

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 1071 (Senator Colburn)
Education, Health, and Environmental Affairs

Montgomery County and Prince George's County Fair Share Act of 2014

This bill requires the Washington Suburban Sanitary Commission (WSSC) to impose a sewage and sludge remediation charge on ratepayers. The bill establishes requirements relating to the determination of the amount of the charge. All funds collected from the charge must be deposited into a \$1.0 billion Sewage and Sludge Remediation Charge Fund.

Fiscal Summary

State Effect: None.

Local Effect: WSSC special fund revenues and expenditures increase by a significant amount beginning in FY 2016. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. Small businesses in the Washington Suburban Sanitary District will be subject to sewer and sludge remediation charges, which could be significant.

Analysis

Bill Summary: The Montgomery County and Prince George's County councils must meet each year to determine the amount of the sewage and sludge remediation charge. The county councils must consider the anticipated costs per gallon for remediating spilled or leaked sewage or sludge in the sanitary district when determining the amount of the sewage and sludge remediation charge.

On July 1, 2015, and July 1 of each succeeding year, the charge 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 U.S. Department of Labor for urban wage earners and clerical workers for all items for the Washington, DC metropolitan area, or the successor index. If the county councils do not agree on the amount of the sewage and sludge remediation charge, the sewage and sludge remediation charge imposed in the previous year continues in effect for the following fiscal year.

If the sewage and sludge remediation charge established by the county councils is less than the amount necessary to recover the full cost of remediating sewage and sludge spills and leaks in any given year, WSSC is required to identify the part of the cost of the remediation that will be paid by current ratepayers as (1) a percentage of any rate increase and (2) the annual monetary amount on a typical residential customer's annual water and sewer bill.

The Sewage and Sludge Remediation Charge Fund is a special fund that may not revert to general funds of WSSC. WSSC may use the funds collected from the sewage and sludge remediation charge only to remediate sewage or sludge spills or leaks in the sanitary district.

Current Law: WSSC charges ratepayers for water and sewer uses. In some instances, a front foot benefit charge is imposed. However, WSSC is not required to impose a sewer and sludge remediation charge.

Background: WSSC, a bi-county agency established by the Maryland General Assembly in 1918, is the eighth largest water and wastewater utility in the country. WSSC provides water and sewer services to 1.8 million residents in an area that comprises most of Montgomery and Prince George's counties (the Washington Suburban Sanitary District). WSSC has over 460,000 customer accounts, serves an area of approximately 1,000 square miles, and currently employs more than 1,500 people. In terms of facilities, the commission operates and maintains three reservoirs, two water filtration plants, six wastewater treatment plants, and more than 5,600 miles of water main lines and nearly 5,500 miles of sewer main lines.

In fiscal 2014, the approved operating and capital budgets for WSSC totaled \$1.4 billion, which represents \$764 per resident within the Washington Suburban Sanitary District. Of this amount, the operating budget accounts for \$698.8 million and the capital budget accounts for \$742.2 million. In the past five years, WSSC total expenditures have increased by \$527.3 million or 57.7%. This represents a 9.5% average annual increase. Since fiscal 2009, the WSSC operating budget has increased at an average annual rate of 4.8%, and the capital budget has increased at an average annual rate of 15.5%.

Sewer services account for 54.1% of the WSSC operating budget and water services account for 40.1%. In terms of major spending categories, nearly 40.0% of WSSC operating expenses are used to cover debt service, with expenditures totaling \$264.8 million in fiscal 2014. Salaries and wages are the next leading spending category at 15.0% of operating expenses or \$104.6 million.

After no rate increases between fiscal 1999 and 2004, WSSC customers have faced 10 consecutive years of rate hikes, ranging between 2.5% and 9.0%. In fiscal 2013 customers paid a 7.5% increase, and the fiscal 2014 approved budget includes an average water and sewer rate increase of 7.25%. The rate increase in fiscal 2014 will be used to pay off debt, repair and replace aging pipes, and cover fixed costs. Prior to any rate increase, WSSC water and sewer rates are reviewed by the Montgomery and Prince George's County councils after briefings to each county council as well as public hearings. The county councils may alter items in the annual budget submitted by WSSC and must approve the annual budget on or before June 1 of each year. However, if an impasse occurs between the two county councils, the WSSC proposed budget along with the proposed rate increases are deemed adopted. WSSC reports that in fiscal 2014, approximately 74% of the 7.25% rate increase is attributable to capital (debt service and PAYGO).

Sanitary Sewer Overflow Consent Decree

In July 2005, WSSC, along with four environmental groups, agreed to a 12-year plan to minimize and where possible, eliminate sewage overflows in the Washington Suburban Sanitary District. A sanitary sewer overflow (SSO) is an event where untreated or partially treated wastewater discharges from a sanitary system into surrounding areas. These events can be caused by a number of factors, including, blockages, sewer pipe defects, excess flow, vandalism, and electrical disruptions at treatment plants or pumping stations. This agreement, a consent decree, settled a lawsuit against WSSC filed by the U.S. Department of Justice on behalf of the U.S. Environmental Protection Agency (EPA) regarding overflows of WSSC's wastewater collection system. EPA enforces the consent decree through the Maryland Department of the Environment (MDE).

WSSC estimates that during the 12-year consent decree period, it will spend over \$1.0 billion through its operating and capital budgets to enhance its wastewater collection system. WSSC reports that as a result of partnerships with the federal, State, and local governments, the agency has been able to program these costs into its budget process.

WSSC reports that since the late 1990s, the federal government has issued consent decrees to numerous wastewater utilities for the occurrence of SSOs. Jurisdictions that have negotiated consent decrees with the federal government to resolve SSO-related matters include Baltimore City, MD (2002); Mobile, AL (2002); Hamilton County, OH

(Cincinnati) (2002); Toledo, OH (2002); the Puerto Rico Aqueduct and Sewer Authority (2003); the Washington, DC Water and Sewer Authority (2003); Los Angeles, CA (2004); Knoxville, TN (2005); Baltimore County, MD (2005); Hartford, CT (2006); San Diego, CA (2007); Revere, MA (2010); Lexington, KY (2011); St. Louis, MO (2012); and Memphis, TN (2012).

Sanitary Sewer Overflows

MDE reports that in 2013, approximately 227.5 million gallons of SSOs occurred statewide as shown in **Exhibit 1**. Of this amount, 2.3 million gallons of SSOs occurred in Montgomery County and 5.3 million gallons occurred in Prince George's County. The total SSOs in these two counties represented 3.4% of the statewide total. In addition, there were \$62,200 in total penalties paid for SSOs in Montgomery County (\$34,075) and Prince George's County (\$28,125), which represented 71.1% of all penalties paid for SSOs in 2013.

Local Fiscal Effect: The bill requires WSSC to impose a sewer and sludge remediation charge on all ratepayers and to deposit those funds into a Sewer and Sludge Remediation Charge Fund. As a result, WSSC special fund revenues increase significantly beginning in fiscal 2016. WSSC expenditures for remediation costs increase commensurately. The amount of the remediation charges must be calculated annually by the Montgomery County and Prince George's County councils and are likely to vary by year based on estimated volume of SSOs in the sanitary district and the cost to remediate these SSOs, neither of which can be reliably estimated at this time.

It is assumed that, based on the bill, WSSC must impose charges that ultimately generate \$1.0 billion for the fund. However, the bill does not specify over what time period the \$1.0 billion must be generated. Based on the current number of WSSC customer accounts, total charges may approximate \$2,175 per customer. If, *for illustrative purposes*, these charges are collected over a 10-year period, WSSC will be able to collect \$100 million in charges each year, or \$217 per customer.

As noted, WSSC has been and will continue to budget for approximately \$1.0 billion in overall expenditures for wastewater collection system upgrades per its 2005 consent decree with the federal government. To the extent that these upgrades reduce SSOs in future years, remediation costs should be reduced accordingly.

Exhibit 1
Sanitary Sewer Overflows in Maryland
Calendar Year 2013
(in Gallons)

County	Amount	Percent of Total
Allegany	188,103,528	82.7%
Anne Arundel	630,625	0.3%
Baltimore City	860,353	0.4%
Baltimore	2,912,012	1.3%
Calvert	62,550	0.0%
Caroline	0	0.0%
Carroll	1,535,700	0.7%
Cecil	70,700	0.0%
Charles	697,700	0.3%
Dorchester	15,255,800	6.7%
Frederick	2,425,642	1.1%
Garrett	107,740	0.0%
Harford	7,049,405	3.1%
Howard	38,530	0.0%
Kent	23,150	0.0%
Montgomery	2,333,953	1.0%
Prince George's	5,347,368	2.4%
Queen Anne's	15,250	0.0%
St. Mary's	3,355	0.0%
Somerset	0	0.0%
Talbot	13,000	0.0%
Washington	8,900	0.0%
Wicomico	12,978	0.0%
Worcester	7,553	0.0%
Total	227,515,791	100.0%

Source: Maryland Department of the Environment

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Washington Suburban Sanitary Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2014
ncs/hlb

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510