

House Bill 1328

Counties and Municipalities – Water Transfer Fee – Authorization

LEGISLATIVE POSITION: Oppose – Request Unfavorable Report

Dear Chairman Barve and Members of the House Environment and Transportation Committee:

On behalf of Artesian Water Maryland and our customers in Cecil County, I am writing to express our opposition to **HB 1328**, which would increase the costs paid by our water utility customers without any benefit provided to them in return. Any fee imposed becomes a cost that must be recovered in the water rate charged to our customer that is entirely unrelated to what is necessary for the provision of reliable, high-quality water.

The language in **HB 1328** would enable any county or municipality to impose a fee upon any holder of a state-issued water appropriation and use permit if water is transferred, even partially, outside a watershed within the county or municipality.

Groundwater and surface water resources are under the control of the State of Maryland. Maryland Environment Code, Section 5-501 (a) clearly states that “[i]n order to conserve, protect, and use water resources of the State in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as feasible, appropriation or use of surface waters and groundwaters of the State.”

As this statement of policy clearly states, surface water and groundwater are the State’s resources, not the resource of any instrumentality of the State, such as a county or municipality. Recognizing that, what public policy and purpose is served by enabling counties and municipalities to impose a fee upon a State-permitted user of the State’s water resource? And as proposed, it would be a fee unrestricted as to its use by the county or municipality and unlimited as to its amount.

Any such fee would become a cost that a water utility, or any other business subjected to it, would in turn need to recover from its customers. And it is not only water utilities – whether regulated investor-owned, municipal, or authority in form - and their customers that would be impacted. Under Maryland Environment Code, Section 5-502, a permit to appropriate or use State waters must be obtained from a farmer using more than 10,000 gallons per day for irrigation, for thermoelectric generation, and for other commercial, industrial and mining uses. As can be seen, the imposition of the proposed water transfer fee may impact a very large number of operations within Maryland.

It is important to recognize that HB 1328 also fails to define a “watershed.” A watershed is often considered to be the land area that drains water to a particular stream, river, or lake. That could be a very extensive area, or it could be a very small geographic area. In fact, the Maryland Department of Natural Resources posts on its website a document titled

Wherever you live...You Live in a Watershed that states that “[a] WATERSHED is an area where all the water, whether stream flow or ground water, flows to a common waterway. A watershed can be as small as the roof of a house where water drains into the gutter and downspout and from there to the yard.” With that as a definition of a watershed, is there any holder of a water appropriation or use permit who might not be subjected to the proposed water transfer fee?

A rose by any other name is still a rose and a tax is still a tax, even if called a fee. In effect the water transfer fee is nothing more than a disguised, hidden tax on Maryland residents, who are already subjected to enough burdensome taxes. If Maryland counties and municipalities need additional revenue, they should make their case to their citizens and adjust their tax rates accordingly. It should not be accomplished via a stealth tax as is proposed in **HB 1328**.

As of the date of this written testimony, no fiscal or program analysis has been published regarding the potential impact of this legislation. No action should even be considered without a fully vetted analysis. For the reasons noted above, the potential impact of this legislation is very concerning and therefore we respectfully **request an unfavorable report**.

Thank you for your attention and consideration.

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