

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 993 (Senator Benson)
Education, Energy, and the Environment

**Washington Suburban Sanitary Commission - System Development Charge -
Review and Credit for Construction of Facility**

This bill requires the Washington Suburban Sanitary Commission (WSSC) Office of the Inspector General (OIG) to complete a specified review within 60 days of WSSC receiving confirmation that the construction of a facility approved by WSSC is complete. In addition, WSSC must grant the developer a credit against any system development charges in an amount equal to the cost of constructing the facility within 14 days after the review is completed. If WSSC does not grant the credit for an approved facility within 14 days after a review is completed, WSSC must pay the developer (1) a penalty equal to 5% of the total amount owed to the developer and (2) interest on the amount of credit owed to the developer at a rate of 12%, compounded annually. The bill must be construed to apply retroactively and must be applied to or interpreted to affect all facilities approved by WSSC on and after January 1, 2023. A presently existing obligation or contract right may not be impaired in any way by the bill.

Fiscal Summary

State Effect: None.

Local Effect: WSSC expenditures may increase, beginning in FY 2025, to the extent the commission incurs penalties under the bill. WSSC revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law:

System Development Charge

Each year, the Montgomery and Prince George's County Councils meet to determine WSSC system development charges (SDC). If the county councils do not agree on the amount of the SDC, the SDC imposed during the previous year remains in effect. An SDC is paid to WSSC by a developer at the time of application for a plumbing permit and is intended to cover the cost of building capital improvement program projects needed to accommodate local growth.

WSSC must deposit all SDC collections into the SDC fund which is a special fund that may not revert to WSSC general funds. WSSC may use the SDC fund to pay for new treatment, transmission, and collection facilities, or amortize any bonds issued in connection with the construction of new facilities. Other costs of enhancement, maintenance, or environmental regulation on existing or new systems must be borne equally by all ratepayers.

WSSC standard procedures define an SDC credit as a dollar value which is credited to an applicant against SDC payable in connection with qualified properties. An SDC credit generally equals the total eligible cost incurred by the applicant in the applicant's design and construction of a qualified project or the amount of eligible private funding made by the applicant to cover WSSC costs to design and construct a qualified project. An applicant who designs a qualified project must also construct that project in order to be eligible to receive SDC credits.

Office of the Inspector General

Chapter 130 of 2018 established OIG in WSSC and transferred all the functions, powers, and duties of the Office of Internal Audit to OIG effective October 1, 2018. OIG is required to (1) assist WSSC by providing independent evaluation and recommendations regarding opportunities to preserve WSSC's reputation and improve the effectiveness, productivity, and efficiency of WSSC programs, policies, practices, and operations; (2) ensure public accountability by preventing, investigating, and reporting instances of fraud, waste, and abuse of WSSC property or funds; (3) examine, evaluate, and report on the adequacy and effectiveness of the systems of internal controls and their related accounting, financial, technology, and operational policies; (4) report noncompliance with and propose ways to improve employee compliance with applicable law, policy, and ethical standards of conduct; (5) conduct audits of specified construction costs as part of the commission's *Capital Improvement Plan* and 10-year Comprehensive Water Supply and Sewerage

System Plan; and (6) conduct other audits related to the operation of the commission. OIG is authorized to (1) conduct administrative investigations; budgetary analysis; and financial, management, or performance audits and similar reviews; (2) provide management advisories; and (3) utilize the assistance from any other government agency or private party to complete a project initiated by the office.

Local Fiscal Effect: WSSC expenditures may increase beginning in fiscal 2025, to the extent the commission incurs penalties and interest expenses under the bill.

WSSC advises that the bill's requirement to complete a review within 60 days does not account for requests from developers to pause reviews or for the failure of developers to submit all the documentation required for OIG to complete a review. OIG relies on confirmation from outside parties, such as contractors, and the review would be delayed if these parties failed to respond in a timely manner. WSSC also advises that the bill's requirement that the commission reimburse a developer within 14 days after completing the review does not consider whether sufficient SDC funding is available for a credit to be fully paid. Additionally, any fines or penalties imposed on WSSC under the bill will ultimately be borne by ratepayers.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Montgomery and Prince George's counties; Washington Suburban Sanitary Commission; Department of Legislative Services

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