SENATE, No. 579

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Authorizes creation of stormwater utilities for certain local government entities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 8/1/2014)
AN ACT concerning stormwater utility systems, and supplementing Title 58 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in sections 1 through 5 of this act:
   "Combined sewer system" means a sewer system designed to carry sanitary wastewater at all times, which is also designed to collect and transport runoff from streets and other sources, thereby serving a combined purpose.
   "Combined sewer overflow" means the discharge of untreated or partially treated stormwater runoff and wastewater from a combined sewer system into a body of water.
   "Stormwater” means water resulting from precipitation that: (1) runs off of the land’s surface; (2) is transmitted to the subsurface; (3) is captured by separate storm sewers or other sewerage or drainage facilities; or (4) is conveyed by snow removal equipment.
   "Stormwater management system" means any equipment, plants, structures, machinery, apparatus, management practices, design practices, planning activities, or land, or any combination thereof, acquired, used, constructed, implemented or operated to convey stormwater, to control or reduce stormwater runoff and associated pollutants or flooding, to induce or control the infiltration of groundwater recharge of stormwater, or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

2. a. (1) The governing body of any county that holds a combined sewer systems general permit or any other general permit required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) to regulate combined sewer overflows may by resolution establish, provide, and maintain a stormwater utility for the purpose of creating a stormwater management system to manage the stormwater runoff of the county.
   (2) The governing body of a municipality, municipal utilities authority, or county utilities authority that holds a combined sewer systems general permit or any other general permit required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) to regulate combined sewer overflows, may establish, provide, and maintain a stormwater utility for the purpose of creating a stormwater management system to manage the stormwater runoff of the municipality.
   b. The provisions of the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary notwithstanding, a county utilities authority or a municipal utilities authority that holds a combined sewer systems general permit or
any other general permit required pursuant to the "Water Pollution Control Act." P.L.1977, c.74 (C.58:10A-1 et seq.) to regulate combined sewer overflows, may establish, provide, and maintain a stormwater utility for the purpose of creating a stormwater management system to manage the stormwater runoff within its jurisdiction.

c. The municipality, municipal utilities authority, county, or county utilities authority that creates and operates a stormwater utility is authorized to charge and collect fees or other charges for direct or indirect use or services of the stormwater management system. The stormwater service charges may be charged to and collected from the owner or occupant, or both, of any real property. The owner of any real property shall be liable for and shall pay these charges to the stormwater utility at the time when and place where such stormwater service charges are due and payable. The fees and charges shall use the defined unit by which runoff contributions may be calculated, as set forth in the stormwater utility guidance manual created by the Department of Environmental Protection pursuant to section 3 of this act. Any fee or charge assessed pursuant to this subsection shall be calculated in a manner consistent with the guidelines established in the stormwater utility guidance manual created pursuant to section 3 of this act.

3. a. The Department of Environmental Protection shall create a stormwater utility guidance manual. The stormwater utility guidance manual shall provide guidance to a municipality, county, or authority seeking to establish, provide, and maintain a stormwater management system pursuant to any relevant authorizing law regarding rate structure and stormwater management system implementation. The rate structure guidance provided in the stormwater utility guidance manual shall define the unit by which stormwater runoff contributions may be calculated and shall be directly related to the specific costs of the stormwater management system. The stormwater utility guidance manual, or any revisions thereto, shall be adopted after appropriate notice and opportunity for public comment but shall not be subject to the notice and publication requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Five percent of the annual fees or other charges collected pursuant to subsection c. of section 2 of this act shall be transferred to the department to fund program planning, implementation and coordination activities related to stormwater utilities and stormwater management systems authorized pursuant to section 2 of this act.

c. The Department of Environmental Protection shall adopt,
pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
(C.52:14B-1 et seq.), any rules and regulations necessary to
implement this act.

4. A municipality, municipal utilities authority, county, or
county utilities authority managing both a stormwater management
system and a sewerage system under authority granted pursuant to
this act or the "municipal and county utilities authorities law,”
P.L.1957, c.183 (C.40:14B-1 et seq.), shall maintain separate
budgets, keep separate books and records, and incur separate costs
for each such system.

5. Whenever a stormwater management system is constructed
by any person in accordance with standards established therefor by
a municipality, municipal utilities authority, county, or county
utilities authority authorized to manage a stormwater management
system pursuant to this act or the "municipal and county utilities
authorities law,” P.L.1957, c.183 (C.40:14B-1 et seq.), the
municipality, municipal utilities authority, county, or county
utilities authority may accept the dedication of, and assume
maintenance responsibilities for, the stormwater management
system in accordance with the same procedures established and
used for sewer or water facilities.

6. This act shall take effect immediately.

STATEMENT

This bill would authorize a county, county utilities authority,
municipality, or municipal utilities authority, that holds a combined
sewer systems general permit or any other general permit required
pursuant to the "Water Pollution Control Act," P.L.1977, c.74
(C.58:10A-1 et seq.) to regulate combined sewer overflows, to
establish, provide and maintain a stormwater utility for the purpose
of creating a stormwater management system to manage stormwater
runoff. The bill would authorize those entities to finance the
creation, operation, and maintenance of the stormwater utility
system through the imposition of user fees.

The bill would also require the Department of Environmental
Protection (DEP) to create a stormwater utility guidance manual to
provide guidance to counties, municipalities and authorities seeking
to establish stormwater management systems. The rate structure
guidance provided in the stormwater utility guidance manual would
define the unit by which stormwater runoff contributions are
calculated and would be directly related to the specific costs of the
stormwater management system. The stormwater utility guidance
manual, or any revisions thereto, would be adopted after appropriate notice and opportunity for public comment but would not be subject to the notice and publication requirements of the “Administrative Procedure Act.” The bill would require that five percent of the fees collected would be transferred to the DEP to fund program planning, implementation, and coordination activities related to stormwater utilities and stormwater management systems authorized under the bill.