

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 649 (Prince George's County Delegation)
Environment and Transportation Education, Health, and Environmental Affairs

Prince George's County - Clean Water Program - Report
PG 404-15

This bill requires the Prince George's County Department of Environmental Resources to prepare a report on the county funding plan, including specified information, for the county's Clean Water Program. The report must be submitted to the Prince George's County Delegation by July 1, 2016.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: None. The bill does not affect State operations or finances.

Local Effect: Prince George's County can implement the bill with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The required report must include (1) the total amount and sources of funding for the Clean Water Program; (2) the amount of stormwater remediation fees collected from different categories of property in Prince George's County; (3) standards for determining fee reductions and modifications for property owners; (4) the number of property owners applying for, and receiving, fee reductions or modifications; (5) the number, types, and amounts of rebates provided to property owners under the program; (6) the amount and status of uncollected stormwater remediation fees and a description of methods for collecting overdue fees; (7) the amount and status of penalties levied and

remedies pursued for overdue fees; (8) the number of new jobs and green local businesses created in the county with program funds; (9) the restoration efforts funded by the program; and (10) recommendations on whether there is a need to change residential fee structures under the program, including the status of and participation in the Alternative Compliance Program.

Current Law/Background:

Chapter 151 of 2012

Chapter 151 of 2012 requires a county or municipal corporation that is subject to a National Pollutant Discharge Elimination System Phase I municipal separate storm sewer system permit (Phase I MS4 permit) to adopt and implement, by July 1, 2013, local laws or ordinances that establish an annual stormwater remediation fee and a local watershed protection and restoration fund. Chapter 151 did not require each jurisdiction to set the fee at a specific level or otherwise require the jurisdictions to collect a specific amount in revenues; each jurisdiction has discretion in setting the local stormwater remediation fee.

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.

Beginning July 1, 2014, and every two years thereafter, a county or municipal corporation subject to the law is required to make a publicly available report on the number of properties subject to a stormwater remediation fee, the amount of money deposited into the watershed protection and restoration fund for the previous two fiscal years, and the percentage of funds spent on each of the purposes authorized by the Act.

For additional information about Chapter 151 of 2012, stormwater remediation fee revenues, and stormwater utility fees around the United States, see the **Appendix – Stormwater Remediation Fees in Maryland**.

Prince George’s County Stormwater Remediation Fee

Pursuant to Chapter 151, Prince George’s County established an annual stormwater remediation fee that consists of a flat fee of \$20.58 for any type of property plus an additional impervious area fee rate (of \$20.90 for each 2,456 square feet), which differs based on the type of property. Single-family homes pay the additional impervious area fee based on which of three tiers the home falls within (rates are either \$12.54, \$20.90, or \$41.80). Condominium units pay an amount equal to the total impervious area of the development in square feet divided by 2,456, which is then multiplied by \$20.90 and split among all condominium units. All other commercial, institutional, and multifamily properties pay the additional impervious area fee rate based on the impervious area of the property divided by 2,456 square feet. Fees are collected annually via property tax bills.

The county recently created an Alternative Compliance Program to reduce the fee liability for nonprofit and faith-based organizations. Under the program, eligible organizations still pay the flat fee per property, but can reduce or eliminate the additional impervious area fee paid, depending on which level of participation in the program the organization chooses. For example, an organization can reduce its fee liability by 25% for taking certain “Green Care and Good Housekeeping” actions (*e.g.* choosing a certified lawn care company), 25% for taking part in the county’s outreach and education campaign, and/or 50% for providing the county with a temporary right of entry to install stormwater management practices on the property and agreeing to maintain those practices in the future; these credits are cumulative, allowing for an elimination of the impervious area fee if the property owner participates in each option.

Additional Information

Prior Introductions: A similar bill, HB 1028 of 2014, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Prince George's County, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2015
md/lgc

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Appendix – Stormwater Remediation Fees in Maryland

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 the CWA, regulates stormwater discharges from municipal separate storm sewer systems (MS4). There are 10 jurisdictions in Maryland that hold NPDES Phase I MS4 permits (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George’s counties, and Baltimore City). 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 (TMDL).

Chapter 151 of 2012

Chapter 151 of 2012 was passed by the General Assembly in the context of a substantial projected shortfall in funding for local water quality related stormwater projects. The Phase II Watershed Implementation Plan under the bay TMDL was released in fall 2012 and estimated that the largest cost to implement the bay TMDL, by a significant margin, was attributed to local stormwater management. Thus, Chapter 151 required the 10 jurisdictions subject to a NPDES Phase I MS4 permit – representing the vast majority of the State’s population and untreated impervious surface area – to adopt local laws establishing a stormwater remediation fee and watershed protection and restoration fund by July 1, 2013.

Chapter 151 provided flexibility for each jurisdiction to decide the level and structure of the fee, how it is collected, and other details of the fee and fund. The law did require the fee to be based on the share of stormwater management services related to a property and provided by the county or municipality. The law also required fee exemptions and a system of offsets, as well as a process for property owners to appeal a fee assessment, and specified that money in each fund is intended to be used only to support additional (not existing or ongoing) efforts for stormwater management activities.

Adoption and Implementation of Local Laws

In fiscal 2014, it is estimated that the stormwater fee will generate about \$80.2 million across nine jurisdictions; if revenues from the restructured fee established by Montgomery County are counted, fiscal 2014 revenues amount to \$103.0 million. The structure and amount of the fees established pursuant to Chapter 151 vary greatly by jurisdiction, as shown in **Exhibit 1**. For example, with respect to residential fees,

four counties chose to establish a flat fee per property or per unit, while four other jurisdictions established fees based on imperviousness, type or size of property, or home size. For nonresidential properties, most counties chose to establish a rate based on the amount of impervious surface, as defined through an equivalent residential unit (ERU) or an impervious unit (IU). Jurisdictions have also established separate fees for certain types of properties, such as properties owned by religious groups or nonprofit organizations. And, in recognition of the financial burden that the new fees may cause for some property owners, several jurisdictions adopted a phased-in approach to fee collection.

Each jurisdiction has also devised a unique approach to the provision of fee exemptions, credits, and rebates. Chapter 151 specifies that property owned by the State, a local government, or a volunteer fire department is exempt from the stormwater fee; each jurisdiction also had to establish a financial hardship exemption. Some jurisdictions have chosen to establish further exemptions, such as for properties located within municipal boundaries, properties that are already subject to certain permits, properties owned by disabled veterans, and agricultural nonresidential properties. Similarly, while Chapter 151 requires jurisdictions to establish Maryland Department of the Environment-approved policies to reduce fees to account for services or activities that a property owner has invested in to reduce or treat stormwater runoff, each jurisdiction has established slightly different credits available for property owners. The significant variation in each jurisdiction's local laws, regulations, and associated programs, as well as the differing amounts of untreated impervious surfaces and overall level of local stormwater infrastructure needs in each jurisdiction, are projected to result in a wide range of revenues collected in fiscal 2014, as shown in Exhibit 1.

For additional information regarding stormwater remediation fees and the implementation of Chapter 151 of 2012 please see the Department of Legislative Services' report [*Stormwater Remediation Fees in Maryland*](#) and the [Local Stormwater Management Information Update](#) factsheet.

Exhibit 1
County Stormwater Fees and Estimated Revenues

<u>Local Jurisdiction</u>	<u>Residential Rate</u>	<u>Nonresidential Fee/ERU or IU</u>	<u>Nonresidential Fee Per Acre Equivalent</u>	<u>Local Estimate of Fiscal 2014 Revenues (\$ in Millions)</u>
Anne Arundel	\$34, \$85, or \$170 annually, depending on zoning district	Generally, \$85 per ERU; capped at 25% of property tax. Fees vary for specified types of properties.	\$1,259.39	\$13.9 (subject to phase-in)
Baltimore	\$21 (single-family attached); \$32 (condo); \$39 (single-family, detached, and agricultural residential).	Generally, \$69 per ERU for nonresidential property; \$20 per ERU for institutional properties.	\$1,502.81	\$24.3
Baltimore City	\$40, \$60, or \$120 depending on amount of impervious surface	Generally, \$60 per ERU; \$12 per ERU for religious nonprofits.	\$2,489.11	\$16.7 (partial collection)
Carroll	None	None	None	No fee
Charles	\$43 per property (an increase of \$29 over fiscal 2013 levels)	\$43 per property	N/A	\$1.4 (reflects \$29 increase)
Frederick	\$0.01 per property	\$0.01 per property	N/A	\$0.0
Harford	\$125 per property	\$7 per IU	\$609.86	\$1.05 (subject to phase-in)
Howard	\$15, \$45, or \$90 depending on type and size of property	\$15 per IU	\$1,306.85	\$10.8
Montgomery*	Varies, ranges from \$29.17 to \$265.20 depending on home size	\$88.40 per IU	\$1,593.22	\$22.8
Prince George's	\$20.58 per property plus \$20.90 per IU	\$20.90 per IU	\$391.68	\$12.0

ERU: equivalent residential unit
IU: impervious unit

* Montgomery County established a stormwater fee similar to the one required under Chapter 151 of 2012 prior to the enactment of legislation.

Source: Department of Legislative Services

