

HOUSE BILL 895

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4lr1182

By: **Delegates McDonough, Glass, Kach, Kipke, Krebs, McComas, Norman, and Parrott**

Introduced and read first time: February 5, 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
26 requirement that a county or municipality establish a certain hardship
27 exemption program; repealing the authorization of the Department of the
28 Environment to adopt certain regulations; altering the definition of a certain
29 term; repealing the definition of a certain term; and generally relating to
30 stormwater management in the State.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Environment
3 Section 4–201.1
4 Annotated Code of Maryland
5 (2013 Replacement Volume)

6 BY repealing
7 Article – Environment
8 Section 4–202.1
9 Annotated Code of Maryland
10 (2013 Replacement Volume)

11 Preamble

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

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

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

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

24 **Article – Environment**

25 4–201.1.

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

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

31 (c) “Environmental site design” includes:

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

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

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

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

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

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

11 [4–202.1.

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

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

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

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

25 (1) A stormwater remediation fee; and

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

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

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

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

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

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

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

- 13 1. A flat rate;
- 14 2. An amount that is graduated, based on the amount of
15 impervious surface on each property; or
- 16 3. Another method of calculation selected by the county
17 or municipality.

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

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

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

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

- 32 1. Relating to properties with existing advanced
33 stormwater best management practices;

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

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

7 (ii) The method for calculating the amount of a fee reduction;
8 and

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

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

15 (i) Conduct on-site inspections;

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

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

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

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

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

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

31 (ii) If a county currently imposes a stormwater remediation fee
32 on property located within a municipality and the municipality decides to implement
33 its own stormwater remediation fee under this section or § 4-204 of this subtitle, the
34 municipality shall:

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

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

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

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

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

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

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

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

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

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

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

25 (ii) Operation and maintenance of stormwater management
26 systems and facilities;

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

29 (iv) Stormwater management planning, including:

30 1. Mapping and assessment of impervious surfaces; and

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

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

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

6 1. Planning, design, and construction of stormwater
7 management practices;

8 2. Stream and wetland restoration; and

9 3. Public education and outreach related to stormwater
10 management or stream and wetland restoration; and

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

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

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

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

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

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

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

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

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

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

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

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