

SENATE BILL 635

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By: **Senators Frosh, Madaleno, Manno, Montgomery, and Pinsky**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Appropriation or Use Permits – Fees**

3 FOR the purpose of requiring a certain person to pay certain water appropriation or
4 use permit fees under certain circumstances and in a certain manner; requiring
5 the Department of the Environment to set certain fees by regulation and at
6 rates necessary to fund certain costs and activities; requiring certain fees to be
7 paid into the Maryland Clean Water Fund; requiring the Secretary of the
8 Environment to convene a certain workgroup to develop a certain fee structure;
9 requiring the Department to report the workgroup's findings and
10 recommendations in a certain manner to certain committees on or before a
11 certain date; defining certain terms; and generally relating to fees for water
12 appropriation or use permits.

13 BY adding to

14 Article – Environment

15 Section 5–502.1

16 Annotated Code of Maryland

17 (2007 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Environment

20 Section 9–320 and 9–1008

21 Annotated Code of Maryland

22 (2007 Replacement Volume and 2011 Supplement)

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

25 **Article – Environment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-502.1.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

4 (2) "PERMIT" MEANS A WATER APPROPRIATION OR USE PERMIT
5 ISSUED BY THE DEPARTMENT UNDER § 5-502 OF THIS SUBTITLE.

6 (3) "PERMITTEE" MEANS A PERSON AUTHORIZED TO WITHDRAW
7 GROUND OR SURFACE WATER WITHIN THE STATE BY AUTHORITY OF A WATER
8 APPROPRIATION OR USE PERMIT ISSUED UNDER § 5-502 OF THIS SUBTITLE.

9 (B) A PERSON APPLYING FOR A NEW OR RENEWED PERMIT SHALL PAY A
10 PERMIT APPLICATION FEE.

11 (C) EXCEPT FOR PERMITS AUTHORIZING AN ANNUAL AVERAGE USE OF
12 LESS THAN 10,000 GALLONS OF WATER PER DAY:

13 (1) AN ANNUAL WATER APPROPRIATION OR USE MANAGEMENT
14 FEE SHALL BE ASSESSED ON EACH PERMIT; AND

15 (2) A PERMITTEE SHALL PAY A SEPARATE ANNUAL WATER
16 APPROPRIATION OR USE MANAGEMENT FEE FOR EACH WATER APPROPRIATION
17 OR USE PERMIT HELD BY THE PERMITTEE.

18 (D) THE FEES ESTABLISHED IN SUBSECTIONS (B) AND (C) OF THIS
19 SECTION SHALL BE SET IN REGULATIONS ADOPTED BY THE DEPARTMENT AT
20 RATES NECESSARY TO:

21 (1) FUND THE COST TO THE DEPARTMENT OF REGULATING AND
22 MONITORING THE ACTIVITY FOR WHICH THE PERMIT WAS ISSUED; AND

23 (2) SUPPORT THE NEEDS OF THE DEPARTMENT FOR PROGRAM
24 DEVELOPMENT ACTIVITIES, INCLUDING:

25 (i) CONDUCTING WATERSHED AND AQUIFER STUDIES;

26 (ii) MONITORING AND ASSESSING THE CUMULATIVE
27 IMPACTS ASSOCIATED WITH REGULATED ACTIVITIES ON THE STATE'S
28 GROUNDWATER AND SURFACE WATER;

29 (iii) DEVELOPING AND IMPLEMENTING A STATEWIDE WATER
30 SUPPLY PLAN; AND

1 **(IV) PROVIDING TECHNICAL ASSISTANCE TO LOCAL**
2 **GOVERNMENTS.**

3 **(E) ALL FEES COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE**
4 **SHALL BE PAID TO THE MARYLAND CLEAN WATER FUND.**

5 9–320.

6 (a) There is a Maryland Clean Water Fund.

7 (b) The following payments shall be made into the Maryland Clean Water
8 Fund:

9 (1) All application fees, permit fees, renewal fees, and funds collected
10 by the Department under this subtitle, including any civil or administrative penalty or
11 any fine imposed by a court under the provisions of this subtitle;

12 (2) ~~Any~~ **ALL PERMIT FEES, INCLUDING APPLICATION AND**
13 **MANAGEMENT FEES, AND FUNDS COLLECTED BY THE DEPARTMENT UNDER THE**
14 **PROVISIONS OF TITLE 5, SUBTITLE 5 OF THIS ARTICLE RELATING TO WATER**
15 **APPROPRIATION OR USE, INCLUDING ANY** civil penalty or any fine imposed by a
16 court under the provisions of Title 5, Subtitle 5 of this article relating to water
17 appropriation ~~and~~ **OR** use;

18 (3) **ANY LABORATORY APPLICATION FEES COLLECTED BY THE**
19 **DEPARTMENT UNDER § 9–1008 OF THIS TITLE;**

20 ~~(3)~~ (4) Any civil or administrative penalty or any fine imposed by a
21 court under the provisions of Title 4, Subtitle 1 of this article; and

22 ~~(4)~~ (5) Any fees or funds that the Department collects under
23 Subtitle 2, Part III of this title and §§ 9–269 and 9–270 of this title and any civil or
24 administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of
25 this title.

26 (c) The Department shall use the Maryland Clean Water Fund for activities
27 that are related to:

28 (1) The identification, monitoring, and regulation of the proper
29 discharge of effluent into the waters of the State including program development of
30 these activities as provided by the State budget;

31 (2) The management, conservation, protection, and preservation of the
32 State's groundwater and surface water including program development of these
33 activities as provided by the State budget;

1 (3) Correcting to the extent possible the failure to implement or
2 maintain erosion and sediment controls;

3 (4) Administration of the sediment control program;

4 (5) Emergency removal of sewage sludge or mitigation of the effect of
5 any utilization of sewage sludge that the Department finds:

6 (i) Endangers public health, safety, or welfare; or

7 (ii) Endangers or damages natural resources;

8 (6) Activities that are:

9 (i) Conducted by the Department, by a local health official, or
10 by the local health official's designee under § 9-243(e) of this title; and

11 (ii) Related to identifying, monitoring, or regulating the
12 utilization of sewage sludge, including program development; and

13 (7) Providing supplemental inspections and monitoring of sewage
14 sludge utilization sites by:

15 (i) Contracting with a county on request of that county to
16 provide supplemental inspections and monitoring; and

17 (ii) Limiting the value of services provided under the contract to
18 no more than 45% of the generator fees for sludge utilized in that county that is
19 generated outside of that county or service area.

20 (d) An expenditure that the Department makes under subsection (c)(5) of
21 this section shall be reimbursed to the Department by the sewage sludge utilizer
22 whose sewage sludge utilization brought about the expenditure by:

23 (1) Endangering public health, safety, or welfare; or

24 (2) Endangering or damaging natural resources.

25 (e) In addition to any other legal action authorized by this subtitle, the
26 Attorney General may bring an action against any person who fails to reimburse the
27 Department under subsection (d) of this section to recover any expenditure that the
28 Department makes under subsection (c)(5) of this section.

29 (f) In determining the use of the Maryland Clean Water Fund, priority shall
30 be given to activities relating to the water quality of the Chesapeake Bay and its
31 tributaries.

1 (g) Notwithstanding any law to the contrary, funds credited and any interest
2 accrued to the Fund:

3 (1) Shall remain available until expended; and

4 (2) May not be reverted to the General Fund under any other
5 provision of law.

6 9–1008.

7 (A) Any person who wishes to operate a water quality laboratory shall:

8 (1) Submit to the Department, on the form the Department requires,
9 an application for certification of the water quality laboratory; and

10 (2) Pay to the Department the application fee set by the Department.

11 (B) **ALL FEES COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE**
12 **SHALL BE PAID TO THE MARYLAND CLEAN WATER FUND.**

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

14 (a) Prior to the adoption of the regulations required in § 5–502.1(d) of the
15 Environment Article as enacted by Section 1 of this Act, the Secretary of the
16 Environment shall convene a workgroup consisting of representatives of the Maryland
17 Association of Counties, the Maryland Municipal League, agriculture, public water
18 systems, the golf course industry, the power generation industry, and the mining
19 industry to develop the fee structure necessary to ensure the long–term funding needs
20 identified in § 5–502.1(d) of the Environment Article as enacted by Section 1 of this
21 Act.

22 (b) On or before December 31, 2012, the Department of the Environment
23 shall report to the House Environmental Matters Committee and the Senate
24 Education, Health, and Environmental Affairs Committee, in accordance with §
25 2–1246 of the State Government Article, on the findings and recommendations of the
26 workgroup.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2012.