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:

Section 1. Article 17 of the environmental conservation law is amended by adding a new title 23 to read as follows:

TITLE 23

STORMWATER FEES

Section 17-2301. Definitions.
17-2303. Stormwater fees authorized.
17-2305. Construction.

§ 17-2301. Definitions.

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

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

2. "Green infrastructure" means 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.

3. "MS4 compliance" means efforts undertaken to comply with the 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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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.

4. "Combined sewer system" means 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.

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

6. "Stormwater management" means the planning, design, construction, maintenance, improvement, acquisition, or operation of any public system of practices or infrastructure, including green infrastructure, within or on behalf of a district, 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 this article 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.

7. "Stormwater fee" means 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 water or sewer authority or 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.

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

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

authority established by the legislature in accordance with the provisions of section eleven hundred ninety-six-c of the public authorities law.

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

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

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

§ 17-2303. Stormwater fees authorized.

1. Any water or sewer authority or municipality shall have the power 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 that no other stormwater fee is levied simultaneously in the district and the costs of stormwater management are not simultaneously funded through any other fee, rate, rent or service charge in the district.

2. Separate, partial, and non-exclusive credits may be created for: (a) 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 municipality or authority; (b) the installation, operation, and maintenance of green infrastructure that reduces, retains, or treats stormwater on-site and which is approved by the municipality or authority; or (c) any combination of paragraphs (a) and (b) of this subdivision that exceeds requirements that may be applicable under any law, rule, or regulation related to stormwater management, stormwater management plans, or stormwater control ordinances.

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

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

5. A policy implemented pursuant to this title may discount a stormwater fee on the basis of income.

§ 17-2305. Construction.

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

§ 2. This act shall take effect immediately.