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SB 672/09 – EHE

01r0489
CF 01r0918

Bill No.: _____

Drafted by: Necessary

Requested: _____

Committee: _____

By: **Senator Raskin**

A BILL ENTITLED

AN ACT concerning

The Watershed Protection and Restoration Act

FOR the purpose of requiring each county or municipality to adopt certain laws or ordinances to establish a Stormwater Remediation Fee and a Local Watershed Protection and Restoration Fund on or before a certain date; establishing the purpose of a Stormwater Remediation Fee; requiring a county or municipality to collect a Stormwater Remediation Fee in accordance with this Act; requiring a county or municipality to set the amount of a residential Stormwater Remediation Fee in a certain manner; requiring a county or municipality to set the amount of a nonresidential Stormwater Remediation Fee in a certain manner; prohibiting a county or municipality from assessing a Stormwater Remediation Fee on certain property owners and on certain State-owned property; requiring a county or municipality to annually report certain information to the Department of the Environment in a certain manner on or before a certain date; requiring the Department of the Environment to report certain information to the BayStat Subcabinet in a certain manner; authorizing the Department of the Environment to adopt certain regulations; defining a certain term; and generally relating to stormwater management in the State.

BY repealing and reenacting, with amendments,
Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

1r0489

Section 4–202
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

4–202.

(A) (1) IN THIS SECTION, “IMPERVIOUS SURFACE” INCLUDES:

(I) STRUCTURES, BUILDINGS, DWELLING UNITS, ROADS, PARKING LOTS, DRIVEWAYS; AND

(II) AREAS THAT ARE COVERED WITH GRAVEL, STONE, SHELL, IMPERMEABLE DECKING, PAVERS, OR ANY OTHER IMPERVIOUS MATERIAL.

(2) “IMPERVIOUS SURFACE” DOES NOT INCLUDE:

(I) A FENCE OR WALL THAT IS LESS THAN 1 FOOT IN WIDTH THAT HAS NOT BEEN CONSTRUCTED WITH A FOOTER;

(II) A WOOD MULCH PATHWAY; OR

(III) A DECK WITH GAPS TO ALLOW WATER TO PASS FREELY.

(B) (1) By July 1, 1984, each county and municipality shall adopt ordinances necessary to implement a stormwater management program.

(2) These stormwater management programs shall be consistent with flood management plans, if any, developed under Title 5, Subtitle 8 of this article for a particular watershed, shall meet the requirements established by the Department under § 4–203 of this subtitle, and shall be consistent with the purposes of this subtitle.

(C) (1) ON OR BEFORE JULY 1, 2011, EACH COUNTY AND MUNICIPALITY SHALL ADOPT LOCAL LAWS OR ORDINANCES NECESSARY TO ESTABLISH A:

(I) STORMWATER REMEDIATION FEE; AND

(II) LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(2) EACH COUNTY AND MUNICIPALITY SHALL MAINTAIN AND ADMINISTER A LOCAL WATERSHED PROTECTION AND RESTORATION FUND IN ACCORDANCE WITH THIS SECTION.

(3) THE PURPOSE OF A LOCAL WATERSHED PROTECTION AND RESTORATION FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF LOCAL STORMWATER MANAGEMENT PLANS THROUGH URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES AND STREAM AND WETLAND RESTORATION ACTIVITIES.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A COUNTY OR MUNICIPALITY SHALL ESTABLISH AND COLLECT A STORMWATER REMEDIATION FEE FROM PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY IN ACCORDANCE WITH THIS SECTION.

(2) A COUNTY OR MUNICIPALITY SHALL SET A RESIDENTIAL STORMWATER REMEDIATION FEE IN AN AMOUNT THAT IS THE SAME FOR ALL RESIDENTIAL PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY.

(3) A COUNTY OR MUNICIPALITY SHALL SET A NONRESIDENTIAL STORMWATER REMEDIATION FEE AT A RATE THAT IS THE SAME FOR ALL COMMERCIAL PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY, BUT THAT IS:

(I) ASSESSED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH COMMERCIAL PROPERTY; AND

(II) GREATER THAN THE RESIDENTIAL STORMWATER REMEDIATION FEE SET UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(4) A COUNTY OR MUNICIPALITY MAY NOT ASSESS A STORMWATER REMEDIATION FEE ON:

(I) A RESIDENTIAL OR NONRESIDENTIAL PROPERTY OWNER WHO HAS ALREADY BEEN ASSESSED A STORMWATER REMEDIATION FEE BY A COUNTY OR MUNICIPALITY; AND

(II) ANY PROPERTY, INCLUDING IMPERVIOUS SURFACE, THAT IS OWNED BY THE STATE.

(E) (1) EACH COUNTY AND MUNICIPALITY SHALL DETERMINE THE METHOD, FREQUENCY, AND ENFORCEMENT OF THE COLLECTION OF THE STORMWATER REMEDIATION FEE.

(2) EACH COUNTY AND MUNICIPALITY SHALL DEPOSIT THE STORMWATER REMEDIATION FEES IT COLLECTS INTO ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(3) THERE SHALL BE DEPOSITED IN A LOCAL WATERSHED PROTECTION AND RESTORATION FUND:

(I) FUNDS RECEIVED FROM THE STORMWATER REMEDIATION FEE;

(II) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY IN THE WATERSHED PROTECTION AND RESTORATION FUND; AND

(III) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES FOR THE PURPOSES FOR WHICH THE WATERSHED PROTECTION AND RESTORATION FUND HAS BEEN ESTABLISHED.

(4) EACH COUNTY OR MUNICIPALITY SHALL USE THE MONEY IN ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND FOR:

(I) CAPITAL IMPROVEMENTS FOR STORMWATER MANAGEMENT;

(II) OPERATION AND MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS AND FACILITIES;

(III) STORMWATER MANAGEMENT PERMITTING, INSPECTION, AND ENFORCEMENT ACTIVITIES;

(IV) STORMWATER MANAGEMENT PLANNING;

(V) GRANTS TO NONPROFIT ORGANIZATIONS FOR UP TO 100 PERCENT OF PROJECTS COSTS FOR WATERSHED RESTORATION AND REHABILITATION PROJECTS RELATING TO:

1. PLANNING, DESIGN, AND CONSTRUCTION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES;

2. STREAM AND WETLAND RESTORATION PROJECTS;
AND

3. PUBLIC EDUCATION, SUPPORT, AND OUTREACH;
AND

(VI) REASONABLE COSTS NECESSARY TO ADMINISTER THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(5) THE FUNDS DISBURSED UNDER THIS SUBSECTION ARE INTENDED TO BE IN ADDITION TO ANY EXISTING STATE OR LOCAL EXPENDITURES FOR STORMWATER MANAGEMENT.

(6) MONEY IN A LOCAL WATERSHED PROTECTION AND RESTORATION FUND MAY NOT REVERT OR BE TRANSFERRED TO ANY COUNTY OR MUNICIPALITY'S GENERAL FUND.

(F) (1) ON OR BEFORE APRIL 1, 2011, EACH COUNTY AND MUNICIPALITY SHALL ANNUALLY REPORT THE AMOUNT OF IMPERVIOUS SURFACE LOCATED WITHIN THE COUNTY OR MUNICIPALITY TO THE

DEPARTMENT, IN A MANNER AND ACCORDING TO A SCHEDULE DETERMINED BY THE DEPARTMENT.

(2) THE DEPARTMENT SHALL REPORT THE INFORMATION COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE BAYSTAT SUBCABINET, ESTABLISHED UNDER § 8-2A-03 OF THE NATURAL RESOURCES ARTICLE, IN A MANNER AND ACCORDING TO A SCHEDULE DETERMINED BY THE BAYSTAT SUBCABINET.

(G) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT AND ENFORCEMENT OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.