

STATE OF NEW YORK

4831

2025-2026 Regular Sessions

IN ASSEMBLY

February 6, 2025

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

AN ACT to amend the environmental conservation 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. Article 17 of the environmental conservation law is amended
2 by adding a new title 23 to read as follows:

3 TITLE 23

4 STORMWATER FEES

5 Section 17-2301. Definitions.

6 17-2303. Stormwater fees authorized.

7 17-2305. Construction.

8 § 17-2301. Definitions.

9 As used in this title, unless otherwise expressly stated or the
10 context or subject matter otherwise requires, the following terms shall
11 have the following meanings:

12 1. "Stormwater" means a flow of water occurring on the ground surface
13 when rain or meltwater can no longer be absorbed by the soil or ground
14 surface.

15 2. "Green infrastructure" means the range of measures that use plant
16 or soil systems, permeable pavement or other permeable surfaces or subs-
17 trates, stormwater harvest or reuse, or landscaping to store, infiltrate
18 or evapotranspire stormwater and reduce flows to sewerage systems,
19 sewerage facilities, drainage systems, drainage facilities, or to
20 surface waters.

21 3. "MS4 compliance" means efforts undertaken to comply with the
22 requirements of permits issued for municipal separate storm sewer

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

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1 systems pursuant to any federal rule or regulation required by 31 U.S.C.
2 section 1342, including 40 C.F.R. parts 9, 122, 123, and 124 ("Stormwa-
3 ter II") or any successor regulation.

4 4. "Combined sewer system" means a sewerage system or sewerage facili-
5 ty owned by the state, authority, or municipality that conveys stormwa-
6 ter and sanitary wastewater from residential, commercial, and indus-
7 trial sources through a single-pipe system.

8 5. "Combined sewer overflow" means the discharge of sewage from a
9 combined sewer system at a point in such system before such sewage has
10 reached a publicly owned treatment works, usually caused by an increase
11 in flow in excess of design capacity.

12 6. "Stormwater management" means the planning, design, construction,
13 maintenance, improvement, acquisition, or operation of any public system
14 of practices or infrastructure, including green infrastructure, within
15 or on behalf of a district, which conveys, treats, or stores stormwater,
16 induces groundwater recharge of stormwater, reduces flooding caused by
17 stormwater, reduces the discharge of untreated stormwater into surface
18 waters, or reduces combined sewer overflows or other deleterious envi-
19 ronmental, social, or economic consequences caused by unmanaged stormwa-
20 ter runoff. Stormwater management shall include, without limitation: MS4
21 compliance; actions required to comply with a state pollutant discharge
22 elimination system permit issued pursuant to this article and reasonably
23 related to stormwater management; the development and implementation of
24 a municipal stormwater management plan or stormwater control ordinance;
25 and the development and implementation of a long-term control plan to
26 mitigate combined sewer overflows pursuant to any federal or state law,
27 regulation, rule, permit, or consent decree.

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

40 8. "Water or sewer authority" means any authority created pursuant to
41 title two-A, two-B, three, four, five, five-A, six, six-A, six-B, six-C,
42 six-D, seven, seven-A, eight, eight-A, eight-B, eight-C, eight-D,
43 eight-E, eight-F, eight-G, ten, ten-A, ten-B, ten-C, or ten-D, of arti-
44 cle five of the public authorities law, or in any other case a local or
45 state public benefit corporation whose purpose is the collection of fees
46 for the use, maintenance, operation, or improvement of sewerage, drain-
47 age, or water systems within a district; provided, however, that this
48 definition shall not apply to any authority created pursuant to title
49 twelve of article five of the public authorities law.

50 9. "District" means the area serviced by a drainage facility or facil-
51 ities, a sewerage facility or facilities, a sewerage system or systems,
52 or a water facility or facilities in the possession of, or under the
53 jurisdiction and control of, a municipality, or group of municipalities
54 cooperating for the purposes of a joint water, sewage or drainage
55 project, as such term is defined in section one hundred nineteen-n of
56 the general municipal law; or the authority district of a water or sewer

1 authority established by the legislature in accordance with the
2 provisions of section eleven hundred ninety-six-c of the public authori-
3 ties law.

4 10. "Municipality" means any city, county, town, village, or county or
5 town acting on behalf of a district.

6 11. "Sewage", "sewerage system", "sewerage facility", and "water
7 facility" means the same as such terms are defined in section eleven
8 hundred ninety-six-d of the public authorities law.

9 12. "Agency" means any state office, public benefit corporation,
10 department, board, commission, bureau or division, or other agency or
11 instrumentality of the state.

12 § 17-2303. Stormwater fees authorized.

13 1. Any water or sewer authority or municipality shall have the power
14 to develop and implement a policy for the collection of stormwater fees,
15 and to create credits that may be applied thereto based on behavior or
16 improvements that reduce, retain, or treat stormwater, provided that no
17 other stormwater fee is levied simultaneously in the district and the
18 costs of stormwater management are not simultaneously funded through any
19 other fee, rate, rent or service charge in the district.

20 2. Separate, partial, and non-exclusive credits may be created for:
21 (a) the installation, operation, and maintenance of current stormwater
22 best management practices that reduce, retain, or treat stormwater
23 on-site and which are approved by the municipality or authority; (b) the
24 installation, operation, and maintenance of green infrastructure that
25 reduces, retains, or treats stormwater on-site and which is approved by
26 the municipality or authority; or (c) any combination of paragraphs (a)
27 and (b) of this subdivision that exceeds requirements that may be appli-
28 cable under any law, rule, or regulation related to stormwater manage-
29 ment, stormwater management plans, or stormwater control ordinances.

30 3. A policy implemented pursuant to this title may exempt certain
31 horticultural or agricultural properties from such fees.

32 4. All of the revenues from the collection of such fees shall be
33 reserved for stormwater management within the district or municipality
34 and the recovery of the costs incurred by the authority's or municipi-
35 ality's stormwater management programs; provided, however, that the
36 policy shall set aside a specific proportion of revenue from the
37 collection of such fees for the design, planning, construction or
38 installation, and maintenance of green infrastructure.

39 5. A policy implemented pursuant to this title may discount a stormwa-
40 ter fee on the basis of income.

41 § 17-2305. Construction.

42 This title shall be construed in conjunction and harmony with terms
43 and provisions included in article five of the public authorities law,
44 article fourteen-F of the general municipal law, and other laws applica-
45 ble to regulation of drainage, sewage, water pollution, water supply,
46 and the surface waters of the state. Nothing contained in this title
47 shall abridge nor apply to any bona fide stormwater fee policy imple-
48 mented prior to the effective date of this title.

49 § 2. This act shall take effect immediately.