

HOUSE BILL 786

M3

71r1339
CF SB 784

By: **Delegates Lawton, Beidle, Bobo, Bronrott, V. Clagett, Frush, Guzzone, Healey, Hubbard, Hucker, Lafferty, Lee, McIntosh, Montgomery, Niemann, Stein, F. Turner, and ~~Waldstreicher~~ Waldstreicher, Glenn, Glassman, and Weir**

Introduced and read first time: February 9, 2007
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Stormwater Management Act of 2007**

3 FOR the purpose of ~~requiring certain local governments to update certain zoning~~
4 ~~ordinances to allow for the implementation of certain environmental site design~~
5 ~~techniques in certain stormwater management practices;~~ requiring the
6 Department of the Environment to adopt regulations that establish certain
7 regulations and a certain model ordinance ~~or model regulation~~ for certain
8 purposes; requiring the Department to adopt regulations that specify certain
9 criteria for certain stormwater management plans ~~and certain stormwater~~
10 ~~control ordinances;~~ requiring the Department to adopt regulations that specify
11 ~~certain environmental site design techniques as the primary method for~~
12 ~~managing stormwater under certain circumstances;~~ requiring the Department
13 to adopt regulations that establish a certain comprehensive process for
14 approving certain grading and sediment control plans and certain stormwater
15 management plans; requiring the Department, ~~on or before a certain date, to~~
16 ~~review a certain fee system and establish a certain schedule of fees necessary to~~
17 ~~enforce certain provisions of law~~ to evaluate certain options and report certain
18 findings on or before a certain date; requiring the Department to seek certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 input and work with certain parties in the creation of certain regulations and a
 2 certain model ordinance; defining certain terms; and generally relating to
 3 stormwater management.

4 BY adding to

5 Article – Environment

6 Section 4–201.1

7 Annotated Code of Maryland

8 (1996 Replacement Volume and 2006 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – Environment

11 Section ~~4–202 and~~ 4–203

12 Annotated Code of Maryland

13 (1996 Replacement Volume and 2006 Supplement)

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

16 **Article – Environment**

17 **4–201.1.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 19 INDICATED.

20 (B) “ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~” MEANS ~~A TECHNIQUE~~
 21 ~~USED IN A SITE DESIGN STRATEGY INTENDED TO MAINTAIN OR REPLICATE THE~~
 22 ~~PREDEVELOPMENT HYDROLOGIC AND WATER QUALITY REGIME OF A BUILDING~~
 23 ~~SITE~~ USING SMALL-SCALE STORMWATER MANAGEMENT PRACTICES,
 24 NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC
 25 NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT
 26 OF LAND DEVELOPMENT ON WATER RESOURCES.

27 (C) “ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~” INCLUDES:

28 (1) OPTIMIZING CONSERVATION OF NATURAL FEATURES, SUCH
 29 AS DRAINAGE PATTERNS, SOILS, AND VEGETATION;

30 (2) MINIMIZING USE OF IMPERVIOUS SURFACES, SUCH AS PAVED
 31 SURFACES, CONCRETE CHANNELS, ROOFS, AND PIPES;

1 (3) SLOWING DOWN RUNOFF TO MAINTAIN DISCHARGE TIMING
2 AND TO INCREASE INFILTRATION AND EVAPOTRANSPIRATION; AND

3 (4) ~~USING AT THE SOURCE INTEGRATED CONTROL TECHNIQUES,~~
4 ~~SUCH AS BIORETENTION, VEGETATED SWALES, AND INFILTRATION DEVICES;~~
5 ~~AND~~

6 (5) ~~USING POLLUTION PREVENTION MEASURES TO REDUCE THE~~
7 ~~INTRODUCTION OF POLLUTANTS INTO THE ENVIRONMENT~~ OTHER
8 NONSTRUCTURAL PRACTICES OR INNOVATIVE STORMWATER MANAGEMENT
9 TECHNOLOGIES APPROVED BY THE DEPARTMENT.

10 ~~4-202.~~

11 (A) ~~By July 1, 1984, each county and municipality shall adopt ordinances~~
12 ~~necessary to implement a stormwater management program. These stormwater~~
13 ~~management programs shall be consistent with flood management plans, if any,~~
14 ~~developed under Title 5, Subtitle 8 of this article for a particular watershed, shall meet~~
15 ~~the requirements established by the Department under § 4-203 of this subtitle, and~~
16 ~~shall be consistent with the purposes of this subtitle.~~

17 (B) (1) ~~EACH COUNTY AND MUNICIPALITY THAT EXERCISES~~
18 ~~PLANNING AND ZONING AUTHORITY SHALL UPDATE LOCAL ZONING~~
19 ~~ORDINANCES TO ALLOW FOR THE IMPLEMENTATION OF ENVIRONMENTAL SITE~~
20 ~~DESIGN TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES.~~

21 (2) ~~EACH COUNTY AND MUNICIPALITY THAT IS SUBJECT TO THE~~
22 ~~REQUIREMENTS OF THIS SECTION MAY BASE THEIR LOCAL ZONING ORDINANCE~~
23 ~~ON THE DEPARTMENT'S MODEL ORDINANCE OR MODEL RULES AND~~
24 ~~REGULATIONS REQUIRED UNDER § 4-203 OF THIS SUBTITLE.~~

25 4-203.

26 (a) The Department of the Environment shall implement the provisions of
27 this subtitle and shall consult the Department of Natural Resources from time to time,
28 INCLUDING DURING THE ADOPTION OF REGULATIONS, concerning the impact of
29 stormwater on waters of the State.

1 (b) The Department shall adopt rules and regulations which establish
2 criteria and procedures for stormwater management in Maryland. The rules and
3 regulations shall:

4 (1) Indicate that the primary goal of the State and local programs will
5 be to maintain after development, as nearly as possible, the predevelopment runoff
6 characteristics;

7 (2) Make allowance for the difference in hydrologic characteristics and
8 stormwater management needs of different parts of the State;

9 (3) Specify that watershed-wide analyses may be necessary to prevent
10 undesirable downstream effects of increased stormwater runoff;

11 (4) Specify the exemptions a county or municipality may grant from
12 the requirements of submitting a stormwater management plan;

13 (5) (I) Specify the minimum content of the local ordinances or the
14 rules and regulations of the affected county governing body to be adopted which may
15 be done by inclusion of a model ordinance or model rules and regulations; AND

16 (II) **ESTABLISH REGULATIONS AND A MODEL ORDINANCE**
17 **OR MODEL RULE AND REGULATION FOR A LOCAL ZONING ORDINANCE THAT**
18 **ALLOWS FOR THAT REQUIRE:**

19 **1. THE IMPLEMENTATION OF ENVIRONMENTAL SITE**
20 **DESIGN TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES TO THE**
21 **MAXIMUM EXTENT PRACTICABLE;**

22 **2. THE REVIEW AND MODIFICATION, IF NECESSARY,**
23 **OF PLANNING AND ZONING OR PUBLIC WORKS ORDINANCES TO REMOVE**
24 **IMPEDIMENTS TO ENVIRONMENTAL SITE DESIGN IMPLEMENTATION; AND**

25 **3. A DEVELOPER TO DEMONSTRATE THAT:**

26 **A. ENVIRONMENTAL SITE DESIGN HAS BEEN**
27 **IMPLEMENTED TO THE MAXIMUM EXTENT PRACTICABLE; AND**

28 **B. STANDARD BEST MANAGEMENT PRACTICES HAVE**
29 **BEEN USED ONLY WHERE ABSOLUTELY NECESSARY;**

1 (6) Indicate that water quality practices may be required for any
2 redevelopment, even when predevelopment runoff characteristics are maintained;
3 [and]

4 (7) Specify the minimum requirements for inspection and
5 maintenance of stormwater practices;

6 (8) **SPECIFY ALL STORMWATER MANAGEMENT PLANS ~~AND~~**
7 **~~STORMWATER CONTROL ORDINANCES~~ SHALL BE DESIGNED TO:**

8 (I) **PREVENT SOIL EROSION FROM ANY DEVELOPMENT ~~OR~~**
9 **~~CONSTRUCTION~~ PROJECT;**

10 (II) **PREVENT, TO THE MAXIMUM EXTENT PRACTICABLE, AN**
11 **INCREASE IN NONPOINT POLLUTION;**

12 (III) **MAINTAIN THE INTEGRITY OF STREAM CHANNELS FOR**
13 **THEIR BIOLOGICAL FUNCTION, AS WELL AS FOR DRAINAGE;**

14 (IV) **MINIMIZE POLLUTANTS IN STORMWATER RUNOFF**
15 **FROM NEW ~~AND EXISTING~~ DEVELOPMENT AND REDEVELOPMENT IN ORDER TO:**

16 1. **RESTORE, ENHANCE AND MAINTAIN THE**
17 **CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF THE WATERS OF THE**
18 **STATE;**

19 2. **PROTECT PUBLIC HEALTH;**

20 3. **SAFEGUARD FISH AND AQUATIC LIFE AND SCENIC**
21 **AND ECOLOGICAL VALUES; AND**

22 4. **ENHANCE THE DOMESTIC, MUNICIPAL,**
23 **RECREATIONAL, INDUSTRIAL, AND OTHER USES OF WATER AS SPECIFIED BY**
24 **THE DEPARTMENT;**

25 (V) **PROTECT PUBLIC SAFETY THROUGH THE PROPER**
26 **DESIGN AND OPERATION OF STORMWATER MANAGEMENT FACILITIES;**

27 (VI) ~~1~~ **MAINTAIN 100% OF AVERAGE ANNUAL**
28 **PREDEVELOPMENT GROUNDWATER RECHARGE VOLUME FOR THE SITE; ~~OR~~**

1 ~~2. ENSURE THAT THE SITE WILL INFILTRATE THE~~
2 ~~POSTDEVELOPMENT INCREASE OF STORMWATER RUNOFF VOLUME FOR THE~~
3 ~~2-YEAR STORM EVENT COMPARED TO THE SITE'S PREDEVELOPMENT RUNOFF~~
4 ~~VOLUME; AND~~

5 ~~(VII) REQUIRE A DEMONSTRATION THROUGH HYDROLOGIC~~
6 ~~AND HYDRAULIC ANALYSES THAT:~~

7 ~~1. FOR STORMWATER LEAVING THE SITE,~~
8 ~~POSTCONSTRUCTION RUNOFF HYDROGRAPHS FOR THE 2-, 10-, AND 100-YEAR~~
9 ~~STORM EVENTS DO NOT EXCEED, AT ANY POINT IN TIME, THE~~
10 ~~PRECONSTRUCTION RUNOFF HYDROGRAPHS FOR THE SAME STORM EVENTS; OR~~

11 ~~2. THERE IS NO INCREASE, AS COMPARED TO THE~~
12 ~~PRECONSTRUCTION CONDITION, IN THE PEAK RUNOFF RATES OF STORMWATER~~
13 ~~LEAVING THE SITE FOR THE 2-, 10-, AND 100-YEAR STORM EVENTS AND THAT~~
14 ~~THE INCREASED VOLUME OR CHANGE IN TIMING OF STORMWATER RUNOFF~~
15 ~~WILL NOT INCREASE FLOOD DAMAGE AT OR DOWNSTREAM OF THE SITE;~~

16 ~~(VII) CAPTURE AND TREAT STORMWATER RUNOFF TO~~
17 ~~REMOVE POLLUTANTS AND ENHANCE WATER QUALITY;~~

18 ~~(VIII) IMPLEMENT A CHANNEL PROTECTION STRATEGY TO~~
19 ~~REDUCE DOWNSTREAM EROSION IN RECEIVING STREAMS; AND~~

20 ~~(IX) IMPLEMENT QUANTITY CONTROL STRATEGIES TO~~
21 ~~PREVENT INCREASES IN THE FREQUENCY AND MAGNITUDE OF OUT-OF-BANK~~
22 ~~FLOODING FROM LARGE, LESS FREQUENT STORM EVENTS.~~

23 ~~(9) (I) SPECIFY THAT:~~

24 ~~1. ENVIRONMENTAL SITE DESIGN TECHNIQUES ARE~~
25 ~~THE PRIMARY METHOD FOR MANAGING STORMWATER;~~

26 ~~2. STANDARD BEST MANAGEMENT PRACTICES MAY~~
27 ~~BE USED ONLY AS A BACK-UP TO CATCH RUNOFF NOT DEALT WITH THROUGH~~
28 ~~ENVIRONMENTAL SITE DESIGN TECHNIQUES; AND~~

1 ~~3. A DEVELOPER HAS THE BURDEN OF PROOF TO~~
2 ~~SHOW THAT THE USE OF ENVIRONMENTAL SITE DESIGN TECHNIQUES IS NOT~~
3 ~~PRACTICAL; AND~~

4 ~~(10)~~ (I) ESTABLISH A COMPREHENSIVE PROCESS FOR
5 APPROVING GRADING AND SEDIMENT CONTROL PLANS AND STORMWATER
6 MANAGEMENT PLANS; AND

7 (II) SPECIFY THAT THE COMPREHENSIVE PROCESS
8 ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TAKES INTO
9 ACCOUNT THE CUMULATIVE IMPACTS OF BOTH PLANS.

10 (c) Before the regulations required under this subsection are final, the
11 Department shall hold at least one public hearing in the affected immediate
12 geographic areas of the State and shall consult with the affected counties and
13 municipalities.

14 (d) The Department shall provide technical assistance, training, research,
15 and coordination in stormwater management technology to the local governments
16 consistent with the purposes of this subtitle.

17 ~~(E) ON OR BEFORE OCTOBER 1, 2009, THE DEPARTMENT SHALL~~
18 ~~REVIEW THE DEPARTMENT'S STORMWATER MANAGEMENT FEE SYSTEM AND~~
19 ~~ESTABLISH AN APPROPRIATE SCHEDULE OF FEES NECESSARY TO ENFORCE THE~~
20 ~~PROVISIONS OF THIS SUBTITLE.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (a) The Department of the Environment shall evaluate options for a
23 stormwater management fee system and an appropriate schedule of fees necessary to
24 improve the enforcement of the provisions of Title 4, Subtitle 2 of the Environment
25 Article.

26 (b) On or before December 1, 2007, the Department shall report its findings
27 to the House Environmental Matters Committee and the Senate Education, Health,
28 and Environmental Affairs Committee, in accordance with § 2-1246 of the State
29 Government Article.

30 SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) During the creation of the regulations and model ordinance required
2 under § 4-203(b)(5)(ii) of the Environment Article, as enacted by this Act, the
3 Department of the Environment shall seek the input of interested parties, including
4 each county and municipality that operates a stormwater management program.

5 (b) The Department shall work with the counties, municipalities, and other
6 interested parties to address any reasonable concern raised by the parties.

7 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.