

SENATE BILL 5

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(PRE-FILED)

4lr0464
CF 4lr0690

By: **Senator Kittleman**

Requested: September 4, 2013

Introduced and read first time: January 8, 2014

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of repealing certain provisions of law requiring that, on or before a
5 certain date, a county or municipality subject to a certain municipal stormwater
6 permit adopt and implement laws or ordinances to establish a watershed
7 protection and restoration program; repealing the requirement that a county or
8 municipality maintain or administer a local watershed protection and
9 restoration fund in accordance with certain provisions of law; repealing the
10 requirement that a county or municipality establish and annually collect a
11 stormwater remediation fee in accordance with certain provisions of law;
12 repealing the requirement that a county or municipality establish certain
13 policies and procedures to reduce a certain stormwater remediation fee to
14 account for certain measures; repealing certain provisions of law relating to the
15 prohibition against the assessment of a stormwater remediation fee on a
16 property by both a county and a municipality; repealing the requirement that a
17 county or municipality determine the method, frequency, and enforcement of
18 the collection of the stormwater remediation fee; repealing the requirement that
19 certain money be deposited in a local watershed protection and restoration fund;
20 repealing certain provisions of law relating to the uses of money in a local
21 watershed protection and restoration fund; repealing the requirement that a
22 county or municipality make publicly available a certain report beginning on a
23 certain date; repealing the requirement that a county or municipality establish
24 a certain hardship exemption program; repealing the authorization of the
25 Department of the Environment to adopt certain regulations; altering the
26 definition of a certain term; repealing the definition of a certain term; and
27 generally relating to stormwater management in the State.

28 BY repealing and reenacting, with amendments,
29 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4–201.1
2 Annotated Code of Maryland
3 (2007 Replacement Volume and 2013 Supplement)

4 BY repealing
5 Article – Environment
6 Section 4–202.1
7 Annotated Code of Maryland
8 (2007 Replacement Volume and 2013 Supplement)

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

11 **Article – Environment**

12 4–201.1.

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

14 (b) “Environmental site design” means using small–scale stormwater
15 management practices, nonstructural techniques, and better site planning to mimic
16 natural hydrologic runoff characteristics and minimize the impact of land development
17 on water resources.

18 (c) “Environmental site design” includes:

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

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

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

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

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

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

31 [4–202.1.

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

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

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

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

14 (1) A stormwater remediation fee; and

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

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

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

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

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

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

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

34 1. A flat rate;

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

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

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

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

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

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

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

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

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

27 (ii) The method for calculating the amount of a fee reduction;
28 and

29 (iii) Procedures for monitoring and verifying the effectiveness of
30 the on–site systems, facilities, services, or activities in reducing the quantity or
31 improving the quality of stormwater discharged from the property.

32 (3) For the purpose of monitoring and verifying the effectiveness of
33 on–site systems, facilities, services, or activities under paragraph (2)(iii) of this
34 subsection, a county or municipality may:

35 (i) Conduct on–site inspections;

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

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

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

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

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

13 2. Provide the municipality reasonable time to pass an
14 ordinance authorizing the imposition of a municipal stormwater remediation fee
15 instead of a county stormwater remediation fee.

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

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

22 2. Provide the county reasonable time to discontinue the
23 collection of the county stormwater remediation fee within the municipality before the
24 municipality's stormwater remediation fee becomes effective.

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

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

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

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

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

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

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

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

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

11 (ii) Operation and maintenance of stormwater management
12 systems and facilities;

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

15 (iv) Stormwater management planning, including:

16 1. Mapping and assessment of impervious surfaces; and

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

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

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

24 1. Planning, design, and construction of stormwater
25 management practices;

26 2. Stream and wetland restoration; and

27 3. Public education and outreach related to stormwater
28 management or stream and wetland restoration; and

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

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

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

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

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

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

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

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

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

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

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

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