

HOUSE BILL 50

M3

4lr0326

(PRE-FILED)

By: **Delegates Norman, Vitale, Aumann, Bates, Elliott, George, Glass, Kipke, Krebs, McComas, McConkey, Ready, Serafini, Jacobs, Afzali, W. Miller, McDermott, Dwyer, McMillan, Stifler, Stocksdale, Arentz, Boteler, Hough, O'Donnell, Fisher, Schulz, Hogan, Szeliga, Beitzel, Eckardt, Cluster, Haddaway-Riccio, Impallaria, McDonough, Smigiel, Parrott, and Otto**

Requested: July 8, 2013

Introduced and read first time: January 8, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Stormwater Management – Watershed Protection and Restoration Program –**
3 **Repeal**

4 FOR the purpose of repealing the requirement that on or before a certain date a
5 county or municipality subject to a certain municipal stormwater permit adopt
6 and implement laws or ordinances to establish a watershed protection and
7 restoration program; repealing the exemption of a county or municipality from
8 certain requirements if the county or municipality has enacted and
9 implemented a certain system of charges in a certain manner on or before a
10 certain date; repealing the requirement that a county or municipality maintain
11 or administer a local watershed protection and restoration fund in accordance
12 with certain provisions of law; repealing the requirement that a county or
13 municipality establish and annually collect a stormwater remediation fee in
14 accordance with certain provisions of law; repealing the requirement that a
15 county or municipality establish certain policies and procedures to reduce a
16 certain stormwater remediation fee to account for certain measures; repealing
17 certain provisions of law relating to the prohibition against the assessment of a
18 stormwater remediation fee on a property by both a county and a municipality;
19 repealing the requirement that a county or municipality determine the method,
20 frequency, and enforcement of the collection of the stormwater remediation fee;
21 repealing the requirement that certain money be deposited in a local watershed
22 protection and restoration fund; repealing certain provisions of law relating to
23 the uses of money in a local watershed protection and restoration fund;
24 repealing the requirement that a county or municipality make publicly
25 available a certain report beginning on a certain date; repealing the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requirement that a county or municipality establish a certain hardship
2 exemption program; repealing the authorization of the Department of the
3 Environment to adopt certain regulations; altering the definition of a certain
4 term; repealing the definition of a certain term; and generally relating to
5 stormwater management in the State.

6 BY repealing and reenacting, with amendments,
7 Article – Environment
8 Section 4–201.1
9 Annotated Code of Maryland
10 (2013 Replacement Volume)

11 BY repealing
12 Article – Environment
13 Section 4–202.1
14 Annotated Code of Maryland
15 (2013 Replacement Volume)

16 Preamble

17 WHEREAS, The State has required 10 affected counties to impose a taxing
18 regime, commonly referred to as the “rain tax”, with the amounts to be determined in
19 the sole discretion of each county; and

20 WHEREAS, Under the State mandate, the affected counties have taken
21 disparate approaches to implementing the requirements, imposing a variety of rates
22 and categorizing properties differently; and

23 WHEREAS, Under other provisions of law, each affected county is authorized to
24 impose alternatives to the taxing regime mandated by the State to provide financial
25 assistance for the implementation of local stormwater management plans; now,
26 therefore,

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

29 **Article – Environment**

30 4–201.1.

31 (a) In this subtitle the following words have the meanings indicated.

32 (b) “Environmental site design” means using small-scale stormwater
33 management practices, nonstructural techniques, and better site planning to mimic
34 natural hydrologic runoff characteristics and minimize the impact of land development
35 on water resources.

1 (c) “Environmental site design” includes:

2 (1) Optimizing conservation of natural features, such as drainage
3 patterns, soils, and vegetation;

4 (2) Minimizing use of impervious surfaces, **SUCH AS PAVED**
5 **SURFACES, CONCRETE CHANNELS, ROOFS, AND PIPES;**

6 (3) Slowing down runoff to maintain discharge timing and to increase
7 infiltration and evapotranspiration; and

8 (4) Using other nonstructural practices or innovative stormwater
9 management technologies approved by the Department.

10 [(d) (1) “Impervious surface” means a surface that does not allow
11 stormwater to infiltrate into the ground.

12 (2) “Impervious surface” includes rooftops, driveways, sidewalks, or
13 pavement.]

14 [4–202.1.

15 (a) (1) Except as provided in paragraph (2) of this subsection, this section
16 applies to a county or municipality that is subject to a national pollutant discharge
17 elimination system Phase I municipal separate storm sewer system permit.

18 (2) This section does not apply to a county or municipality that, on or
19 before July 1, 2012, has enacted and implemented a system of charges under § 4–204
20 of this subtitle for the purpose of funding a watershed protection and restoration
21 program, or similar program, in a manner consistent with the requirements of this
22 section.

23 (b) On or before July 1, 2013, a county or municipality shall adopt and
24 implement local laws or ordinances necessary to establish a watershed protection and
25 restoration program.

26 (c) A watershed protection and restoration program established under this
27 section shall include:

28 (1) A stormwater remediation fee; and

29 (2) A local watershed protection and restoration fund.

30 (d) (1) A county or municipality shall maintain or administer a local
31 watershed protection and restoration fund in accordance with this section.

1 (2) The purpose of a local watershed protection and restoration fund is
2 to provide financial assistance for the implementation of local stormwater
3 management plans through stormwater management practices and stream and
4 wetland restoration activities.

5 (e) (1) Except as provided in paragraph (2) of this subsection and
6 subsection (f) of this section, a county or municipality shall establish and annually
7 collect a stormwater remediation fee from owners of property located within the
8 county or municipality in accordance with this section.

9 (2) Property owned by the State, a unit of State government, a county,
10 a municipality, or a regularly organized volunteer fire department that is used for
11 public purposes may not be charged a stormwater remediation fee under this section.

12 (3) (i) A county or municipality shall set a stormwater remediation
13 fee for property in an amount that is based on the share of stormwater management
14 services related to the property and provided by the county or municipality.

15 (ii) A county or municipality may set a stormwater remediation
16 fee under this paragraph based on:

17 1. A flat rate;

18 2. An amount that is graduated, based on the amount of
19 impervious surface on each property; or

20 3. Another method of calculation selected by the county
21 or municipality.

22 (4) A stormwater remediation fee established under this section is
23 separate from any charges that a county or municipality establishes related to
24 stormwater management for new developments under § 4–204 of this subtitle,
25 including fees for permitting, review of stormwater management plans, inspections, or
26 monitoring.

27 (f) (1) A county or municipality shall establish policies and procedures,
28 approved by the Department, to reduce any portion of a stormwater remediation fee
29 established under subsection (e) of this section to account for on–site and off–site
30 systems, facilities, services, or activities that reduce the quantity or improve the
31 quality of stormwater discharged from the property.

32 (2) The policies and procedures established by a county or
33 municipality under paragraph (1) of this subsection shall include:

34 (i) Guidelines for determining which on–site systems, facilities,
35 services, or activities may be the basis for a fee reduction, including guidelines:

1 1. Relating to properties with existing advanced
2 stormwater best management practices;

3 2. Relating to agricultural activities or facilities that are
4 otherwise exempted from stormwater management requirements by the county or
5 municipality; and

6 3. That account for the costs of, and the level of
7 treatment provided by, stormwater management facilities that are funded and
8 maintained by a property owner;

9 (ii) The method for calculating the amount of a fee reduction;
10 and

11 (iii) Procedures for monitoring and verifying the effectiveness of
12 the on-site systems, facilities, services, or activities in reducing the quantity or
13 improving the quality of stormwater discharged from the property.

14 (3) For the purpose of monitoring and verifying the effectiveness of
15 on-site systems, facilities, services, or activities under paragraph (2)(iii) of this
16 subsection, a county or municipality may:

17 (i) Conduct on-site inspections;

18 (ii) Authorize a third party, certified by the Department, to
19 conduct on-site inspections on behalf of the county or municipality; or

20 (iii) Require a property owner to hire a third party, certified by
21 the Department, to conduct an on-site inspection and provide to the county or
22 municipality the results of the inspection and any other information required by the
23 county or municipality.

24 (g) (1) A property may not be assessed a stormwater remediation fee by
25 both a county and a municipality.

26 (2) (i) Before a county may impose a stormwater remediation fee
27 on a property located within a municipality, the county shall:

28 1. Notify the municipality of the county's intent to
29 impose a stormwater remediation fee on property located within the municipality; and

30 2. Provide the municipality reasonable time to pass an
31 ordinance authorizing the imposition of a municipal stormwater remediation fee
32 instead of a county stormwater remediation fee.

33 (ii) If a county currently imposes a stormwater remediation fee
34 on property located within a municipality and the municipality decides to implement

1 its own stormwater remediation fee under this section or § 4–204 of this subtitle, the
2 municipality shall:

3 1. Notify the county of the municipality's intent to
4 impose its own stormwater remediation fee; and

5 2. Provide the county reasonable time to discontinue the
6 collection of the county stormwater remediation fee within the municipality before the
7 municipality's stormwater remediation fee becomes effective.

8 (3) A county or municipality shall establish a procedure for a property
9 owner to appeal a stormwater remediation fee imposed under this section.

10 (h) (1) A county or municipality shall determine the method, frequency,
11 and enforcement of the collection of the stormwater remediation fee.

12 (2) A county or municipality shall deposit the stormwater remediation
13 fees it collects into its local watershed protection and restoration fund.

14 (3) There shall be deposited in a local watershed protection and
15 restoration fund:

16 (i) Funds received from the stormwater remediation fee;

17 (ii) Interest or other income earned on the investment of money
18 in the local watershed protection and restoration fund; and

19 (iii) Any additional money made available from any sources for
20 the purposes for which the local watershed protection and restoration fund has been
21 established.

22 (4) Subject to paragraph (5) of this subsection, a county or
23 municipality shall use the money in its local watershed protection and restoration
24 fund for the following purposes only:

25 (i) Capital improvements for stormwater management,
26 including stream and wetland restoration projects;

27 (ii) Operation and maintenance of stormwater management
28 systems and facilities;

29 (iii) Public education and outreach relating to stormwater
30 management or stream and wetland restoration;

31 (iv) Stormwater management planning, including:

32 1. Mapping and assessment of impervious surfaces; and

1 2. Monitoring, inspection, and enforcement activities to
2 carry out the purposes of the watershed protection and restoration fund;

3 (v) To the extent that fees imposed under § 4–204 of this
4 subtitle are deposited into the local watershed protection and restoration fund, review
5 of stormwater management plans and permit applications for new development;

6 (vi) Grants to nonprofit organizations for up to 100% of a
7 project's costs for watershed restoration and rehabilitation projects relating to:

8 1. Planning, design, and construction of stormwater
9 management practices;

10 2. Stream and wetland restoration; and

11 3. Public education and outreach related to stormwater
12 management or stream and wetland restoration; and

13 (vii) Reasonable costs necessary to administer the local
14 watershed protection and restoration fund.

15 (5) A county or municipality may use its local watershed protection
16 and restoration fund as an environmental fund, and may deposit to and expend from
17 the fund additional money made available from other sources and dedicated to
18 environmental uses, provided that the funds received from the stormwater
19 remediation fee are expended only for the purposes authorized under paragraph (4) of
20 this subsection.

21 (6) The funds disbursed under this subsection are intended to be in
22 addition to any existing State or local expenditures for stormwater management.

23 (7) Money in a local watershed protection and restoration fund may
24 not revert or be transferred to the general fund of any county or municipality.

25 (i) Beginning July 1, 2014, and every 2 years thereafter, a county or
26 municipality shall make publicly available a report on:

27 (1) The number of properties subject to a stormwater remediation fee;

28 (2) The amount of money deposited into the watershed protection and
29 restoration fund over the previous 2 fiscal years; and

30 (3) The percentage of funds in the local watershed protection and
31 restoration fund spent on each of the purposes provided in subsection (h)(4) of this
32 section.

1 (j) (1) A county or municipality shall establish a program to exempt from
2 the requirements of this section a property able to demonstrate substantial financial
3 hardship as a result of the stormwater remediation fee.

4 (2) A county or municipality may establish a separate hardship
5 exemption program or include a hardship exemption as part of a system of offsets
6 established under subsection (f)(1) of this section.

7 (k) The Department may adopt regulations to implement and enforce this
8 section.]

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2014.