STATE OF NEW YORK

4019

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. GALLAGHER, BURDICK, L. ROSENTHAL, SIMON, KELLES, GONZALEZ-ROJAS, DAVILA, FORREST -- read once and referred to the Committee on Corporations, Authorities and Commissions

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:

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

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

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

23. "Green infrastructure" shall mean the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest or reuse, or landscaping to store, infiltrate or evapotranspirate stormwater and reduce flows to sewerage systems, sewerage facilities, drainage systems, drainage facilities, or to surface waters.

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

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

26. "Combined sewer overflow" shall mean the discharge of sewage from a combined sewer system at a point in such system before such sewage has

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

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reached a publicly owned treatment works, usually caused by an increase in flow in excess of design capacity.

27. "Stormwater management" shall mean the planning, design, construction, maintenance, improvement, acquisition, or operation of any public system of practices or infrastructure, including green infrastructure, which conveys, treats, or stores stormwater, induces groundwater recharge of stormwater, reduces flooding caused by stormwater, reduces the discharge of untreated stormwater into surface waters, or reduces combined sewer overflows or other deleterious environmental, social, or economic consequences caused by unmanaged stormwater runoff. Stormwater management shall include, without limitation: MS4 compliance; actions required to comply with a state pollutant discharge elimination system permit issued pursuant to article seventeen of the environmental conservation law and reasonably related to stormwater management; the development and implementation of a municipal stormwater management plan or stormwater control ordinance; and the development and implementation of a long-term control plan to mitigate combined sewer overflows pursuant to any federal or state law, regulation, rule, permit, or consent decree.

28. "Stormwater fee" shall mean the imposition of a fee, rate, rent or other service charge for the costs of stormwater management, in: (a) a fixed amount per property; (b) an amount determined as a function of the gross area of the real property and the impervious area of the property; or (c) upon any other equitable basis determined by the legislative body of the sponsoring municipality, including but not limited to any combination of the foregoing. Such a fee may be adjusted for the classification or use of the property and shall be a fair and equitable approximation of the real property's proportional contribution to stormwater runoff. For the purposes of this subdivision, "impervious area of the property" shall mean the area of the real property that restricts water absorption.

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

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

23. To develop and implement a policy for the collection of stormwater fees, and to create credits that may be applied thereto based on behavior or improvements that reduce, retain, or treat stormwater; provided, however, that the costs of stormwater management are not primarily funded through any other fee, rate, rent, or service charge levied simultaneously within the district, excepting on a one-time or emergency basis.

(a) Separate, partial, and non-exclusive credits may be created for: (i) the installation, operation, and maintenance of current stormwater best management practices that reduce, retain, or treat stormwater on-site and which are approved by the county, municipality, or authority; (ii) the installation, operation, and maintenance of green infrastructure that reduces, retains, or treats stormwater on-site and which

is approved by the county, municipality, or authority; or (iii) any combination of subparagraphs (i) and (ii) of this paragraph that exceeds requirements that may be applicable under any law, rule, or regulation related to stormwater management, stormwater management plans, or stormwater control ordinances.

(b) The authority's policy may exempt certain horticultural or agricultural properties from such fees.

(c) All of the revenues from the collection of such fees by an authority shall be reserved for stormwater management within the district and the recovery of the costs incurred by the authority's or sponsoring municipality's stormwater management programs; provided, however, that the authority's policy shall set aside a specific proportion of revenue from the collection of such fees for the planning, construction, and maintenance of green infrastructure.

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

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

§ 4. This act shall take effect immediately.