

# 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:

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, drainage systems, drainage facilities, or  
13 to surface waters.

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

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

23 26. "Combined sewer overflow" shall mean the discharge of sewage from  
24 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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1 reached a publicly owned treatment works, usually caused by an increase  
2 in flow in excess of design capacity.

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

20 28. "Stormwater fee" shall mean the imposition of a fee, rate, rent or  
21 other service charge for the costs of stormwater management, in: (a) a  
22 fixed amount per property; (b) an amount determined as a function of the  
23 gross area of the real property and the impervious area of the property;  
24 or (c) upon any other equitable basis determined by the legislative body  
25 of the sponsoring municipality, including but not limited to any combi-  
26 nation of the foregoing. Such a fee may be adjusted for the classifica-  
27 tion or use of the property and shall be a fair and equitable approxi-  
28 mation of the real property's proportional contribution to stormwater  
29 runoff. For the purposes of this subdivision, "impervious area of the  
30 property" shall mean the area of the real property that restricts water  
31 absorption.

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

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

44 23. To develop and implement a policy for the collection of stormwater  
45 fees, and to create credits that may be applied thereto based on behav-  
46 ior or improvements that reduce, retain, or treat stormwater; provided,  
47 however, that the costs of stormwater management are not primarily fund-  
48 ed through any other fee, rate, rent, or service charge levied simul-  
49 taneously within the district, excepting on a one-time or emergency  
50 basis.

51 (a) Separate, partial, and non-exclusive credits may be created for:  
52 (i) the installation, operation, and maintenance of current stormwater  
53 best management practices that reduce, retain, or treat stormwater  
54 on-site and which are approved by the county, municipality, or authori-  
55 ty; (ii) the installation, operation, and maintenance of green infras-  
56 tructure that reduces, retains, or treats stormwater on-site and which

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

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

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

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

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

19 § 4. This act shall take effect immediately.