

ADVISORY BULLETIN NJ SENATE BILL 1073 TO AUTHORIZE ESTABLISHMENT OF STORMWATER UTILITIES

The New Jersey Legislature has presented Senate Bill 1073 to Governor Murphy authorizing Counties and Municipalities to create "stormwater utilities" that can assess fees to property owners/occupants from which stormwater originates and runoff directly or indirectly enters the stormwater management system or waters of the State. The Governor has until mid-March 2019 to sign the bill. It is expected by many that the Governor will sign the legislation. The bill is a result of the Legislature's determination that New Jersey faces extensive problems due to inadequate stormwater infrastructure and management, which directly affect the health, safety and economic welfare of the citizens. The two primary adverse impacts of unmanaged stormwater runoff are 1) pollution of the State's waters and 2) the increased potential for flooding.

The bill, which has been dubbed "a rain tax" by opponents, will take effect 180 days after enactment. It will give local authorities the ability to charge landowners a fee to manage stormwater runoff from their property that is conveyed through municipal/county stormwater management infrastructure. It allows the utility to assess fees "that are based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from any real property."

Importantly, the legislation provides for a **partial** fee reduction in the form of a "credit" for any property that maintains and operates a stormwater management system that complies with the State and local stormwater management standards that were in place at the time the system was approved and that effectively reduces, retains, or treats stormwater onsite. Fee reductions are also available for any property which has installed, operates and maintains current stormwater best management practices (BMP) or has installed, green infrastructure that reduces, retains, or treats stormwater onsite. At this time, details on the cost of fees or the value of "credits" are undetermined.

If this bill is signed into law and a stormwater utility is established by your county or municipality, you, as a landowner, operator, or manager of property with areas of impervious surfaces, could be subject to these fees.

VNHA recommends developing a proactive approach to manage your exposure from this legislation.

To gain an understanding of the potential impact of this legislation on your facility, we recommend you consider the following questions:

- **Does my site or facility have a stormwater management plan in place and, if so, what is it?**
- **Does my stormwater management plan meet current requirements?**
- **Does the stormwater management plan have an Operation & Maintenance Plan in place and is it regularly implemented?**
- **Are there areas of my site or facility with unmanaged impervious surfaces?**
- **Understanding there will be costs incurred, is my site or facility in a position to take actions necessary to reduce potential impacts of the legislation by voluntarily managing additional, untreated areas for compliance with stormwater management requirements and thus potentially qualify for available credits?**
- **What areas of my site or facility have current stormwater management practices in place that may qualify for available credits?**

We encourage you to contact your State representative as soon as possible to express your concerns.

Click here for a copy of the Bill: https://www.nileg.state.nj.us/2018/Bills/S1500/1073_R2.PDF.

VNHA intends to follow-up this advisory with additional information as it becomes available and, if you are interested, offer services tailored to you to assist with understanding the impact of this proposed legislation to your facility. Our objective will be to provide services that ease economic impact of the legislation while reducing the adverse impact of stormwater runoff from your property.

If you have any questions or need assistance interpreting how this legislation will impact your facility or project, please contact John Ryder, PE at jryder@vannoteharvey.com or Brian Perry, PE at bperry@vannoteharvey.com or call (609) 987-2323.