

STATE OF NEW YORK

9445--A

IN ASSEMBLY

March 7, 2022

Introduced by M. of A. GALLAGHER, BURDICK -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to authorizing local water and sewerage authorities to charge fees for surface runoff

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "water bill fairness act".

3 § 2. Section 1196-b of the public authorities law is amended by adding
4 seven new subdivisions 22, 23, 24, 25, 26, 27 and 28 to read as follows:

5 22. "Stormwater" shall mean a flow of water occurring on the ground
6 surface when rain or meltwater can no longer be absorbed by the soil or
7 ground surface.

8 23. "Green infrastructure" shall mean the range of measures that use
9 plant or soil systems, permeable pavement or other permeable surfaces or
10 substrates, stormwater harvest or reuse, or landscaping to store, infil-
11 trate or evapotranspire stormwater and reduce flows to sewerage
12 systems, sewerage facilities, or to surface waters.

13 24. "MS4 compliance" shall mean efforts undertaken to comply with the
14 requirements of permits issued for municipal separate storm sewer
15 systems pursuant to any federal rule or regulation required by 31 U.S.C.
16 section 1342, including 40 C.F.R. parts 9, 122, 123, and 124 ("Stormwa-
17 ter II") or any successor regulation.

18 25. "Combined sewer system" shall mean a sewerage system or sewerage
19 facility owned by the state, authority, or municipality that conveys
20 stormwater and sanitary wastewater from residential, commercial, and
21 industrial sources through a single-pipe system.

22 26. "Combined sewer overflow" shall mean the discharge of sewage from
23 a combined sewer system at a point in such system before such sewage has
24 reached a publicly owned treatment works, usually caused by an increase
25 in flow in excess of design capacity.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 27. "Stormwater management" shall mean the planning, design,
2 construction, maintenance, improvement, acquisition, or operation of any
3 public system of practices or infrastructure, including green infras-
4 tructure, which conveys, treats, or stores stormwater, induces groundwa-
5 ter recharge of stormwater, reduces flooding caused by stormwater,
6 reduces the discharge of untreated stormwater into surface waters, or
7 reduces combined sewer overflows or other deleterious environmental,
8 social, or economic consequences caused by unmanaged stormwater runoff.
9 Stormwater management shall include, without limitation: MS4 compliance;
10 actions required to comply with a state pollutant discharge elimination
11 system permit issued pursuant to article seventeen of the environmental
12 conservation law and reasonably related to stormwater management; the
13 development and implementation of a municipal stormwater management plan
14 or stormwater control ordinance; and the development and implementation
15 of a long-term control plan to mitigate combined sewer overflows pursu-
16 ant to any federal or state law, regulation, rule, permit, or consent
17 decree.

18 28. "Stormwater fee" shall mean the imposition of a fee, rate, rent or
19 other service charge for the costs of stormwater management, in an
20 amount determined as a function of (a) the gross area of the real prop-
21 erty and (b) the impervious area of the property, which may be adjusted
22 for the classification or use of the property, and which shall be a fair
23 and equitable approximation of the real property's proportional contrib-
24 ution to stormwater runoff. For the purposes of this subdivision,
25 "impervious area of the property" shall mean the area of the real prop-
26 erty that restricts water absorption.

27 § 3. Subdivisions 22 and 23 of section 1196-d of the public authori-
28 ties law, as added by chapter 510 of the laws of 1984, are amended to
29 read as follows:

30 22. To provide for the discontinuance or disconnection of the supply
31 of water or the provision of sewerage service, or both, as the case may
32 be, for non-payment of fees, rates, rents or other charges therefor
33 imposed by the authority, provided such discontinuance or disconnection
34 of any supply of water or the provision of sewerage service, or both, as
35 the case may be, shall not be carried out except in the manner and upon
36 the notice as is required of a waterworks corporation pursuant to subdi-
37 visions three-a, three-b and three-c of section eighty-nine-b and
38 section one hundred sixteen of the public service law; [and]

39 23. To develop a policy for the collection of stormwater fees, and to
40 create credits that may be applied thereto based on behavior or improve-
41 ments that absorb, detain, or retain stormwater.

42 (a) Separate, partial, and non-exclusive credits may be created for:
43 (i) the installation, operation, and maintenance of current stormwater
44 best management practices that reduce, retain, or treat stormwater
45 on-site and which are approved by the county, municipality, or authori-
46 ty; (ii) the installation, operation, and maintenance of green infras-
47 tructure that reduces, retains, or treats stormwater on-site and which
48 is approved by the county, municipality, or authority; or (iii) any
49 combination of subparagraphs (i) and (ii) of this paragraph that exceeds
50 requirements that may be applicable under any law, rule, or regulation
51 related to stormwater management, stormwater management plans, or storm-
52 water control ordinances.

53 (b) The authority's policy may exempt certain horticultural or agri-
54 cultural properties from such fees.

1 (c) Any policy for the collection of a stormwater fee implemented by
2 an authority or municipality prior to April first, two thousand twenty-
3 two shall not need to conform to the requirements of this subdivision.

4 (d) All of the revenues from the collection of such fees by an author-
5 ity shall be reserved for stormwater management within the district and
6 the recovery of the costs incurred by the authority's or municipality's
7 stormwater management programs; provided, however, that the authority's
8 policy shall set aside a specific proportion of revenue from the
9 collection of such fees for the planning, construction, and maintenance
10 of green infrastructure.

11 (e) The authority's policy may discount a stormwater fee on the basis
12 of income; and

13 24. To do all things necessary, convenient or desirable to carry out
14 its purposes and for the exercise of the powers granted in this title.

15 § 4. This act shall take effect immediately.