners funding for stormwater remediation in accordance with the annual operating and six-year Community Investment Plan; and
  - annually compare stormwater remediation allocations to the resources projected to be available in the fund for the fiscal year to advise the board of commissioners of recommended funding levels.
- The county's stormwater program is currently funded through general tax revenues. Funding directed into the Watershed Protection and Restoration Fund (via the stormwater remediation allocation) has been deemed by the county to constitute the stormwater remediation fee and is intended to demonstrate that the county is already meeting its stormwater funding requirements.

### Fiscal Discussion

The fiscal 2014 budget includes approximately \$4.1 million for stormwater activities. Excluding debt service of about \$162,000, the remaining funding is associated with NPDES Phase I MS4 permit compliance. According to the county, although there is no specific funding allocation for the bay TMDL compliance in the fiscal 2014 budget, stormwater retrofits and related stormwater BMPs contribute toward the bay TMDL compliance.

According to the county, the projected average annual cost associated with implementing the county's stormwater program, including costs associated with complying with the bay TMDL, the NPDES Phase I MS4 permit, and the anticipated requirements of the Phase II MS4

permit, is \$8.96 million. While the county has projected Phase I MS4 permit compliance costs to total \$4.12 million in fiscal 2014, the annual cost is expected to grow to \$4.53 million by fiscal 2018. Additional costs associated with the implementation of the bay TMDL are expected to total \$4.67 million annually. No specific funding source has been identified to address Phase II permit and the bay TMDL capital projects compliance.

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**Fiscal Summary**  
**Fiscal 2014-2018**  
(\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Other Revenues	\$4.1	\$4.1	\$4.2	\$4.4	\$4.5
Projected Cost	6.6	6.7	6.7	6.9	7.1
<b>Difference</b>	<b>-\$2.5</b>	<b>-\$2.6</b>	<b>-\$2.5</b>	<b>-\$2.5</b>	<b>-\$2.6</b>

Note: The chart does not reflect the anticipated requirements of the municipalities' Phase II municipal separate storm sewer systems permit.

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## Other Issues

Although resolution 888-2013-A-D establishes a Watershed Protection and Restoration Fund and provides that funding be directed into the fund via a stormwater remediation allocation, the resolution does not establish an annual stormwater remediation fee to provide financial assistance for the implementation of local stormwater management practices as required by Chapter 151. Due to the failure of the county to establish a fee as required by Chapter 151, the Maryland Office of the Attorney General sent a letter to the county in October 2013 that indicated that the county is in violation of the Act and could be subject to specified penalties.



## Charles County

### Fees

- **Residential Fee:** Forty-three-dollar fee per property in fiscal 2014; multi-unit apartment buildings are also assessed only one \$43 fee. The fee for fiscal 2014 reflects an *increase* of \$29 per property above the existing \$14 stormwater component of the environmental services fee. Future year fees will be set through the annual budget process.
- **Nonresidential Fee:** Same as the residential fee.
- **Method of Billing:** Fees are collected annually via property tax bills. Payments are due by September 30 each year.

### Credits, Exemptions, and Other Features

- **Credits:** Up to 50% reduction (1) to account for on-site systems, facilities, activities, or services that meet or exceed the “2000 Maryland Stormwater Manual”; and (2) for agricultural property with a Forest Management Plan or an approved conservation and water quality plan; or (3) if the subdivision and/or housing development or individual home was constructed prior to July 1, 2001, but the property includes the use of specified stormwater management treatments.
- **Exemptions:** (1) government properties; (2) volunteer fire and emergency medical services; (3) disabled veterans; (4) properties with NPDES stormwater permits with a provision to contain 20% of impervious surface within a five-year period; and (5) hardship (residential and agricultural properties only).
- **Applicability to Municipalities:** Yes, unless the municipalities assess their own fees;, only the town of La Plata collects a fee as of summer 2013.
- **Phase-in:** None.
- **Associated Regulations or Other Implementing Documents:** (1) fee schedule to be set by county commission through annual budget process; (2) regulations regarding collection of fee to be set by the county’s Department of Fiscal and Administrative Services; and (3) policies and procedures set by the county’s Department of Planning and Growth for fee reduction amount, eligibility, effectiveness and inspections, and for establishing a rebate program.

- **Other Features or Programs:** Authorizes the creation of a rebate program, which is generally designed to incentivize the installation of stormwater BMPs by property owners.

## Fiscal Discussion

Stormwater remediation fee revenue is anticipated to total \$1.4 million in fiscal 2014, increasing to \$1.53 million by fiscal 2018. The county also estimates approximately \$700,000 annually in lot recordation fee revenue that will be deposited into the county Watershed Protection and Restoration Fund.

According to the county, the new stormwater fee was established based on the estimated increase in the stormwater portion of the existing Environmental Services Fee needed to fully comply with the MS4 permit for fiscal 2014. The county has projected MS4 permit compliance costs of about \$9.5 million annually between fiscal 2014 and 2018. The county established a \$29 fee increase to the existing \$14 stormwater component of the Environmental Services Fee (\$43 total fee) to assist in covering the estimated fiscal 2014 compliance costs, as well as the debt service costs of bond issuances needed for upfront capital costs. However, the fee will need to increase to \$81 by fiscal 2018 based on these estimated costs; the table below does not reflect an increase in the fee. Other revenues supporting stormwater costs include the existing MS4 component of the stormwater fee, as well as projected proceeds from bond issuances.

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### Fiscal Summary Fiscal 2014-2018 (\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Fee Revenue	\$1.42	\$1.44	\$1.47	\$1.50	\$1.53
Other Revenue	16.2	5.1	4.1	4.3	5.6
Projected Cost	17.7	7.2	6.5	7.2	8.9
<b>Difference</b>	<b>\$0.0</b>	<b>-\$0.6</b>	<b>-\$0.9</b>	<b>-\$1.4</b>	<b>-\$1.8</b>

Note: Total may not sum due to rounding.

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A consultant commissioned by the county estimated the total compliance costs for the stormwater portion of the county's Phase II WIP to be \$97.8 million through 2025. Under this total cost projection, the average annual cost may be more than \$8.3 million.

## Frederick County

### Fees

- **Residential Fee:** One cent per year for all real property located within the county that is subject to the county's System Benefit Charge (which pays for a portion of the reasonably anticipated capital and operating costs for the disposal of solid waste; the charge is assessed on both residential and nonresidential real property).
- **Nonresidential Fee:** Same as the residential fee.
- **Method of Billing:** Fees are collected annually on property tax bills, beginning July 1, 2013.

### Credits, Exemptions, and Other Features

- **Credits:** A credit program will be adopted in the future through the direction of the Director of the Community Development Division.
- **Exemptions:** (1) government properties; (2) volunteer fire companies; and (3) financial hardship exemption.
- **Applicability to Municipalities:** Does not apply to municipalities.
- **Phase-in:** None.
- **Associated Regulations or Other Implementing Documents:** A credit program will be adopted in the future through the direction of the director of the Community Development Division. Similarly, the director is also required to adopt rules and regulations to reduce a portion of the stormwater remediation fee for onsite systems, facilities, services, or activities that reduce the quantity or improve the quality of stormwater discharged from a property.
- **Other Features or Programs:** None.

## Fiscal Discussion

According to the county, the projected total cost to comply with the MS4 permit, currently in draft form, is approximately \$112.0 million, including \$96.0 million for stormwater retrofits. Over the five-year MS4 permit term, this is approximately \$22.4 million annually. The county has spent an average of \$2.5 million annually in general funds on stormwater permit compliance. It plans to continue funding its stormwater management activities through its general fund. For fiscal 2014, the county has budgeted \$3.6 million; funding is anticipated to increase to \$4.7 million in fiscal 2015.

According to the county, the stormwater remediation fee will generate approximate \$487.81 annually, based on collecting \$0.01 from each of an estimated 48,781 eligible properties. According to the county, fee revenue will be used to pay for the stormwater-related activities outlined under Chapter 151.

Even with \$3.6 million in general funds and \$487.81 in fee revenue in fiscal 2014, there is a funding shortfall of an estimated \$18.8 million in fiscal 2014 in order to comply with the county's MS4 permit. Similarly, there is an estimated funding shortfall of approximately \$17.7 million in fiscal 2015. Therefore, it is unclear whether the county will be able to meet its obligations under the MS4 permit and the bay TMDL.

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### Fiscal Summary Fiscal 2014-2015 (\$ in Millions)

	<u>2014</u>	<u>2015</u>
Fee Revenue	\$0.0	\$0.0
Other Revenue	3.6	4.7
Projected Cost	22.4	22.4
<b>Difference</b>	<b>-\$18.8</b>	<b>-\$17.7</b>

Note: Fee revenues are projected at \$488 annually.

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## Other Issues

Section 4-202.1(e)(3)(i) of the Environment Article requires a county to 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." It is unclear whether the \$0.01 flat fee established by the county was set in this manner. Therefore, the fee established by the county may be inconsistent with the legislative intent of § 4-202.1(e)(3)(i). In fact, in October 2013, MDE sent a letter to Frederick County indicating concern that the county's fee

and fund structure will not provide adequate funding for the county's stormwater program. The letter noted that the county's failure to implement the requirements of its MS4 permit would result in an enforcement action for violations of the Clean Water Act (CWA) that could include fines and penalties of up to \$32,500 per day for each violation.

## Harford County

### Fees

- **Residential Fee:** Flat \$125 per year. Residential property includes agricultural property that is improved with a dwelling.
- **Nonresidential Fee:** Seven dollars per 500 square feet of impervious surface per year. Nonresidential property includes commercial properties, apartments, industrial properties, mobile home parks, maritime facilities, fraternal organizations, religious institutions, and healthcare facilities.
- **Method of Billing:** Fees are collected annually on property tax bills, effective July 1, 2013.

### Credits, Exemptions, and Other Features

- **Credits:** According to the county, rules and regulations to be adopted by the Harford County Department of Public Works will allow for credits of up to 50% of the fee. BMPs that may be eligible for credits may include rain barrels, rain gardens, pervious pavement, and planting of trees along waterways. In addition, new communities and commercial sites that meet current design standards may also be eligible for credits.
- **Exemptions:** (1) government properties; (2) regularly organized fire departments used for public purposes; (3) unimproved property; and (4) property that is able to demonstrate a substantial financial hardship as a result of the imposition of the fee.
- **Applicability to Municipalities:** Properties within municipal boundaries are exempt.
- **Phase-in:** Yes. Residential properties will only be required to pay \$12.50, which is 10% of the total residential fee for the tax year beginning July 1, 2013. Nonresidential properties will likewise only be required to pay \$0.70 per 500 square feet of impervious surface (10% of the total nonresidential fee) for the tax year beginning July 1, 2013. During this initial phase-in, the county will convene a Watershed Protection and Restoration Task Force to determine what the fees will be in subsequent years. The task force is required to report its recommendations to the county executive and county council before November 2013.
- **Associated Regulations or Other Implementing Documents:** The county's Department of Public Works will be developing rules and regulations to implement the ordinance.
- **Other Features or Programs:** None.

## Fiscal Discussion

The county estimates that compliance with the 20% impervious surface treatment required under its new MS4 permit will cost as much as \$90 million over the five-year permit term, which amounts to \$18 million annually.

According to the county, the full stormwater remediation fees (\$125 residential fee and \$7 per 500 square foot nonresidential fee) will generate \$10.5 million annually. However, this is less than the \$18.0 million needed annually to achieve compliance with its MS4 permit, and results in a funding shortfall of approximately \$7.5 annually. Historically, the county has spent between \$1.0 million to \$3.0 million annually on stormwater activities, but the county advises that in the future, it will rely solely on the stormwater fee.

In addition, the county has phased in the fees for the tax year beginning July 1, 2013. The phased-in fees are 10% of the full fees described above. Therefore, the amount collected for fiscal 2014 is approximately \$1.05 million. This results in a funding shortfall of approximately \$17.0 million for fiscal 2014.

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### Fiscal Summary Fiscal 2014-2017 (\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Phase-in	10%	100%	100%	100%
Fee Revenue	\$1.05	\$10.5	\$10.5	\$10.5
Other Revenue	0	0	0	0
Projected Cost*	18.0	18.0	18.0	18.0
<b>Difference</b>	<b>-\$17.0</b>	<b>-\$7.5</b>	<b>-\$7.5</b>	<b>-\$7.5</b>

\*Projected Cost includes compliance with the county's municipal separate storm sewer systems permit.

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## Other Issues

Section 4-202.1(h)(6) states that "funds disbursed under this subsection are intended to be in addition to any existing State or local expenditures for stormwater management." The county indicates that in the future, it will only use Chapter 151 fee revenue for stormwater remediation and not general funds that it has previously used to support these efforts. This use of funds may be inconsistent with the statutory intent of § 4-202.1(h)(6) of the Environment Article.

## Howard County

### Fees

- **Residential Fee:** For fiscal 2014, residential fees are as follows:
  - \$15 for townhouses, condominiums, and apartment units;
  - \$45 for single-family homes located on lots up to one-quarter acre; and
  - \$90 for single-family homes located on lots larger than one-quarter acre.
- **Nonresidential Fee:** Fifteen dollars per 500 square feet of impervious surface for nonresidential and commercial properties. For nonresidential property owners who owe more than \$10,000 in fiscal 2014, the fee will be 50% of the fee assessed or \$10,000, whichever is greater. For each subsequent fiscal year, the owner shall pay 100% of the fee assessed.
- **Other:** If the property has an agricultural use assessment, the fee shall be the residential rate if (1) the property has a fully implemented Soil Conservation and Water Quality Plan that has been approved by the Soil Conservation District or a Forest Conservation and Management Agreement with the Maryland Department of Natural Resources or (2) the property owner has agreed to enter into, and is in the process of implementing, a Soil Conservation and Water Quality Plan.
- **Method of Billing:** Fees are collected annually via property tax bills. The fiscal 2014 payment is due by December 2013.

### Credits, Exemptions, and Other Features

- **Credits:** BMPs that reduce the impact on the public stormwater management system may result in a credit of up to:
  - 20% for residential properties if the BMPs manage (1) at least 250 square feet of the impervious area for a townhouse or condominium unit; (2) at least 500 square feet of impervious surface area for properties that are one-quarter acre or less; and (3) at least 1,000 square feet of impervious surface area for a property that is larger than one-quarter acre;
  - 50% for all other nonresidential properties, if the property is subject to (1) a NPDES permit; (2) an industrial stormwater permit that requires the management



of 20% of the uncontrolled impervious area on the parcel; or (3) a site development plan that was filed on or after January 1, 2013; and

- 100% for properties owned by a nonprofit entity after implementing a county approved treatment plan.
- **Exemptions:** (1) government properties; (2) regularly organized volunteer fire departments that are used for public purposes and that have entered into an agreement with the county to provide fire protection services; and (3) financial hardship based on income level (residential property owners).
- **Applicability to Municipalities:** There are no municipalities in Howard County.
- **Phase-in:** Only for nonresidential property owners that qualify for the cap in fiscal 2014.
- **Associated Regulations or Other Implementing Documents:** None.
- **Other Features or Programs:** All properties, or portions thereof, that are not currently treated to the levels of the *2000 Maryland Stormwater Design Manual* are eligible for the county's reimbursement program. The reimbursement is not a credit, but a one-time payment for an investment made by the property owner that benefits the public stormwater system. Reimbursements are granted for specified practices (e.g., rain gardens, permeable pavers, etc.) Additionally, the county may award grants to nonprofit organizations to assist with specified watershed restoration and rehabilitation projects, including payments for improvements to treat stormwater.

## **Fiscal Discussion**

Watershed protection and restoration fee revenue is anticipated to total \$10.8 million in fiscal 2014. Fee revenue is expected to increase to approximately \$11.0 million by fiscal 2018. Other revenue includes general funds, general obligation bonds, pay-as-you-go capital funds, and grant funds.

The county estimates that it will cost between \$500 million to \$600 million to meet the MS4 permit requirements and the bay TMDL practices that must be in place by 2025. Of this amount, approximately \$42 million annually, or \$210 million, will be required over the five-year period (fiscal 2014 through 2018) for MS4 permit compliance. Thus, the fee established by the county will generate about 25% of the funding required for MS4 permit compliance. It remains unclear how the county will fund the costs of its MS4 permit compliance as there is still a projected deficit of over \$20 million annually after accounting for the stormwater fee and other revenues.

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**Fiscal Summary**  
**Fiscal 2014-2018**  
**(\$ in Millions)**

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Fee Revenue	\$10.8	\$10.8	\$10.9	\$10.9	\$11.0
Other Revenue	9.5	6.9	8.0	8.6	10.2
Projected Cost	42.0	42.0	42.0	42.0	42.0
<b>Difference</b>	<b>-\$21.7</b>	<b>-\$24.3</b>	<b>-\$23.1</b>	<b>-\$22.5</b>	<b>-\$20.8</b>

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## Montgomery County

### Fees

- **Residential Fee:** For detached homes, townhouses, and agricultural properties, the annual fee is based on which of seven size tiers applies, and ranges from \$29.17 for homes under 1,000 square feet to \$265.20 for homes over 6,215 square feet in fiscal 2014. The median home size is characterized as a Tier 3 home and pays one ERU which is 2,406 square feet. In fiscal 2014, one ERU pays \$88.40. For condominiums, the fee is split evenly among owners within the property, and the property's aggregate fee is based on the amount of impervious surface area divided by one ERU times \$88.
- **Nonresidential Fee:** Same as for multifamily properties. Charges for nonprofit property owners are capped based on the applicable size tier; the maximum charge is \$2,033 in fiscal 2014.
- **Method of Billing:** Fees are collected annually on property tax bills. Payments are due by September 30 each year.

### Credits, Exemptions, and Other Features

- **Credits Against Fees:** Credits are valid for three years; maximum allowable credit is 60%. Credits are available for single-family, multifamily, and nonresidential property owners for the installation of onsite stormwater management practices, and are based on the volume of water captured.
- **Exemptions:** Hardship exemption available for residential and nonprofit properties.
- **Applicability to Municipalities:** Yes, unless a similar fee is charged.
- **Phase-in:** Any increase in fees for a property owner is phased in over three years.
- **Associated Regulations or Other Implementing Documents:** County regulations establish the charge for each property type, as well as credit amounts and exemption criteria.
- **Other Features or Programs:** The law establishes two grant programs: (1) one for nonprofit organizations that conduct water quality services; and (2) one for homeowners' associations for offsetting charges assessed against private roads. Existing law contains a rebate program to assist in the construction of stormwater BMPs.

## Fiscal Discussion

The restructured Water Quality Protection Charge, amended by the county to comply with Chapter 151, is estimated to generate \$22.9 million in fee revenue in fiscal 2014. The county's current plan includes fee increases per ERU of 11% for fiscal 2017 and 3% for fiscal 2018 to cover the increasing demands on the fund from operating and capital expenses and declining plastic bag tax receipts. Along with \$1.8 million in bag tax receipts, a continuing fund balance, and funds available from the issuance of \$37.8 million in revenue bonds in fiscal 2013, revenues to the county's Water Quality Protection Fund are projected to cover estimated stormwater expenditures in fiscal 2014. While planned stormwater management expenditures in any given fiscal year may exceed total revenues, the county advises that the sum of estimated fee revenues, bag tax receipts, and proceeds from authorized bond issuances are sufficient in the long-term to cover expenditures.

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### Fiscal Summary Fiscal 2014-2018 (\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Fee Revenue	\$22.9	\$26.4	\$30.0	\$34.4	\$34.6
Other Revenue	1.8	1.5	56.2	0.9	65.8
Projected Cost	55.3	61.8	62.9	73.4	79.4
<b>Difference</b>	<b>-\$30.6</b>	<b>-\$33.9</b>	<b>\$23.2</b>	<b>-\$39.1</b>	<b>\$20.9</b>

Note: The county issued \$37.8 million in Water Quality Protection Charge revenue bonds in fiscal 2013, which will be expended in fiscal 2014 for capital projects. Future revenue bond issuances are planned for fiscal 2016 (\$55.0 million) and fiscal 2018 (\$65.0 million).

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## Other Issues

County laws appear to comply with Chapter 151. One minor issue to note, however, is that Chapter 151 requires money in a county's fund to be used to support *additional* stormwater management activities. It is unclear how this provision is to be applied to Montgomery County, which, unlike other counties, had a stormwater fee prior to the enactment of Chapter 151. The fee, which was restructured to comply with State law, actually results in a slight reduction in revenue for fiscal 2014 only, due primarily to mandatory exemptions and credits.

## Prince George's County

### Fees

- **Residential Fee:**
  - **Single-family Residential:** Flat fee rate (\$20.58) per tax account per year plus an impervious area fee based on a tiered flat average rate determined by a property's zoning classification.
  - **Condominium:** Flat fee rate (\$20.58) per dwelling unit per year plus an impervious area fee (\$20.90/2,456 square feet) allocated to each dwelling unit based on the total impervious area for the condominium development.
  - **Multifamily:** Flat fee rate (\$20.58) per tax account per year plus an impervious area fee (\$20.90/2,456 square feet).
  - **Other:** Property that has an agricultural use assessment as determined by the State Department of Assessments and Taxation is subject to a fee based on the impervious surface measurement (\$20.90/2,456 square feet) only for the principal residential structure located on the property.
- **Nonresidential Fee:** Same as the fees for multifamily properties.
- **Method of Billing:** Fees are collected annually via property tax bills. Payments are due by September 30 each year.

### Credits, Exemptions, and Other Features

- **Credits:** The county is in the process of developing regulations that provide for a stormwater fee reduction to account for onsite and offsite systems, facilities, services, or activities that reduce the quantity or improve the quality of stormwater discharged from the property.
- **Exemptions:** (1) property owned by the State, a unit of State government, the county, a municipality, or a regularly organized volunteer fire department that is used for public purposes; (2) qualified tax-exempt religious organizations or other 501(c) nonprofit organizations may be exempt from the fee subject to regulations currently being developed; (3) unimproved property shall be charged the flat fee rate of \$20.58, but shall not be subject to an impervious area fee; and (4) any portion of the fee may be reduced for demonstrated substantial financial hardship.

- ***Applicability to Municipalities:*** The fee is applicable to all municipalities except Bowie. Bowie operates its own stormwater management system and has opted not to participate in the county program. According to an October 1, 2012 memorandum to the city council, Bowie has determined that the State law does not apply because it holds a Phase II stormwater permit (as opposed to a Phase I MS4 permit). Additionally, the permit area defined in the county's Phase I MS4 permit specifically exempts Bowie.
- ***Phase-in:*** None.
- ***Associated Regulations or Other Implementing Documents:*** The director of environmental resources is responsible for establishing regulations that provide for a fee reduction to account.
- ***Other Features or Programs:*** The county has instituted a "Rain Check Rebate Program." The program allows property owners to receive rebates for installing approved stormwater management practices. Rebate ceilings are set at \$2,000 for residential properties and \$20,000 for commercial, multifamily dwellings, nonprofit entities, and not-for-profit organizations. Up to \$3 million may be appropriated annually for the program. Additionally, nonprofits that receive grants from the Local Watershed Restoration Protection and Restoration Fund are required to use county-based businesses (*i.e.*, a business whose principal place of operation is located within Prince George's County) for watershed restoration and rehabilitation projects unless an exemption is granted.

## **Fiscal Discussion**

The CWA fee revenue is expected to total approximately \$12.0 million in fiscal 2014. This estimate assumes that no credits will be made in fiscal 2014 due to the infancy of the program. The Act fee revenue is expected to decline slightly beginning in fiscal 2016 due to fee credits. In fiscal 2014, it is anticipated that \$1.8 million will be expended for administrative costs and that \$2.5 million will be expended for debt service costs associated with bonds issued to fund capital construction. The remaining \$7.7 million will carry forwarded into fiscal 2015.

The county estimates that it will cost about \$1.2 billion to comply with the bay TMDL requirements through 2025. According to the county, it will address its Phase I MS4 permit compliance requirements within the context of satisfying its bay TMDL objectives. Based on projected expenditures, there is an estimated shortfall beginning in fiscal 2016. It is likely that a fee enhancement will be required in fiscal 2017 to cover primarily debt service payments on capital bond issuances. Additionally, it should be noted that the estimated shortfall does not account for maintenance expenditures which are unavailable at this time.

Although not shown in the table, the county also maintains a Stormwater Management Fund, which is funded by various revenues such as the *ad valorem* stormwater management

property tax, pond fees, and permits. According to the county, unlike the CWA fee revenues, which are used for bay restoration efforts that improve water quality, Stormwater Management Fund revenues are used to cover the costs associated with maintaining the county’s drainage infrastructure (e.g., storm drains, channels, levies, flood walls, etc.). While revenues generated from the Stormwater Management Fund are typically used to maintain the county’s drainage infrastructure, the county may access the fund to address shortfalls in the CWA fee revenue (should a fund balance surplus exist). The Stormwater Management Fund generates approximately \$40.1 million annually in stormwater management revenues (after accounting for debt service payments from the fund).

**Fiscal Summary**  
**Fiscal 2014-2018**  
**(\$ in Millions)**

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Fee Revenue*	\$12.0	\$12.0	\$11.5	\$11.5	\$11.0
Other Revenue**	20.0	57.7	87.7	80.0	108.0
Projected Cost***	24.3	61.0	100.9	110.7	152.1
<b>Difference</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>-\$0.70</b>	<b>-\$19.2</b>	<b>-\$33.1</b>

\*Revenues are projected to decline beginning in fiscal 2016 due to fee credits.

\*\*Other revenue reflects the cash proceeds from bond sales and prior year fund balance carried forward.

\*\*\*Projected Cost includes operating expenditures, debt service payments, and projected capital improvement bond expenditures. Projected expenditures do not include maintenance expenditures, which are unavailable at this time.