

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1530

(St. Mary's County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

St. Mary's County Metropolitan Commission - Unpaid Charges

This emergency bill requires the St. Mary's County Metropolitan Commission (MetCom) to establish a procedure by which the owner of a residential property, that is also the primary residence of the owner subject to the connection charges, service charges, or the system improvement charge, may apply for a waiver or an extension of time to pay the charges due to financial hardship. The procedure must include a method by which the owner may appeal the decision of MetCom to the St. Mary's County Commissioners or an entity designated by the county commissioners.

Fiscal Summary

State Effect: None.

Local Effect: MetCom revenues decrease depending on the number of waivers granted for individuals with unpaid charges. St. Mary's County expenditures for debt service may increase.

Small Business Effect: Minimal.

Analysis

Current Law: A connection fee is an amount based on the cost of connection that is imposed on a new connection to a water supply or sewerage system. The connection charge is either a capital contribution charge or connection fee. A capital contribution charge is an amount based on capital costs that is imposed and collected on a new EDU connection to a water supply or sewerage system. A connection fee is an amount based on the cost of connection that is imposed on a new connection to a water supply or sewerage system.

The connection charges imposed by MetCom must be payable at MetCom's offices at a time that is determined by MetCom. If any connection charges remain unpaid for a period of 30 days after the payment is due, in addition to any other charges, MetCom may impose a late charge up to 1.5% per month until all delinquent charges are paid. If all or any part of a connection charge remains unpaid after 30 days after the due date of payment, the entire unpaid connection charge is overdue and in default, at which time MetCom may proceed to enforce payment. Any statute of limitations to the contrary notwithstanding, and subject only to prior State and county taxes, the connection charge must be a first lien on the property against which it is assessed until paid.

For purposes of collection (1) the connection charges must be treated as county taxes and be advertised in the same manner as and with county taxes; (2) all property subject to the connection charges must be sold for the connection charges at the same time and in the same manner as the properties are sold for county taxes; and (3) applicable laws relating to the collection of county taxes must relate to the collection of the connection charges. Property redeemed from a county tax sale and property sold by the county after a final tax sale may not be redeemed or sold until the connection charges due on it are paid.

With regards to water and sewer charges, if any bill remains unpaid for 30 days after the due date, it must be collected from the owner of the property served in the same manner as other debts are collected in the county. The service charges and all penalties and late charges must be a first lien against the property and MetCom may use the same methods for collecting these charges as it does for collecting past due connection charges.

For every property, whether improved or unimproved, to which an EDU has been allocated for public water or sewer service by the St. Mary's County Office of Land Use and Growth Management, MetCom must impose and collect a System Improvement Charge, on a per EDU basis. System Improvement Charges must be assessed and payable on a monthly basis and uniform and apply to every EDU equally. System Improvement Charges must be used by MetCom to pay the costs associated with (1) the capital costs of central treatment facility performance upgrades, if the projects are identified in MetCom's six-year capital improvement plan; (2) the capital costs of the repair and replacement of existing water supply and/or sewer collection systems, if the projects are identified in the MetCom's six-year capital improvement plan; and (3) that portion of existing bonds, as of October 1, 2007, that was issued to fund the costs of repair, replacement and, where appropriate, construction of existing water supply or sewer collection systems and bonds issued to fund the costs of capital treatment facility capacity allocated to existing system users as of October 1, 2007.

The System Improvement Charge must be payable at MetCom's offices at a time that MetCom determines. If any System Improvement Charges remain unpaid for a period of 30 days after the payment is due, in addition to any other charges, MetCom may impose a late charge up to 1.5% per month until all delinquent charges are paid. If all or any part of a System Improvement Charge remains unpaid after 30 days after the due date of payment, the entire unpaid connection charge is overdue and in default, at which time MetCom may proceed to enforce payment. Any statute of limitations to the contrary notwithstanding, and subject only to prior State and county taxes, the System Improvement Charge must be a first lien on the property against which it is assessed until paid.

For purposes of collection (1) the System Improvement Charge must be treated as county taxes and be advertised in the same manner as and with county taxes; (2) all property subject to the System Improvement Charges must be sold for System Improvement Charges at the same time and in the same manner as the properties are sold for county taxes; and (3) applicable laws relating to the collection of county taxes must relate to the collection of the System Improvement Charges. Property redeemed from a county tax sale and property sold by the county after a final tax sale may not be redeemed or sold until the System Improvement Charges are paid.

Background: MetCom was created by the General Assembly in 1957 to supply water and sewer service to residents in St. Mary's County. MetCom operates 27 water systems and 4 sewer treatment plants and provided water service to 41,000 people and sewer service to 36,000 people. MetCom operating income is projected to total \$13.6 million in fiscal 2014. **Exhibit 1** shows the MetCom current water and sewer service charges, effective July 1, 2013.

Tax Sales

Tax sales of real property are a common method used by local governments to collect delinquent property taxes. When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and under certain conditions, a high-bid premium. The remainder of the purchase price is not paid to the collector until the purchaser forecloses on the property. The property owner has the right to redeem the property within six months from the date of the tax sale by paying the delinquent taxes, penalties, interest, and certain expenses of the purchaser. If the owner redeems the certificate, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the certificate, the purchaser has the right to foreclose on the property after the six-month right of redemption period has passed. Generally within two years, if the right to foreclose is not exercised by the purchaser, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

If a property is offered for tax sale and there is no private purchaser, the local taxing agency must buy and hold the property. The governing body of the local taxing agency has the same rights and remedies with regard to other purchasers, including the right to foreclose.

Appendix 1 shows the tax sale authority for public water and sewer authorities in Maryland.

Exhibit 1
St. Mary’s County Metropolitan Commission Water and Sewer Service Charges
Effective July 1, 2013

Sewer Service Charges	Rate
Residential, nonmetered rate	\$34.56/month per EDU
Commercial, metered rate	\$29.48/month per EDU
Overage Rate	\$5.46 per \$1,000 gallons per quarter
Water Service Charges	Rate
Up to 18,000 gallons per quarter	\$18.42/month, up to 18,000 gallons
Overage Rate	\$3.07 per 1,000 gallons over 18,000 gallons
Nonmetered Rate	\$23.03/month per EDU

Source: St. Mary’s County Metropolitan Commission

Local Fiscal Effect: MetCom revenues may decrease depending on the number of waivers granted for individuals with unpaid charges. The amount of the decrease cannot be reliably estimated and is likely to vary from year to year, based on the number of delinquent accounts.

MetCom advises that turning off service is not typically a viable method for collecting past due water and sewer charges for most public water and sewer utilities. However, through the ability to sell a property at a tax sale, MetCom is able to recover a significant amount of delinquent water and sewer charges. Establishing a waiver system may result in an increase in the number of delinquent accounts. An increase in delinquent accounts may result in rate increases for other customers in order for the commission to meet necessary operating and capital expenditures, including debt service payments. As a point of reference, MetCom advises that if all accounts that cannot be turned off fail to pay their monthly charges and receive a waiver, increases in accounts receivable (delinquent payments) will be approximately \$1.9 million.

MetCom indicates that customers begin receiving delinquent notices when water and sewer charges become 60 days past due. By the time a tax sale occurs, the customer is a full year in arrears. Properties are placed on the tax sale list if they are six months past due on September 1. Customers who pay off their delinquent accounts between September 1 and the tax sale (March of each year) have their property removed from the tax sale list. In practice, by the time a property goes to tax sale, it has received at least two certified notices from MetCom, several notices from the county, and it has been advertised at least two times in the local newspaper.

MetCom reports that 130 accounts were referred to the 2014 tax sale. Of these accounts, 97 were brought current and removed from the tax sale list prior to the sale. Of the remaining 33 accounts, most or all were either rental properties and/or unimproved developer-owned properties. The outstanding water and sewer charges on these properties are \$206,319, of which \$154,000 is attributable to unimproved developer-owned accounts.

MetCom also advises that establishing a waiver process could also impact St. Mary's County bond rating depending on the number of waivers granted. MetCom indicates that as more accounts become delinquent, and rate revenues become uncollectible, MetCom's ability to meet its debt service obligations will be affected. Because the county backs all of MetCom's debt, the county will be called upon to meet any debt service shortfall that MetCom may incur. Such an increase in the county's indebtedness may result in a downgrade of the county's bond rating and borrowing capacity. In addition, any shortfall in rate revenues as the result of uncollectible accounts will cause MetCom user charges to increase to offset the increased accounts receivable (delinquent payments).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): St. Mary's County, St. Mary's County Metropolitan Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2014
mc/hlb Revised - House Third Reader - March 26, 2014

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Appendix 1
Tax Sale Authority for Public Water & Sewer Utilities

		Authority To Sell Properties At County Tax Sale For Delinquent Water/Sewer Charges		
<u>County</u>	<u>Included Municipalities</u>	<u>County</u>	<u>Municipality</u>	<u>Notes</u>
Allegany	Barton, Cumberland, Frostburg, Lonaconing, Luke, Midland, Westernport	Yes – Sewer Accounts Only	Yes	
Anne Arundel	Annapolis, Highland Beach	Yes	Yes	Annapolis accounts must be over \$250
Baltimore City		Yes		Must be over \$250
Baltimore		Yes		Must be over \$250
Calvert	Chesapeake Beach, North Beach	Yes	Yes	
Caroline	Denton, Federalsburg, Goldsboro, Greensboro, Henderson, Hillsboro, Marydel, Preston, Ridgely, Templeville	No – Public W/S service only in municipalities	Yes	Must be over \$250
Carroll	Hampstead, Manchester, Mount Airy, New Windsor, Sykesville, Taneytown, Union Bridge, Westminster	Yes	Yes. All served by county utility except Westminster, which also participates in county sale	
Cecil	Cecilton, Charlestown, Chesapeake City, Elkton, North East, Perryville, Port Deposit, Rising Sun	Yes	Yes	Threshold set annually – typically \$250 or \$500

**Authority To Sell Properties At County Tax
Sale For Delinquent Water/Sewer Charges**

<u>County</u>	<u>Included Municipalities</u>	<u>County</u>	<u>Municipality</u>	<u>Notes</u>
Charles	Indian Head, LaPlata, Port Tobacco	Yes		Authority exists but not exercised
Dorchester	Brookview, Cambridge, Church Creek, East New Market, Eldorado, Galestown, Hurlock, Secretary, Vienna	No	No	
Frederick	Brunswick, Burkittsville, Emmitsburg, Frederick, Middletown, Mount Airy, Myersville, New Market, Rosemont, Thurmont, Walkersville, Woodsboro	Yes	Yes	
Garrett	Accident, Deer Park, Friendsville, Grantsville, Kitzmiller, Loch Lynn Heights, Mountain Lake Park, Oakland	Yes	Yes – except Accident, Oakland, and Grantsville	Must be 24 months behind to go to tax sale; lien recorded after 12 months
Harford	Aberdeen, Bel Air, Havre de Grace	Yes	Yes	
Howard		Yes		
Kent	Betterton, Chestertown, Galena, Millington, Rock Hall	Yes	Yes	

Authority To Sell Properties At County Tax Sale For Delinquent Water/Sewer Charges

<u>County</u>	<u>Included Municipalities</u>	<u>County</u>	<u>Municipality</u>	<u>Notes</u>
Montgomery	Barnesville, Brookeville, Chevy Chase Section 3, Chevy Chase Section 5, Chevy Chase, Chevy Chase View, Chevy Chase Village, Gaithersburg, Garrett Park, Glen Echo, Kensington, Laytonsville, Martin's Additions, North Chevy Chase, Poolesville, Rockville, Somerset, Takoma Park, Washington Grove	Yes – Front Foot Benefit Assessment only	Yes – Front Foot Benefit Assessment only	Front Foot Benefit Assessment (equivalent of MetCom's Syst. Imp. Charge) is collected by county as part of tax bill
Prince George's	Berwyn Heights, Bladensburg, Bowie, Brentwood, Capitol Heights, Cheverly, College Park, Colmar Manor, Cottage City, District Heights, Eagle Harbor, Edmonston, Fairmount Heights, Forest Heights, Glenarden, Greenbelt, Hyattsville, Landover Hills, Laurel, Morningside, Mount Rainier, New Carrollton, North Brentwood, Riverdale Park, Seat Pleasant, University Park, Upper Marlboro	Yes – Front Foot Benefit Assessment only	Yes – Front Foot Benefit Assessment only	Front Foot Benefit Assessment (equivalent of MetCom's Syst. Imp. Charge) is collected by county as part of tax bill
Queen Anne's	Barclay, Centreville, Church Hill, Millington, Queen Anne, Queenstown, Sudlersville, Templeville	Yes	Yes	
St. Mary's	Leonardtown	Yes	Yes	

**Authority To Sell Properties At County Tax
Sale For Delinquent Water/Sewer Charges**

<u>County</u>	<u>Included Municipalities</u>	<u>County</u>	<u>Municipality</u>	<u>Notes</u>
Somerset	Crisfield, Princess Anne	Yes	Yes	Authority not exercised for past two years*
Talbot	Easton, Oxford, Queen Anne, St. Michaels, Trappe	Yes	Yes	
Washington	Boonsboro, Clear Spring, Funkstown, Hagerstown, Hancock, Keedysville, Sharpsburg, Smithsburg, Williamsport	Yes	Yes	Authority exists – not often used
Wicomico	Delmar, Fruitland, Hebron, Mardela Springs, Pittsville, Salisbury, Sharptown, Willards	N/A All water & sewer utilities are within the municipalities	Yes	
Worcester	Berlin, Ocean City, Pocomoke City, Snow Hill	Yes	No	Must be more than 18 months in arrears – must be more than \$100

* In process of considering lien only arrangement – no tax sale while under consideration – since no tax sale (last two years), AR increased to 65% of total billing – not fiscally sustainable.

Source: St. Mary’s County Metropolitan Commission