

CHAPTER 441

(House Bill 1139)

AN ACT concerning

Washington Suburban Sanitary Commission – System Development Surcharge – Exemptions

MC/PG 104-09

FOR the purpose of authorizing the County Councils of Montgomery County and Prince George’s County to grant an exemption from a system development charge imposed by the Washington Suburban Sanitary Commission for certain properties owned by certain entities that are exempt from federal taxation and whose primary use, mission, and purpose is to provide recreational and educational programs and services to youth under certain circumstances; extending through a certain date the authority of the county councils of Montgomery County and Prince George’s County to grant a certain exemption from a certain system development charge; providing for the termination of this Act; and generally relating to the Washington Suburban Sanitary Commission and the system development charge.

BY repealing and reenacting, with amendments,
Article 29 – Washington Suburban Sanitary District
Section 6-113
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 423 of the Acts of the General Assembly of 2007
Section 3

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

Article 29 – Washington Suburban Sanitary District

6-113.

(a) (1) In this section the following words have the meanings indicated.

(2) “Fixture unit” means the assigned value for a particular plumbing fixture, or group of plumbing fixtures, as set forth in the WSSC plumbing and gas fitting regulations, standardized with a common lavatory having an assigned value of

1 based on its probable discharge into the drainage system or hydraulic demand on the water supply.

(3) "New service" means:

(i) A first time connection of a property to the WSSC water or sewer system; or

(ii) A new connection or increased water meter size for a property previously or currently served by the WSSC if the new connection or increased meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

(4) "Toilet" means a water closet, as set forth in the WSSC plumbing and gas fitting regulations.

(b) (1) Subject to the provisions of this section, in addition to any other charges authorized under this article, the WSSC may impose a system development charge that shall be paid by an applicant for new service.

(2) The system development charge shall be paid as follows:

(i) For residential properties:

1. 50% at the time the application is filed; and
2. 50% within 12 months after the date on which a plumbing permit application is filed with the Commission or on transfer of title to the property, whichever occurs first; and

(ii) For other properties, 100% at the time the plumbing permit application is filed.

(3) At the time of the filing of the plumbing permit application, the applicant shall deposit with the WSSC security in the form of an irrevocable letter of credit or a financial guaranty bond or in a form established and approved by the WSSC under its rules and regulations.

(c) (1) (i) The Montgomery County Council and the Prince George's County Council shall meet annually to discuss and approve the amount of the system development charge.

(ii) The amount of the charge for a particular property:

1. Shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the WSSC plumbing and gas fitting regulations;

2. Except as provided in item 3 of this subparagraph, on or after July 1, 1998, may not exceed \$200 per fixture unit;

3. For residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

A. For each apartment unit, may not exceed \$2,000;

B. For dwellings with one or two toilets, may not exceed \$3,000;

C. For dwellings with three to four toilets, may not exceed \$5,000; or

D. For dwellings with five toilets, may not exceed \$7,000;
and

4. For dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(iii) When establishing the charge under this section, the County Councils shall identify and consider the actual cost of construction of WSSC facilities.

(iv) When establishing the charge under this section, under criteria established jointly and agreed to by the County Councils, the County Councils:

1. Shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed upon by the County Councils;

2. May grant a full or partial exemption from the charge for:

A. Revitalization projects; or

B. If the property is used [exclusively] **PRIMARILY** for **RECREATIONAL AND EDUCATIONAL** programs and services to youth, property owned by a community-based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that has the [exclusive] **PRIMARY** mission and purpose of providing **RECREATIONAL AND EDUCATIONAL** programs and services to youth, provided the exemption amount is limited to \$80,000; and

3. May grant a full or partial exemption from the charge, under conditions prescribed by the County Councils, for:

A. Residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

B. Residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

C. Other elderly housing; or

D. Properties used for biotechnology research and development, or manufacturing.

(v) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subparagraph (ii) of this paragraph, may be changed by an amount equal to the prior calendar year's change in the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(2) If the charge established by the County Councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the WSSC shall identify the portion of the cost of that growth that will be paid by current ratepayers as:

(i) A percentage of any rate increase; and

(ii) The annual monetary amount on a typical residential customer's annual water and sewer bill.

(3) If the County Councils do not agree on the amount of the charge, the charge imposed during the previous year shall continue in effect for the following fiscal year.

(4) If the County Councils have not previously agreed on any system development charge, a system development charge may not be imposed during that fiscal year.

(5) (i) Before July 1, 1994, the WSSC may not impose a system development charge in an amount greater than 50% of the charge established by the County Councils under this subsection.

(ii) Before July 1, 1995, the WSSC may not impose a system development charge greater than 75% of the charge established by the County Councils under this subsection.

(d) (1) (i) The WSSC shall deposit all funds collected under the system development charge into the system development charge fund.

(ii) The system development charge fund is a special fund which may not revert to general funds of the WSSC.

(2) The WSSC may only use the funds collected under the system development charge to:

(i) Pay for new treatment, transmission, and collection facilities, the need for which is directly attributable to the addition of new service, and the construction of which began after July 1, 1993; or

(ii) Amortize any bond that is issued in connection with the construction of those new facilities.

(3) Other costs of enhancement, maintenance, or environmental regulation on existing or new systems shall be borne equally by all ratepayers.

(e) (1) The WSSC may allow a developer to design and construct any on-site or off-site facilities necessary for a project of the developer, as long as those facilities are:

(i) In the WSSC Capital Improvement Program and the 10-year Comprehensive Water Supply and Sewerage System Plan adopted by one of the County Councils;

(ii) Major projects included in the WSSC Capital Improvement Program; or

(iii) Projects that include a sewer main or a water main that:

1. Provides only local service;

2. Is 2,000 feet or less;

3. Has a diameter of:

A. 15 inches or more if it is a sewer main; or

B. 16 inches or more if it is a water main; and

4. Is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(2) A facility constructed under this subsection shall be designed, constructed, and inspected in accordance with:

- (i) The standards utilized by the WSSC; and
- (ii) All applicable laws, regulations, and written policies of the WSSC.

(3) After the WSSC approves facilities constructed by a developer under this subsection, the WSSC shall:

- (i) Accept the facilities as part of the WSSC system; and
- (ii) Subject to the provisions of paragraph (4) of this subsection, grant the developer a credit against any charge imposed under this section in an amount equal to the cost of constructing those facilities.

(4) The internal auditor of the WSSC shall review and approve the costs incurred by the developer.

(5) The WSSC and the developer shall enter into an agreement incorporating the provisions of this subsection.

(6) If the WSSC rejects a developer's request to design and construct facilities under this subsection, the WSSC shall submit to the developer a written explanation of the reasons for the rejection.

(7) The WSSC shall submit a report at the end of each fiscal year to the House and Senate Delegations of both counties and to the County Councils. The report shall state the number of requests made by developers under this subsection including the number of acceptances and rejections by the WSSC and the justification for any rejections.

Chapter 423 of the Acts of 2007

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of [2] ~~5~~ **3** years AND 6 MONTHS and, at the end of ~~June 30~~ DECEMBER 31, [2009] ~~2012~~ **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of ~~3 years~~ 1 year and 6 months and, at the end of ~~June 30~~ December 31, ~~2012~~ **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.