

SENATE BILL 863

M3

5lr2968

By: **Senators Miller, Astle, Bates, Benson, Brochin, Cassilly, Conway, Currie, DeGrange, Eckardt, Edwards, Guzzone, Hershey, Hough, Jennings, Kasemeyer, King, Klausmeier, Madaleno, Mathias, Middleton, Montgomery, Nathan-Pulliam, Peters, Pugh, Raskin, Ready, Salling, Serafini, Waugh, ~~and Zirkin~~ Zirkin, Simonaire, Young, and Rosapepe**

Introduced and read first time: February 25, 2015

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 27, 2015

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2015

CHAPTER _____

1 AN ACT concerning

2 **Watershed Protection and Restoration Programs – Revisions**

3 FOR the purpose of repealing the requirement that a certain county or municipality adopt
4 and implement local laws or ordinances necessary to establish a watershed
5 protection and restoration program; exempting a certain county from certain
6 provisions of this Act; authorizing a certain county or municipality to adopt and
7 implement local laws or ordinances necessary to establish a watershed protection
8 and restoration program; repealing the requirement that a certain program include
9 a certain fee ~~and a certain fund~~; authorizing a certain program to include a certain
10 fee ~~and a certain fund~~; ~~repealing the requirement that a certain county or~~
11 ~~municipality maintain or administer a certain fund in accordance with certain~~
12 ~~requirements; authorizing a certain county or municipality to maintain or~~
13 ~~administer a certain fund in accordance with certain requirements~~; repealing the
14 requirement that a certain county or municipality establish and annually collect a
15 certain fee; authorizing a certain county or municipality to establish and annually
16 collect a certain fee; requiring a county that includes the cost of stormwater
17 remediation in the county's capital budget or operating budget to meet with each
18 municipality within its jurisdiction to mutually agree that the county will take a
19 certain action; exempting certain veterans' organizations from being charged a
20 stormwater remediation fee by a county or municipality; authorizing the State or a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 unit of State government to be charged a stormwater remediation fee by a county
2 under certain circumstances; authorizing a county or municipality to charge a
3 stormwater remediation fee to certain properties only under certain circumstances;
4 repealing the requirement that a certain county or municipality set a certain fee in
5 a certain manner; authorizing a certain county or municipality to set a certain fee in
6 a certain manner; ~~establishing a maximum stormwater remediation fee for certain~~
7 ~~nonprofit groups or organizations;~~ requiring a county or municipality to include a
8 certain statement on a bill to collect a stormwater remediation fee; authorizing local
9 watershed protection and restoration funds to receive certain funds; requiring
10 certain funds disbursed from local watershed protection and restoration funds to be
11 in addition to existing State or local expenditures for stormwater management;
12 ~~prohibiting certain funds from being used for certain programs, services, or staff that~~
13 ~~were in existence on or before a certain date;~~ altering a certain reporting
14 requirement; requiring a county or municipality to file a certain annual financial
15 assurance plan with the Department of the Environment in accordance with certain
16 requirements beginning on a certain date; requiring that a financial assurance plan
17 demonstrate certain funding capacity; requiring the Department to hold a public
18 hearing within a certain number of days of a certain filing; requiring the Department
19 to make a decision whether the financial assurance plan demonstrates sufficient
20 funding within a certain number of days of a certain filing; prohibiting a county or
21 municipality from receiving certain funding if the Department makes a certain
22 determination; requiring the Department to submit a certain annual report to the
23 Governor and certain committees of the General Assembly in accordance with
24 certain requirements beginning on a certain date; requiring a county or municipality
25 to authorize certain nonprofit groups or organizations to implement a certain plan
26 in lieu of paying a stormwater remediation fee under certain circumstances;
27 requiring the Department to adopt regulations to establish a certain plan;
28 prohibiting a certain county from imposing a certain charge to a certain veterans'
29 organization and a certain volunteer fire department under certain circumstances;
30 authorizing the State or a unit of State government in a certain county to be charged
31 a certain charge by a certain county under certain circumstances; authorizing a
32 certain county to exempt a property from certain charges under certain
33 circumstances; authorizing a certain county to establish a certain hardship program
34 or include a hardship exemption as part of a system of offsets; authorizing a certain
35 county to impose a certain charge on certain properties under certain circumstances;
36 authorizing funds in the Bay Restoration Fund to be used for costs associated with
37 the implementation of certain alternate compliance plans; making stylistic changes;
38 providing for the effective date of certain provisions of this Act; providing for the
39 termination of certain provisions of this Act; and generally relating to watershed
40 protection and restoration programs.

41 BY repealing and reenacting, with amendments,
42 Article – Environment
43 Section 4–202.1
44 Annotated Code of Maryland
45 (2013 Replacement Volume and 2014 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article – Environment
3 Section 4–204(d)
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2014 Supplement)

6 BY adding to
7 Article – Environment
8 Section 4–204(e)
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2014 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Environment
13 Section 9–1605.2(i)(2)
14 Annotated Code of Maryland
15 (2014 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 9–1605.2(i)(2)
19 Annotated Code of Maryland
20 (2014 Replacement Volume)
21 (As enacted by Chapter 150 of the Acts of the General Assembly of 2012)

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

24 **Article – Environment**

25 4–202.1.

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

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

34 **(3) EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, THIS**
35 **SECTION DOES NOT APPLY IN MONTGOMERY COUNTY.**

1 (b) [On or before July 1, 2013, a] A county or municipality ~~[shall] MAY~~ adopt and
 2 implement local laws or ordinances necessary to establish a watershed protection and
 3 restoration program.

4 (c) A watershed protection and restoration program established under this
 5 section ~~[shall] MAY include~~:

6 (1) ~~A~~ MAY INCLUDE A stormwater remediation fee; and

7 (2) ~~A~~ SHALL INCLUDE A local watershed protection and restoration fund.

8 (d) (1) A county or municipality ~~[shall] MAY~~ maintain or administer a local
 9 watershed protection and restoration fund in accordance with this section.

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

13 (e) (1) **(I)** Except as provided in paragraph (2) of this subsection and
 14 subsection (f) of this section, a county or municipality ~~[shall] MAY~~ establish and annually
 15 collect a stormwater remediation fee from owners of property located within the county or
 16 municipality in accordance with this section.

17 **(II) IF A COUNTY INCLUDES THE COST OF STORMWATER**
 18 **REMEDICATION IN THE COUNTY'S CAPITAL BUDGET OR OPERATING BUDGET, THE**
 19 **COUNTY SHALL MEET WITH EACH MUNICIPALITY WITHIN ITS JURISDICTION TO**
 20 **MUTUALLY AGREE THAT THE COUNTY WILL:**

21 **1. ASSUME RESPONSIBILITY FOR THE MUNICIPALITY'S**
 22 **STORMWATER REMEDIATION OBLIGATIONS; OR**

23 **2. FOR A MUNICIPALITY THAT HAS ESTABLISHED A**
 24 **STORMWATER REMEDIATION FEE UNDER THIS SECTION, ADJUST THE COUNTY TAX**
 25 **RATE WITHIN THE MUNICIPALITY TO OFFSET THE STORMWATER REMEDIATION FEE**
 26 **CHARGED BY THE MUNICIPALITY.**

27 (2) **(I)** [Property] ~~EXCEPT AS PROVIDED IN SUBPARAGRAPH~~
 28 **SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, PROPERTY** owned by the State,
 29 a unit of State government, a county, a municipality, **A VETERANS' ORGANIZATION THAT**
 30 **IS EXEMPT FROM TAXATION UNDER § 501(C)(4) OR (19) OF THE INTERNAL REVENUE**
 31 **CODE**, or a regularly organized volunteer fire department that is used for public purposes
 32 may not be charged a stormwater remediation fee under this section.

1 (II) PROPERTY OWNED BY THE STATE OR A UNIT OF STATE
2 GOVERNMENT MAY BE CHARGED A STORMWATER REMEDIATION FEE BY A COUNTY
3 UNDER THIS SECTION IF:

4 1. THE STATE AND A COUNTY AGREE TO THE
5 COLLECTION OF AN ANNUAL STORMWATER REMEDIATION FEE FROM THE STATE
6 THAT IS BASED ON THE SHARE OF STORMWATER MANAGEMENT SERVICES RELATED
7 TO STATE PROPERTY LOCATED WITHIN THE COUNTY;

8 2. THE COUNTY AGREES TO APPROPRIATE INTO ITS OWN
9 LOCAL WATERSHED PROTECTION AND RESTORATION FUND, ON AN ANNUAL BASIS,
10 AN AMOUNT OF MONEY THAT IS BASED ON THE SHARE OF STORMWATER
11 MANAGEMENT SERVICES RELATED TO COUNTY PROPERTY ON AN ANNUAL BASIS;
12 AND

13 3. THE COUNTY DEMONSTRATES TO THE
14 DEPARTMENT'S SATISFACTION THAT THE FEES COLLECTED UNDER ITEM 1 OF THIS
15 SUBPARAGRAPH AND THE MONEY APPROPRIATED UNDER ITEM 2 OF THIS
16 SUBPARAGRAPH WERE DEPOSITED INTO THE COUNTY'S LOCAL WATERSHED
17 PROTECTION AND RESTORATION FUND.

18 (III) ~~THE MONEY DEPOSITED IN A COUNTY'S LOCAL WATERSHED~~
19 ~~PROTECTION AND RESTORATION FUND UNDER SUBPARAGRAPH (II) OF THIS~~
20 ~~PARAGRAPH MAY ONLY BE USED TO ALLOW A COUNTY TO REDUCE THE AMOUNT OF~~
21 ~~FEES COLLECTED FROM PROPERTY IN THE COUNTY THAT IS NOT OWNED BY THE~~
22 ~~STATE OR COUNTY~~ A COUNTY OR MUNICIPALITY MAY CHARGE A STORMWATER
23 REMEDATION FEE TO PROPERTY OWNED BY A VETERANS' ORGANIZATION THAT IS
24 EXEMPT FROM TAXATION UNDER § 501(C)(4) OR (19) OF THE INTERNAL REVENUE
25 CODE OR A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT IF:

26 1. THE COUNTY OR MUNICIPALITY DETERMINES THAT
27 THE CREATION OF A NONDISCRIMINATORY PROGRAM FOR APPLYING THE
28 STORMWATER REMEDIATION FEE TO FEDERAL PROPERTIES UNDER THE FEDERAL
29 FACILITIES POLLUTION CONTROL SECTION OF THE CLEAN WATER ACT IS
30 NECESSARY IN ORDER FOR THE COUNTY OR MUNICIPALITY TO RECEIVE FEDERAL
31 FUNDING FOR STORMWATER REMEDIATION; AND

32 2. A VETERANS' ORGANIZATION THAT IS EXEMPT FROM
33 TAXATION UNDER § 501(C)(4) OR (19) OF THE INTERNAL REVENUE CODE AND A
34 REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC
35 PURPOSES ARE PROVIDED WITH THE OPPORTUNITY TO APPLY FOR AN ALTERNATE
36 COMPLIANCE PLAN ESTABLISHED UNDER SUBSECTION (K)(3) OF THIS SECTION
37 INSTEAD OF PAYING A STORMWATER REMEDIATION FEE CHARGED BY A COUNTY OR
38 MUNICIPALITY UNDER ITEM 1 OF THIS SUBPARAGRAPH.

1 (3) (i) ~~[(A) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A~~
 2 county or municipality [shall] MAY set a stormwater remediation fee for property in an
 3 amount that is based on the share of stormwater management services related to the
 4 property and provided by the county or municipality.

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

7 1. A flat rate;

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

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

12 ~~(4) EXCEPT AS PROVIDED IN SUBSECTION (K)(3) OF THIS SECTION,~~
 13 ~~THE STORMWATER REMEDIATION FEE FOR PROPERTY OWNED BY A CHARITABLE~~
 14 ~~NONPROFIT GROUP OR ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §~~
 15 ~~501(C)(3) OR (D) OF THE INTERNAL REVENUE CODE MAY NOT EXCEED \$15 PER~~
 16 ~~1,000 SQUARE FEET OF IMPERVIOUS SURFACE.~~

17 ~~[(4)] (5) [A] IF A COUNTY OR MUNICIPALITY ESTABLISHES A~~
 18 ~~STORMWATER REMEDIATION FEE UNDER THIS SECTION, THE~~ stormwater remediation
 19 fee established under this section is separate from any charges that a county or
 20 municipality establishes related to stormwater management for new developments under
 21 § 4–204 of this subtitle, including fees for permitting, review of stormwater management
 22 plans, inspections, or monitoring.

23 (f) (1) [A] IF A COUNTY OR MUNICIPALITY ESTABLISHES A STORMWATER
 24 REMEDIATION FEE UNDER THIS SECTION, THE county or municipality shall establish
 25 policies and procedures, approved by the Department, to reduce any portion of a
 26 stormwater remediation fee established under subsection (e) of this section to account for
 27 on–site and off–site systems, facilities, services, or activities that reduce the quantity or
 28 improve the quality of stormwater discharged from the property.

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

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

33 1. Relating to properties with existing advanced stormwater
 34 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 treatment
5 provided by, stormwater management facilities that are funded and maintained by a
6 property owner;

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

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

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

14 (i) Conduct on-site inspections;

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

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

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

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

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

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

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

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

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

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

6 (h) (1) **(I) [A] IF A COUNTY OR MUNICIPALITY ESTABLISHES A**
7 **STORMWATER REMEDIATION FEE UNDER THIS SECTION, THE** county or municipality
8 shall determine the method, frequency, and enforcement of the collection of the stormwater
9 remediation fee.

10 **(II) A COUNTY OR MUNICIPALITY SHALL INCLUDE THE**
11 **FOLLOWING STATEMENT ON A BILL TO COLLECT A STORMWATER REMEDIATION FEE:**
12 **“THIS IS A LOCAL GOVERNMENT FEE ESTABLISHED IN RESPONSE TO FEDERAL**
13 **STORMWATER MANAGEMENT REQUIREMENTS. THE FEDERAL REQUIREMENTS ARE**
14 **DESIGNED TO PREVENT LOCAL SOURCES OF POLLUTION FROM REACHING LOCAL**
15 **WATERWAYS.”.**

16 (2) A county or municipality shall deposit [the] ANY stormwater
17 remediation fees it collects into its local watershed protection and restoration fund.

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

20 (i) [Funds] ANY FUNDS received from the stormwater remediation
21 fee;

22 **(II) FUNDS RECEIVED UNDER SUBSECTION (E)(2) OF THIS**
23 **SECTION;**

24 [(ii)] **(III)** Interest or other income earned on the investment of
25 money in the local watershed protection and restoration fund; and

26 [(iii)] **(IV)** Any additional money made available from any sources for
27 the purposes for which the local watershed protection and restoration fund has been
28 established.

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

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

1 (ii) Operation and maintenance of stormwater management systems
2 and facilities;

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

5 (iv) Stormwater management planning, including:

6 1. Mapping and assessment of impervious surfaces; and

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

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

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

14 1. Planning, design, and construction of stormwater
15 management practices;

16 2. Stream and wetland restoration; and

17 3. Public education and outreach related to stormwater
18 management or stream and wetland restoration; and

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

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

26 (6) The funds disbursed under this subsection [are intended to] **SHALL** be
27 in addition to any existing State or local expenditures for stormwater management ~~AND~~
28 ~~MAY NOT BE USED TO FUND STORMWATER MANAGEMENT PROGRAMS, SERVICES, OR~~
29 ~~STAFF THAT WERE IN EXISTENCE ON OR BEFORE JULY 1, 2013.~~

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

1 (i) [Beginning July 1, 2014, and every 2 years thereafter, a county or
2 municipality shall make publicly available a report] **A COUNTY OR MUNICIPALITY SHALL**
3 **REPORT ANNUALLY, IN A MANNER DETERMINED BY THE DEPARTMENT, on:**

4 (1) The number of properties subject to a stormwater remediation fee, **IF**
5 **ANY;**

6 **(2) ANY FEE STRUCTURE DEVELOPED BY THE COUNTY OR**
7 **MUNICIPALITY, INCLUDING THE AMOUNT OF MONEY COLLECTED FROM EACH**
8 **CLASSIFICATION OF PROPERTY ASSESSED A FEE AND ANY SURCHARGES COLLECTED**
9 **~~UNDER § 9-1605.2(B)(6) OF THIS ARTICLE;~~**

10 **[(2)] (3)** The amount of money deposited into the watershed protection
11 and restoration fund [over] **IN** the previous [2] fiscal [years] **YEAR;** and

12 **[(3)] (4)** The percentage of funds in the local watershed protection and
13 restoration fund spent on each of the purposes provided in subsection (h)(4) of this section.

14 **(J) (1) BEGINNING JULY 1, 2016, AND EVERY YEAR THEREAFTER, A**
15 **COUNTY, INCLUDING MONTGOMERY COUNTY, OR MUNICIPALITY SHALL FILE WITH**
16 **THE DEPARTMENT A FINANCIAL ASSURANCE PLAN THAT CLEARLY IDENTIFIES:**

17 **(I) ACTIONS THAT WILL BE REQUIRED OF THE COUNTY OR**
18 **MUNICIPALITY TO MEET THE REQUIREMENTS OF ITS NATIONAL POLLUTANT**
19 **DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER**
20 **SYSTEM PERMIT;**

21 **(II) PROJECTED ANNUAL AND 5-YEAR COSTS FOR THE COUNTY**
22 **OR MUNICIPALITY TO MEET THE IMPERVIOUS SURFACE RESTORATION PLAN**
23 **REQUIREMENTS OF ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**
24 **PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT;**

25 **(III) PROJECTED ANNUAL AND 5-YEAR REVENUES OR OTHER**
26 **FUNDS THAT WILL BE USED TO MEET THE COSTS FOR THE COUNTY OR MUNICIPALITY**
27 **TO MEET THE IMPERVIOUS SURFACE RESTORATION PLAN REQUIREMENTS OF ITS**
28 **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL**
29 **SEPARATE STORM SEWER SYSTEM PERMIT;**

30 **(IV) ANY SOURCES OF FUNDS THAT WILL BE UTILIZED BY THE**
31 **COUNTY OR MUNICIPALITY TO MEET THE REQUIREMENTS OF ITS NATIONAL**
32 **POLLUTANT ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER**
33 **SYSTEM PERMIT; AND**

1 ~~(III)~~ (V) SPECIFIC ~~PLANS~~ ACTIONS AND EXPENDITURES THAT
2 THE COUNTY OR MUNICIPALITY ~~WILL IMPLEMENT~~ IMPLEMENTED IN THE PREVIOUS
3 FISCAL YEAR TO MEET ITS IMPERVIOUS SURFACE RESTORATION PLAN
4 REQUIREMENTS UNDER ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION
5 SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT.

6 (2) A FINANCIAL ASSURANCE PLAN SHALL DEMONSTRATE THAT THE
7 COUNTY OR MUNICIPALITY HAS SUFFICIENT FUNDING IN THE CURRENT FISCAL
8 YEAR BUDGET TO MEET ITS ESTIMATED ANNUAL COSTS.

9 (3) THE DEPARTMENT SHALL HOLD A PUBLIC HEARING WITHIN 30
10 DAYS AFTER THE COUNTY OR MUNICIPALITY FILED THE FINANCIAL ASSURANCE
11 PLAN WITH THE DEPARTMENT.

12 (4) THE DEPARTMENT SHALL MAKE A DECISION WHETHER THE
13 FINANCIAL ASSURANCE PLAN DEMONSTRATES SUFFICIENT FUNDING WITHIN 90
14 DAYS AFTER THE COUNTY OR MUNICIPALITY FILED THE FINANCIAL ASSURANCE
15 PLAN WITH THE DEPARTMENT.

16 (5) IF THE DEPARTMENT DETERMINES THAT THE FUNDING IN THE
17 FINANCIAL ASSURANCE PLAN IS INSUFFICIENT TO MEET THE PROJECTED ANNUAL
18 COSTS OF COMPLIANCE WITH A COUNTY'S OR MUNICIPALITY'S NATIONAL
19 POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE
20 STORM SEWER SYSTEM PERMIT, THE COUNTY OR MUNICIPALITY MAY NOT RECEIVE
21 STATE FUNDING, ASSURANCES, GUARANTEES, GRANT PAYMENTS, CREDITS, TAX
22 CREDITS, OR OTHER ASSISTANCE FOR ANY PROJECT FROM:

23 (I) THE WATER POLLUTION CONTROL FUND, ESTABLISHED
24 UNDER § 9-345 OF THIS ARTICLE;

25 (II) THE WATER SUPPLY FINANCIAL ASSISTANCE PROGRAM,
26 ESTABLISHED UNDER § 9-420 OF THIS ARTICLE;

27 (III) THE WATER QUALITY REVOLVING LOAN FUND,
28 ESTABLISHED UNDER § 9-1605 OF THIS ARTICLE;

29 (IV) THE BAY RESTORATION FUND, ESTABLISHED UNDER §
30 9-1605.2 OF THIS ARTICLE;

31 (V) THE CHESAPEAKE AND ATLANTIC COASTAL BAYS
32 NONPOINT SOURCE FUND, ESTABLISHED UNDER § 9-1605.3 OF THIS ARTICLE; OR

1 **(VI) THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010**
 2 **TRUST FUND, ESTABLISHED UNDER § 8-2A-02 OF THE NATURAL RESOURCES**
 3 **ARTICLE.**

4 **(6) A FINANCIAL ASSURANCE PLAN REQUIRED UNDER THIS**
 5 **SUBSECTION SHALL BE MADE PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEB**
 6 **SITE.**

7 ~~(3)~~ **(7) BEGINNING SEPTEMBER 1, 2016, AND EVERY YEAR**
 8 **THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT EVALUATING THE**
 9 **COMPLIANCE OF COUNTIES AND MUNICIPALITIES WITH THE REQUIREMENTS OF**
 10 **THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**
 11 **STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND**
 12 **ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENT AND**
 13 **TRANSPORTATION COMMITTEE.**

14 **[(j)] (k) (1) [A] IF A COUNTY OR MUNICIPALITY ESTABLISHES A**
 15 **STORMWATER REMEDIATION FEE UNDER THIS SECTION, THE** county or municipality
 16 shall establish a program to exempt from the requirements of this section ~~a~~ **ANY** property
 17 able to demonstrate substantial financial hardship as a result of the stormwater
 18 remediation fee.

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

22 **(3) (I) A COUNTY OR MUNICIPALITY SHALL AUTHORIZE A**
 23 **CHARITABLE NONPROFIT GROUP OR ORGANIZATION THAT IS EXEMPT FROM**
 24 **TAXATION UNDER § 501(C)(3) OR (D) OF THE INTERNAL REVENUE CODE AND CAN**
 25 **DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP TO IMPLEMENT AN ALTERNATE**
 26 **COMPLIANCE PLAN IN LIEU OF PAYING A STORMWATER REMEDIATION FEE FOR**
 27 **PROPERTY OWNED BY THE GROUP OR ORGANIZATION.**

28 **(II) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
 29 **ESTABLISH THE ALTERNATE COMPLIANCE PLAN AUTHORIZED UNDER**
 30 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

31 **[(k)] (L) The Department may adopt regulations to implement and enforce this**
 32 **section.**

33 4-204.

34 **(d) (1) Each governing body of a county or municipality may adopt a system of**
 35 **charges to fund the implementation of stormwater management programs, including the**
 36 **following:**

1 (i) Reviewing stormwater management plans;

2 (ii) Inspection and enforcement activities;

3 (iii) Watershed planning;

4 (iv) Planning, design, land acquisition, and construction of
5 stormwater management systems and structures;

6 (v) Retrofitting developed areas for pollution control;

7 (vi) Water quality monitoring and water quality programs;

8 (vii) Operation and maintenance of facilities; and

9 (viii) Program development of these activities.

10 (2) The charges shall take effect upon enactment by the local governing
11 body.

12 (3) The charges may be collected in the same manner as county and
13 municipal property taxes, have the same priority, and bear the same interest and penalties.

14 **(E) (1) THIS SUBSECTION APPLIES TO A SYSTEM OF CHARGES**
15 **ESTABLISHED BY MONTGOMERY COUNTY UNDER SUBSECTION (D) OF THIS**
16 **SECTION.**

17 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,**
18 **THE COUNTY MAY NOT IMPOSE THE CHARGE ESTABLISHED UNDER THIS SECTION ON**
19 **A VETERANS' ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(4)**
20 **OR (19) OF THE INTERNAL REVENUE CODE OR A REGULARLY ORGANIZED**
21 **VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES.**

22 **(3) PROPERTY OWNED BY THE STATE OR A UNIT OF STATE**
23 **GOVERNMENT IN THE COUNTY MAY BE CHARGED UNDER THE SYSTEM OF CHARGES**
24 **ADOPTED BY THE COUNTY UNDER THIS SECTION IF:**

25 **(I) THE STATE AND THE COUNTY AGREE TO THE COLLECTION**
26 **OF THE CHARGE FROM THE STATE THAT IS BASED ON THE SHARE OF STORMWATER**
27 **MANAGEMENT SERVICES RELATED TO STATE PROPERTY LOCATED WITHIN THE**
28 **COUNTY;**

29 **(II) THE COUNTY AGREES TO APPROPRIATE INTO ITS OWN**
30 **LOCAL WATERSHED PROTECTION AND RESTORATION FUND, ON AN ANNUAL BASIS,**

1 AN AMOUNT OF MONEY THAT IS BASED ON THE SHARE OF STORMWATER
2 MANAGEMENT SERVICES RELATED TO COUNTY PROPERTY ON AN ANNUAL BASIS;
3 AND

4 (III) THE COUNTY DEMONSTRATES TO THE DEPARTMENT'S
5 SATISFACTION THAT THE CHARGE COLLECTED UNDER ITEM (I) OF THIS PARAGRAPH
6 AND THE MONEY APPROPRIATED UNDER ITEM (II) OF THIS PARAGRAPH WERE
7 DEPOSITED INTO THE COUNTY'S LOCAL WATERSHED PROTECTION AND
8 RESTORATION FUND.

9 (4) (I) THE COUNTY MAY ESTABLISH A PROGRAM TO EXEMPT
10 FROM THE SYSTEM OF CHARGES ADOPTED UNDER THIS SECTION A PROPERTY
11 WHOSE OWNER IS ABLE TO DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP.

12 (II) THE COUNTY MAY ESTABLISH A SEPARATE HARDSHIP
13 EXEMPTION PROGRAM OR INCLUDE A HARDSHIP EXEMPTION AS PART OF A SYSTEM
14 OF OFFSETS TO ACCOUNT FOR ON-SITE AND OFF-SITE SYSTEMS, FACILITIES,
15 SERVICES, OR ACTIVITIES THAT REDUCE THE QUANTITY OR IMPROVE THE QUALITY
16 OF STORM WATER DISCHARGED FROM THE PROPERTY.

17 (5) THE COUNTY MAY IMPOSE THE CHARGE ESTABLISHED UNDER
18 THIS SECTION ON PROPERTY OWNED BY A VETERANS' ORGANIZATION THAT IS
19 EXEMPT FROM TAXATION UNDER § 501(C)(4) OR (19) OF THE INTERNAL REVENUE
20 CODE OR A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT IF:

21 (I) THE COUNTY DETERMINES THAT THE CREATION OF A
22 NONDISCRIMINATORY PROGRAM FOR APPLYING THE CHARGE TO FEDERAL
23 PROPERTIES UNDER THE FEDERAL FACILITIES POLLUTION CONTROL SECTION OF
24 THE CLEAN WATER ACT IS NECESSARY IN ORDER FOR THE COUNTY TO RECEIVE
25 FEDERAL FUNDING FOR STORMWATER REMEDIATION; AND

26 (II) A VETERANS' ORGANIZATION THAT IS EXEMPT FROM
27 TAXATION UNDER § 501(C)(4) OR (19) OF THE INTERNAL REVENUE CODE AND A
28 REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC
29 PURPOSES ARE PROVIDED WITH THE OPPORTUNITY TO APPLY FOR AN ALTERNATE
30 COMPLIANCE PLAN ESTABLISHED UNDER § 4-202.1(K)(3) OF THIS SUBTITLE
31 INSTEAD OF PAYING A CHARGE IMPOSED BY THE COUNTY UNDER ITEM (I) OF THIS
32 PARAGRAPH.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
34 as follows:

1 9–1605.2.

2 (i) (2) Funds in the Bay Restoration Fund shall be used only:

3 (i) To award grants for up to 100% of eligible costs of projects
4 relating to planning, design, construction, and upgrade of a wastewater facility for flows up
5 to the design capacity of the wastewater facility, as approved by the Department, to achieve
6 enhanced nutrient removal in accordance with paragraph (3) of this subsection;

7 (ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion
8 of the costs of projects relating to combined sewer overflows abatement, rehabilitation of
9 existing sewers, and upgrading conveyance systems, including pumping stations, not to
10 exceed an annual total of \$5,000,000;

11 2. In fiscal years 2010 and thereafter, for a portion of the
12 operation and maintenance costs related to the enhanced nutrient removal technology,
13 which may not exceed 10% of the total restoration fee collected from users of wastewater
14 facilities under this section by the Comptroller annually;

15 3. In fiscal years 2018 and thereafter, after payment of
16 outstanding bonds and the allocation of funds to other required uses of the Bay Restoration
17 Fund for funding in the following order of priority:

18 A. For funding an upgrade of a wastewater facility to
19 enhanced nutrient removal at wastewater facilities with a design capacity of 500,000
20 gallons or more per day;

21 B. For funding for the most cost-effective enhanced nutrient
22 removal upgrades at wastewater facilities with a design capacity of less than 500,000
23 gallons per day;

24 C. For costs identified under subsection (h)(2)(i)1 of this
25 section; and

26 D. With respect to a local government that has enacted and
27 implemented a system of charges under § 4–204 of this article to fully fund the
28 implementation of a stormwater management program, for grants to the local government
29 for a portion of the costs of the most cost-effective and efficient stormwater control
30 measures, as determined and approved by the Department, from the restoration fees
31 collected annually by the Comptroller from users of wastewater facilities under this section;

32 (iii) As a source of revenue or security for the payment of principal
33 and interest on bonds issued by the Administration if the proceeds of the sale of the bonds
34 will be deposited in the Bay Restoration Fund;

35 (iv) To earn interest on Bay Restoration Fund accounts;

1 (v) For the reasonable costs of administering the Bay Restoration
2 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of
3 wastewater facilities that are collected by the Comptroller annually;

4 (vi) For the reasonable administrative costs incurred by a local
5 government or a billing authority for a water or wastewater facility collecting the
6 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by
7 that local government or billing authority;

8 (vii) For future upgrades of wastewater facilities to achieve additional
9 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)
10 of this subsection;

11 (viii) For costs associated with the issuance of bonds; [and]

12 (ix) Subject to the allocation of funds and the conditions under
13 subsection (h) of this section, for projects related to the removal of nitrogen from on-site
14 sewage disposal systems and cover crop activities; AND

15 **(X) FOR COSTS ASSOCIATED WITH THE IMPLEMENTATION OF**
16 **ALTERNATE COMPLIANCE PLANS AUTHORIZED IN § 4-202.1(K)(3) OF THIS ARTICLE.**

17 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
18 as follows:

19 Article – Environment

20 9-1605.2.

21 (i) (2) Funds in the Bay Restoration Fund shall be used only:

22 (i) To award grants for up to 100% of eligible costs of projects
23 relating to planning, design, construction, and upgrade of a wastewater facility for flows up
24 to the design capacity of the wastewater facility, as approved by the Department, to achieve
25 enhanced nutrient removal in accordance with paragraph (3) of this subsection;

26 (ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion
27 of the costs of projects relating to combined sewer overflows abatement, rehabilitation of
28 existing sewers, and upgrading conveyance systems, including pumping stations, not to
29 exceed an annual total of \$5,000,000;

30 2. In fiscal years 2010 and thereafter, for a portion of the
31 operation and maintenance costs related to the enhanced nutrient removal technology,
32 which may not exceed 10% of the total restoration fee collected from users of wastewater
33 facilities under this section by the Comptroller annually;

1 3. In fiscal years 2018 and thereafter, after payment of
2 outstanding bonds and the allocation of funds to other required uses of the Bay Restoration
3 Fund for funding in the following order of priority:

4 A. For funding an upgrade of a wastewater facility to
5 enhanced nutrient removal at wastewater facilities with a design capacity of 500,000
6 gallons or more per day;

7 B. For funding for the most cost-effective enhanced nutrient
8 removal upgrades at wastewater facilities with a design capacity of less than 500,000
9 gallons per day;

10 C. For costs identified under subsection (h)(2)(i)1 of this
11 section; and

12 D. With respect to a local government that has enacted and
13 implemented a system of charges under § 4-204 of this article to fully fund the
14 implementation of a stormwater management program, for grants to the local government
15 for a portion of the costs of the most cost-effective and efficient stormwater control
16 measures, as determined and approved by the Department, from the restoration fees
17 collected annually by the Comptroller from users of wastewater facilities under this section;

18 (iii) As a source of revenue or security for the payment of principal
19 and interest on bonds issued by the Administration if the proceeds of the sale of the bonds
20 will be deposited in the Bay Restoration Fund;

21 (iv) To earn interest on Bay Restoration Fund accounts;

22 (v) For the reasonable costs of administering the Bay Restoration
23 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of
24 wastewater facilities that are collected by the Comptroller annually;

25 (vi) For the reasonable administrative costs incurred by a local
26 government or a billing authority for a water or wastewater facility collecting the
27 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by
28 that local government or billing authority;

29 (vii) For future upgrades of wastewater facilities to achieve additional
30 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)
31 of this subsection;

32 (viii) For costs associated with the issuance of bonds; [and]

33 (ix) Subject to the allocation of funds and the conditions under
34 subsection (h) of this section, for projects related to the removal of nitrogen from on-site
35 sewage disposal systems and cover crop activities; **AND**

1 **(X) FOR COSTS ASSOCIATED WITH THE IMPLEMENTATION OF**
2 **ALTERNATE COMPLIANCE PLANS AUTHORIZED IN § 4-202.1(K)(3) OF THIS ARTICLE.**

3 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
4 effect on the taking effect of the termination provision specified in Section 2 of Chapter 150
5 of the Acts of the General Assembly of 2012. If that termination provision takes effect,
6 Section 2 of this Act shall be abrogated and of no further force and effect. This Act may not
7 be interpreted to have any effect on that termination provision.

8 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of
9 Section 4 of this Act, this Act shall take effect July 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.