

# SENATE BILL 135

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By: **Senator Glassman**

Introduced and read first time: January 9, 2014

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Watershed Protection and Restoration Program – Enforcement by**  
3 **Department of the Environment – Moratorium**

4 FOR the purpose of prohibiting the Department of the Environment from taking an  
5 administrative action to enforce certain watershed protection and restoration  
6 program requirements or imposing a penalty for a violation of certain provisions  
7 of law or regulations until a certain date; and generally relating to watershed  
8 protection and restoration in the State.

9 BY repealing and reenacting, with amendments,  
10 Article – Environment  
11 Section 4–202.1  
12 Annotated Code of Maryland  
13 (2013 Replacement Volume)

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

16 **Article – Environment**

17 4–202.1.

18 (a) (1) Except as provided in paragraph (2) of this subsection, this section  
19 applies to a county or municipality that is subject to a national pollutant discharge  
20 elimination system Phase I municipal separate storm sewer system permit.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) On or before July 1, 2013, a county or municipality shall 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 include:

6 (1) A stormwater remediation fee; and

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

8 (d) (1) A county or municipality shall 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  
11 to provide financial assistance for the implementation of local stormwater  
12 management plans through stormwater management practices and stream and  
13 wetland restoration activities.

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

18 (2) Property owned by the State, a unit of State government, a county,  
19 a municipality, or a regularly organized volunteer fire department that is used for  
20 public purposes may not be charged a stormwater remediation fee under this section.

21 (3) (i) A county or municipality shall set a stormwater remediation  
22 fee for property in an amount that is based on the share of stormwater management  
23 services related to the property and provided by the county or municipality.

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

26 1. A flat rate;

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

29 3. Another method of calculation selected by the county  
30 or municipality.

31 (4) A stormwater remediation fee established under this section is  
32 separate from any charges that a county or municipality establishes related to  
33 stormwater management for new developments under § 4–204 of this subtitle,

1 including fees for permitting, review of stormwater management plans, inspections, or  
2 monitoring.

3 (f) (1) A county or municipality shall establish policies and procedures,  
4 approved by the Department, to reduce any portion of a stormwater remediation fee  
5 established under subsection (e) of this section to account for on-site and off-site  
6 systems, facilities, services, or activities that reduce the quantity or improve the  
7 quality of stormwater discharged from the property.

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

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

12 1. Relating to properties with existing advanced  
13 stormwater best management practices;

14 2. Relating to agricultural activities or facilities that are  
15 otherwise exempted from stormwater management requirements by the county or  
16 municipality; and

17 3. That account for the costs of, and the level of  
18 treatment provided by, stormwater management facilities that are funded and  
19 maintained by a property owner;

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

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

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

28 (i) Conduct on-site inspections;

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

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

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

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

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

7 2. Provide the municipality reasonable time to pass an  
8 ordinance authorizing the imposition of a municipal stormwater remediation fee  
9 instead of a county stormwater remediation fee.

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

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

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

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

21 (h) (1) A county or municipality shall determine the method, frequency,  
22 and enforcement of the collection of the stormwater remediation fee.

23 (2) A county or municipality shall deposit the stormwater remediation  
24 fees it collects into its local watershed protection and restoration fund.

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

27 (i) Funds received from the stormwater remediation fee;

28 (ii) Interest or other income earned on the investment of money  
29 in the local watershed protection and restoration fund; and

30 (iii) Any additional money made available from any sources for  
31 the purposes for which the local watershed protection and restoration fund has been  
32 established.

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

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

6                   (ii) Operation and maintenance of stormwater management  
7 systems and facilities;

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

10                  (iv) Stormwater management planning, including:

11                           1. Mapping and assessment of impervious surfaces; and

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

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

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

19                           1. Planning, design, and construction of stormwater  
20 management practices;

21                           2. Stream and wetland restoration; and

22                           3. Public education and outreach related to stormwater  
23 management or stream and wetland restoration; and

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

26           (5) A county or municipality may use its local watershed protection  
27 and restoration fund as an environmental fund, and may deposit to and expend from  
28 the fund additional money made available from other sources and dedicated to  
29 environmental uses, provided that the funds received from the stormwater  
30 remediation fee are expended only for the purposes authorized under paragraph (4) of  
31 this subsection.

32           (6) The funds disbursed under this subsection are intended to be in  
33 addition to any existing State or local expenditures for stormwater management.

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

3           (i) Beginning July 1, 2014, and every 2 years thereafter, a county or  
4 municipality shall make publicly available a report on:

5                   (1) The number of properties subject to a stormwater remediation fee;

6                   (2) The amount of money deposited into the watershed protection and  
7 restoration fund over the previous 2 fiscal years; and

8                   (3) The percentage of funds in the local watershed protection and  
9 restoration fund spent on each of the purposes provided in subsection (h)(4) of this  
10 section.

11           (j) (1) A county or municipality shall establish a program to exempt from  
12 the requirements of this section a property able to demonstrate substantial financial  
13 hardship as a result of the stormwater remediation fee.

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

17           (k) The Department may adopt regulations to implement and enforce this  
18 section.

19           **(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, UNTIL JULY 1,**  
20 **2015, THE DEPARTMENT MAY NOT:**

21                   **(1) TAKE AN ADMINISTRATIVE ACTION TO ENFORCE THE**  
22 **REQUIREMENTS OF THIS SECTION; OR**

23                   **(2) IMPOSE A PENALTY FOR A VIOLATION OF ANY PROVISION OF,**  
24 **OR REGULATION ADOPTED UNDER, THIS SECTION.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2014.