

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1420

(Delegate Flanagan, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Environment - Stormwater Management - Nontidal Floodwater

This bill authorizes a county or municipality to use money in its local watershed protection and restoration fund for projects to manage extreme volumes of nontidal floodwater that (1) are located in a “qualified historic district” and (2) do not negatively impact water quality. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: The bill primarily affects local government operations and does not materially affect State operations or finances.

Local Effect: The bill explicitly authorizes uses for local watershed protection and restoration funds that are likely already allowed under current law. Thus, the bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “A “qualified historic district” means a locally designated historic district in which (1) nontidal flooding has resulted in a demonstrable threat to the life and safety of individuals and the death of an individual after July 29, 2016; (2) there is a history of rapid flooding events in geographic low-lying areas from heavy rainfall; and (3) four or more “repetitive loss properties” are located.

“Repetitive loss property” means an insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period since 1978, whether or not the property is currently insured under NFIP.

Current Law/Background: The federal Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States. The National Pollutant Discharge Elimination System (NPDES), a component of CWA, regulates stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s). There are 10 jurisdictions in Maryland that hold NPDES Phase I MS4 permits (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George’s counties and Baltimore City).

Local Stormwater Remediation Fees under § 4-202.1 of the Environment Article

In the 2012 legislative session, the General Assembly passed legislation, House Bill 987 (Chapter 151), which required these 10 jurisdictions to establish a local stormwater remediation fee to assist in financing the implementation of the local MS4 permits, including the requirement of each permit to meet the stormwater-related targets under the Chesapeake Bay Total Maximum Daily Load. Chapter 124 of 2015 made significant changes to the stormwater remediation fee provisions under Chapter 151. Notably, Chapter 124 repealed the *requirement* for those jurisdictions subject to a NPDES Phase I MS4 permit to collect a stormwater remediation fee if certain conditions are met. Instead, such jurisdictions are *authorized* to collect a fee. However, such jurisdictions must still meet the requirements established under Chapter 151 to create a local watershed protection and restoration program and fund. The structure and amount of the fees established pursuant to Chapter 151 vary greatly by jurisdiction.

Local Watershed Protection and Restoration Funds

Stormwater remediation fee revenues from each jurisdiction must be deposited into the local watershed protection and restoration fund and may not revert or be transferred to a local general fund. Each fund must also consist of interest or other investment income and any other money made available to the fund. Money in each fund is intended to be used only to support additional (not existing or ongoing) efforts for:

- capital improvements for stormwater management, including stream and wetland restoration projects;
- operation and maintenance of stormwater management systems and facilities;
- public education and outreach relating to stormwater management or stream and wetland restoration;
- stormwater management planning, including mapping and assessment of impervious surfaces;
- stormwater management monitoring, inspection, and enforcement activities to carry out the purposes of the watershed protection and restoration fund;
- review of stormwater management plans and permit applications for new development, but only if fees to support these activities associated with new

development are also deposited into the new watershed protection and restoration fund;

- grants to nonprofit organizations for specified watershed restoration and rehabilitation projects; and
- reasonable administrative costs.

National Flood Insurance Program

The Maryland Department of the Environment's (MDE) Water and Science Administration is the State's coordinating office for NFIP. In order to participate in NFIP, local communities must adopt and enforce a floodplain management ordinance containing minimum requirements specified by federal law, which apply in floodplain areas mapped by the Federal Emergency Management Agency (FEMA). In addition, the ordinance should reflect State laws and policies.

MDE's coordinating office assists communities in adopting, interpreting, and properly enforcing their floodplain management ordinances under the Community Assistance Program and facilitates the coordination of federal, State, and local programs. All of Maryland's counties, cities, and most towns participate in NFIP, which requires local jurisdictions to issue permits for all development in the 100-year floodplain, as depicted on FEMA-issued maps.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Charles, Frederick, Kent, Montgomery, and Worcester counties; cities of Frederick and Havre de Grace; Maryland Department of the Environment; Department of Legislative Services

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