

SENATE BILL 635

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2lr0061

By: **Senators Frosh, Madaleno, Manno, Montgomery, and Pinsky**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **Environment – Water Appropriation or Use ~~Permits – Fees~~ Permit Fees –**
3 **Workgroup**

4 FOR the purpose of requiring ~~a certain person to pay certain water appropriation or~~
5 ~~use permit fees under certain circumstances and in a certain manner; requiring~~
6 ~~the Department of the Environment to set certain fees by regulation and at~~
7 ~~rates necessary to fund certain costs and activities; requiring certain fees to be~~
8 ~~paid into the Maryland Clean Water Fund; requiring~~ the Secretary of the
9 Environment to convene a certain workgroup to develop a certain fee structure
10 in a certain manner; requiring the Department of the Environment to report the
11 workgroup's findings and recommendations in a certain manner to certain
12 committees on or before a certain date; ~~defining certain terms; providing for the~~
13 termination of this Act; and generally relating to fees for water appropriation or
14 use permits.

15 ~~BY adding to~~

16 ~~Article – Environment~~

17 ~~Section 5 – 502.1~~

18 ~~Annotated Code of Maryland~~

19 ~~(2007 Replacement Volume and 2011 Supplement)~~

20 ~~BY repealing and reenacting, with amendments,~~

21 ~~Article – Environment~~

22 ~~Section 9 – 320 and 9 – 1008~~

23 ~~Annotated Code of Maryland~~

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.



~~(2007 Replacement Volume and 2011 Supplement)~~

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

~~Article Environment~~

~~5-502.1.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "PERMIT" MEANS A WATER APPROPRIATION OR USE PERMIT ISSUED BY THE DEPARTMENT UNDER § 5-502 OF THIS SUBTITLE.~~

~~(3) "PERMITTEE" MEANS A PERSON AUTHORIZED TO WITHDRAW GROUND OR SURFACE WATER WITHIN THE STATE BY AUTHORITY OF A WATER APPROPRIATION OR USE PERMIT ISSUED UNDER § 5-502 OF THIS SUBTITLE.~~

~~(B) A PERSON APPLYING FOR A NEW OR RENEWED PERMIT SHALL PAY A PERMIT APPLICATION FEE.~~

~~(C) EXCEPT FOR PERMITS AUTHORIZING AN ANNUAL AVERAGE USE OF LESS THAN 10,000 GALLONS OF WATER PER DAY:~~

~~(1) AN ANNUAL WATER APPROPRIATION OR USE MANAGEMENT FEE SHALL BE ASSESSED ON EACH PERMIT; AND~~

~~(2) A PERMITTEE SHALL PAY A SEPARATE ANNUAL WATER APPROPRIATION OR USE MANAGEMENT FEE FOR EACH WATER APPROPRIATION OR USE PERMIT HELD BY THE PERMITTEE.~~

~~(D) THE FEES ESTABLISHED IN SUBSECTIONS (B) AND (C) OF THIS SECTION SHALL BE SET IN REGULATIONS ADOPTED BY THE DEPARTMENT AT RATES NECESSARY TO:~~

~~(1) FUND THE COST TO THE DEPARTMENT OF REGULATING AND MONITORING THE ACTIVITY FOR WHICH THE PERMIT WAS ISSUED; AND~~

~~(2) SUPPORT THE NEEDS OF THE DEPARTMENT FOR PROGRAM DEVELOPMENT ACTIVITIES, INCLUDING:~~

~~(i) CONDUCTING WATERSHED AND AQUIFER STUDIES;~~

1 ~~(H) MONITORING AND ASSESSING THE CUMULATIVE~~
2 ~~IMPACTS ASSOCIATED WITH REGULATED ACTIVITIES ON THE STATE'S~~
3 ~~GROUNDWATER AND SURFACE WATER;~~

4 ~~(HH) DEVELOPING AND IMPLEMENTING A STATEWIDE WATER~~
5 ~~SUPPLY PLAN; AND~~

6 ~~(IV) PROVIDING TECHNICAL ASSISTANCE TO LOCAL~~
7 ~~GOVERNMENTS.~~

8 ~~(E) ALL FEES COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE~~
9 ~~SHALL BE PAID TO THE MARYLAND CLEAN WATER FUND.~~

10 ~~9-320.~~

11 (a) ~~There is a Maryland Clean Water Fund.~~

12 (b) ~~The following payments shall be made into the Maryland Clean Water~~
13 ~~Fund:~~

14 (1) ~~All application fees, permit fees, renewal fees, and funds collected~~
15 ~~by the Department under this subtitle, including any civil or administrative penalty or~~
16 ~~any fine imposed by a court under the provisions of this subtitle;~~

17 (2) ~~[Any] ALL PERMIT FEES, INCLUDING APPLICATION AND~~
18 ~~MANAGEMENT FEES, AND FUNDS COLLECTED BY THE DEPARTMENT UNDER THE~~
19 ~~PROVISIONS OF TITLE 5, SUBTITLE 5 OF THIS ARTICLE RELATING TO WATER~~
20 ~~APPROPRIATION OR USE, INCLUDING ANY civil penalty or any fine imposed by a~~
21 ~~court under the provisions of Title 5, Subtitle 5 of this article relating to water~~
22 ~~appropriation [and] OR use;~~

23 (3) ~~ANY LABORATORY APPLICATION FEES COLLECTED BY THE~~
24 ~~DEPARTMENT UNDER § 9-1008 OF THIS TITLE;~~

25 ~~[(3)] (4) Any civil or administrative penalty or any fine imposed by a~~
26 ~~court under the provisions of Title 4, Subtitle 1 of this article; and~~

27 ~~[(4)] (5) Any fees or funds that the Department collects under~~
28 ~~Subtitle 2, Part III of this title and §§ 9-269 and 9-270 of this title and any civil or~~
29 ~~administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of~~
30 ~~this title.~~

31 (e) ~~The Department shall use the Maryland Clean Water Fund for activities~~
32 ~~that are related to:~~

1 ~~(1) The identification, monitoring, and regulation of the proper~~
2 ~~discharge of effluent into the waters of the State including program development of~~
3 ~~these activities as provided by the State budget;~~

4 ~~(2) The management, conservation, protection, and preservation of the~~
5 ~~State's groundwater and surface water including program development of these~~
6 ~~activities as provided by the State budget;~~

7 ~~(3) Correcting to the extent possible the failure to implement or~~
8 ~~maintain erosion and sediment controls;~~

9 ~~(4) Administration of the sediment control program;~~

10 ~~(5) Emergency removal of sewage sludge or mitigation of the effect of~~
11 ~~any utilization of sewage sludge that the Department finds:~~

12 ~~(i) Endangers public health, safety, or welfare; or~~

13 ~~(ii) Endangers or damages natural resources;~~

14 ~~(6) Activities that are:~~

15 ~~(i) Conducted by the Department, by a local health official, or~~
16 ~~by the local health official's designee under § 9-243(c) of this title; and~~

17 ~~(ii) Related to identifying, monitoring, or regulating the~~
18 ~~utilization of sewage sludge, including program development; and~~

19 ~~(7) Providing supplemental inspections and monitoring of sewage~~
20 ~~sludge utilization sites by:~~

21 ~~(i) Contracting with a county on request of that county to~~
22 ~~provide supplemental inspections and monitoring; and~~

23 ~~(ii) Limiting the value of services provided under the contract to~~
24 ~~no more than 45% of the generator fees for sludge utilized in that county that is~~
25 ~~generated outside of that county or service area.~~

26 ~~(d) An expenditure that the Department makes under subsection (c)(5) of~~
27 ~~this section shall be reimbursed to the Department by the sewage sludge user~~
28 ~~whose sewage sludge utilization brought about the expenditure by:~~

29 ~~(1) Endangering public health, safety, or welfare; or~~

30 ~~(2) Endangering or damaging natural resources.~~

~~(e) In addition to any other legal action authorized by this subtitle, the Attorney General may bring an action against any person who fails to reimburse the Department under subsection (d) of this section to recover any expenditure that the Department makes under subsection (e)(5) of this section.~~

~~(f) In determining the use of the Maryland Clean Water Fund, priority shall be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.~~

~~(g) Notwithstanding any law to the contrary, funds credited and any interest accrued to the Fund:~~

~~(1) Shall remain available until expended; and~~

~~(2) May not be reverted to the General Fund under any other provision of law.~~

~~9-1008.~~

~~(A) Any person who wishes to operate a water quality laboratory shall:~~

~~(1) Submit to the Department, on the form the Department requires, an application for certification of the water quality laboratory; and~~

~~(2) Pay to the Department the application fee set by the Department.~~

~~(B) ALL FEES COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE SHALL BE PAID TO THE MARYLAND CLEAN WATER FUND.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) Prior to the adoption of the regulations required in § 5-502.1(d) of the Environment Article as enacted by Section 1 of this Act, the The Secretary of the Environment shall convene a workgroup consisting of representatives of ~~the~~:~~

~~(1) The Maryland Association of Counties, ~~the~~;~~

~~(2) The Maryland Municipal League, ~~agriculture~~;~~

~~(3) Agriculture, ~~public~~;~~

~~(4) Public water systems, ~~the golf~~;~~

~~(5) The golf course industry, ~~the power~~;~~

~~(6) The power generation industry, ~~and the~~; and~~

1 ~~(7) The mining industry to develop the fee structure necessary to~~
2 ~~ensure the long term funding needs identified in § 5-502.1(d) of the Environment~~
3 ~~Article as enacted by Section 1 of this Act.~~

4 (b) (1) The workgroup shall develop a structure of fees related to the
5 issuance and renewal of a water appropriation and use permit issued by the
6 Department of the Environment under § 5-502 of the Environment Article.

7 (2) The structure of fees shall be set in the manner necessary to:

8 (i) Fund the cost to the Department of regulating or monitoring
9 the activity for which the permit is issued; and

10 (ii) Support the needs of the Department for program
11 development activities, including:

12 1. Conducting watershed and aquifer studies;

13 2. Monitoring and assessing the cumulative impacts
14 associated with regulated activities on the State's groundwater and surface water;

15 3. Developing and implementing a statewide water
16 supply plan; and

17 4. Providing technical assistance to local governments.

18 ~~(b) (c) On or before December 31, 2012, the Department of the Environment~~
19 ~~shall report to the House Environmental Matters Committee and the Senate~~
20 ~~Education, Health, and Environmental Affairs Committee, in accordance with §~~
21 ~~2-1246 of the State Government Article, on the findings and recommendations of~~
22 ~~structure of fees developed by the workgroup.~~

23 SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect ~~July~~ June 1, 2012. It shall remain effective for a period of 1 year and, at the end
25 of June 30, 2013, with no further action required by the General Assembly, this Act
26 shall be abrogated and of no further force and effect.