



House of Representatives

General Assembly

File No. 205

January Session, 2021

House Bill No. 6497

House of Representatives, March 30, 2021

The Committee on Environment reported through REP. BORER of the 115th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING STORMWATER AUTHORITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-498 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) Any municipality [selected by the commissioner to participate in
4 the pilot program established pursuant to section 22a-497] may, by
5 ordinance adopted by its legislative body, designate any existing board
6 or commission or establish a new board or commission as the
7 stormwater authority for such municipality. If a new board or
8 commission is created, such municipality shall, by ordinance, determine
9 the number of members thereof, their compensation, if any, whether
10 such members shall be elected or appointed, the method of their
11 appointment, if appointed, and removal and their terms of office, which
12 shall be so arranged that not more than one-half of such terms shall
13 expire within any one year.

14 (b) The purposes of the stormwater authority shall be to: (1) Develop

15 a stormwater management program, including, but not limited to, (A) a
16 program for construction and post-construction site stormwater runoff
17 control, including control detention and prevention of stormwater
18 runoff from development sites; or (B) a program for control and
19 abatement of stormwater pollution from existing land uses, and the
20 detection and elimination of connections to the stormwater system that
21 threaten the public health, welfare or the environment; (2) provide
22 public education and outreach in the municipality relating to
23 stormwater management activities and to establish procedures for
24 public participation; (3) provide for the administration of the
25 stormwater management program; (4) establish geographic boundaries
26 of the stormwater authority district; and (5) recommend to the
27 legislative body of the municipality in which such district is located the
28 imposition of a [levy] fee upon the [taxable] interests in real property
29 within such district, the revenues from which [may] shall be used in
30 carrying out any of the powers of such district. In accomplishing the
31 purposes of this section, the stormwater authority may plan, layout,
32 acquire, construct, reconstruct, repair, maintain, supervise and manage
33 stormwater control systems.

34 (c) (1) Any stormwater authority created by a municipality pursuant
35 to subsection (a) of this section may levy fees, [from] approved by the
36 legislative body of the municipality in accordance with the provisions
37 of subdivision (3) of this subsection, on property owners of the
38 municipality, except as specified in subdivision (2) of this subsection,
39 for the purposes described in subsection (b) of this section. In
40 establishing fees for [any property] properties in its district, the
41 stormwater authority [may] shall consider criteria, including, but not
42 limited to, the following: The area of the property containing
43 impervious surfaces from which stormwater runoff is generated, land
44 use types that result in higher or lower concentrations of stormwater
45 pollution and the grand list valuation of the property.

46 (2) The stormwater authority may [reduce or defer] not levy such fees
47 [for] on land classified as, or consisting of, farm, forest or open space
48 land, except on areas of such land that contain impervious surfaces from

49 which stormwater runoff is generated.

50 (3) Each stormwater authority shall present its budget annually to the
51 legislative body of the municipality for approval. Such budget shall
52 include the specific programs the authority proposes to undertake
53 during the fiscal year for which the budget is presented, the projected
54 expenditures for such programs for the fiscal year and the amount of the
55 fee or fees the authority proposes to levy to pay for such expenditures.
56 In no event shall the aggregate amount of the fees proposed for the fiscal
57 year exceed the aggregate amount of such projected expenditures for
58 the fiscal year. The legislative body of the municipality may approve fee
59 amounts that are less than the amounts proposed by the authority but
60 in no event shall the legislative body of the municipality approve fee
61 amounts that are greater than the amounts proposed by the authority.

62 (d) Any person aggrieved by the action of a stormwater authority
63 under this section shall have the same rights and remedies for appeal
64 and relief as are provided in the general statutes for taxpayers claiming
65 to be aggrieved by the doings of the assessors or board of assessment
66 appeals.

67 [(d)] (e) The authority may adopt municipal regulations to implement
68 the stormwater management program.

69 [(e)] (f) The authority may, subject to the commissioner's approval,
70 enter into contracts with any municipal or regional entity to accomplish
71 the purposes of this section.

72 (g) For purposes of this section and sections 22a-498a and 22a-498b,
73 as amended by this act, "municipality" means any town, city, borough,
74 consolidated town and city or consolidated town or borough.
75 "Municipality" does not include any local school district, regional school
76 district, metropolitan district, district, as defined in section 7-324, or any
77 other municipal corporation or authority authorized to issue bonds,
78 notes or other obligations under the provisions of the general statutes or
79 any special act.

80 Sec. 2. Section 22a-498a of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective July 1, 2021*):

82 A municipal stormwater authority created pursuant to section 22a-
83 498, as amended by this act, and located in a distressed municipality, as
84 defined in subsection (b) of section 32-9p, having a population of not
85 more than twenty-eight thousand shall constitute a body politic and
86 corporate and the ordinance establishing such authority may confer
87 upon such authority the following powers: (1) To sue and be sued; (2)
88 to acquire, hold and convey any estate, real or personal; (3) to contract;
89 (4) to borrow money, including by the issuance of bonds, provided the
90 issuance of such bonds is approved by the legislative body of the
91 municipality in which such authority district is located; (5) to
92 recommend to the legislative body of such municipality the imposition
93 of [a levy] fees upon the [taxable] interests in real property within such
94 authority district, the revenues from which [may] shall be used in
95 carrying out any of the powers of such authority; (6) to deposit and
96 expend funds; and (7) to enter property to make surveys, soundings,
97 borings and examinations to accomplish the purposes of section 22a-
98 498, as amended by this act.

99 Sec. 3. Section 22a-498b of the general statutes is repealed and the
100 following is substituted in lieu thereof (*Effective July 1, 2021*):

101 Any charge due to a municipal stormwater authority and any fee
102 levied pursuant to section 22a-498, as amended by this act, and not paid
103 [within] in full on or before thirty days [of] after the due date shall
104 thereupon be delinquent and shall bear interest from the due date at [the
105 rate charged by the municipality's tax collector for] such rates and in
106 such manner as provided for delinquent property taxes under section
107 12-146. Any such unpaid charge or fee, or portion thereof, shall
108 constitute a lien upon the [real estate] property against which such
109 charge or fee was levied from the date it became delinquent. Each such
110 lien may be continued, recorded and released in the manner provided
111 by the general statutes for continuing, recording and releasing property
112 tax liens.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2021</i>	22a-498
Sec. 2	<i>July 1, 2021</i>	22a-498a
Sec. 3	<i>July 1, 2021</i>	22a-498b

ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Various State Agencies	Various - Cost	Potential	Potential

Note: Various=Various

Municipal Impact:

Municipalities	Effect	FY 22 \$	FY 23 \$
Various Municipalities	Potential Savings	See Below	See Below
Various Municipalities	Cost	Potential	Potential

Explanation

The bill 1) allows any municipality to establish a stormwater authority, 2) expands these authorities' ability to assess fees, and 3) establishes a process for municipalities to approve fees.

In municipalities that establish stormwater authorities, the bill potentially shifts the cost of certain stormwater management projects to stormwater authorities. This results in a savings to those municipalities to the extent that they would have otherwise financed those projects.

The bill also results in a cost to the state and municipalities as it requires authorities to assess fees on all property within their jurisdiction. Any state or town owned property located in a stormwater authority's jurisdiction would be subject to such fees, which would vary based on the size of the property.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to fees assessed by stormwater authorities and the projects they take on.

OLR Bill Analysis**HB 6497*****AN ACT CONCERNING STORMWATER AUTHORITIES.*****SUMMARY**

This bill authorizes all municipalities to establish a municipal stormwater authority, rather than just the three municipalities (i.e., New Haven, New London, and Norwalk) that participated in the Department of Energy and Environmental Protection's (DEEP) municipal stormwater authority pilot program (authorized under PA 07-154).

The bill also expands the authorities' powers to assess fees by having them recommend to the municipal legislative body in which they are located a fee on most real property interests in the district, rather than only on taxable real property. The bill prohibits the fee on pervious farm, forest, or open space land.

Additionally, the bill establishes the process by which municipal legislative bodies approve these fees. It subjects unpaid fees to the same interest rate as delinquent property taxes. Unpaid fees and interest are a lien on the property owner's property on which the fee was levied and may be recorded and released just like property tax liens.

Under the bill, anyone aggrieved by an authority's action has the same rights and remedies for appeal and relief as the law provides for property taxpayers aggrieved by an assessor's or a board of assessment appeal's action (see BACKGROUND).

The bill applies to any town, city, borough, consolidated town and city, or consolidated town or borough. It does not apply to local or regional school districts; municipal fire, sewer, fire and sewer, lighting, village, beach, improvement association, or other districts or associations wholly within a town that have the power to levy taxes;

metropolitan districts; or other municipal corporations or authorities that may issue bonds, notes, or other obligations.

EFFECTIVE DATE: July 1, 2021

MUNICIPAL STORMWATER AUTHORITIES

Fee Assessment

Under current law, stormwater authorities created under the pilot program must, among other things, recommend to the municipality's legislative body a levy on taxable real property in the stormwater district. The bill instead requires stormwater authorities to recommend a fee to be imposed on all real property in the district except as described below. The bill explicitly requires, rather than authorizes, the authorities to use the revenue generated to carry out any of the district's powers. It makes conforming changes to an existing provision about a stormwater authority created under the DEEP pilot program and located in a distressed municipality with a population of 28,000 or fewer (i.e., New London).

Under the bill, each stormwater authority must present its budget annually to the municipality's legislative body for approval. The budget must include (1) the specific programs the authority proposes to undertake during the fiscal year, (2) its projected expenditures for such programs, and (3) the fee amount it proposes to levy to pay for such expenditures.

The total fees proposed for the fiscal year may not exceed the total projected expenditures. Under the bill, the legislative body may approve fee amounts that are less than the authority's proposed amounts. In setting fees, the bill requires, rather than allows, authorities to consider (1) the amount of impervious surfaces generating stormwater runoff, (2) land use types that result in higher concentrations of stormwater pollution, and (3) the property's grand list valuation. The bill additionally requires them to consider land use types that result in lower concentrations of stormwater pollution.

Exempt Properties

Current law authorizes the authorities to reduce or defer such fees for land classified as, or consisting of, farm, forest, or open space. The bill instead prohibits them from imposing fees on such land except for areas containing impervious surfaces from which stormwater is generated.

Delinquent Fees

Under the bill, fees that are not paid in full on or before 30 days after they are due are subject to the same interest rate as delinquent property taxes (i.e., 1.5% per month). Unpaid fees and interest are a lien on the property owner's real or personal property on which the fee was levied and may be recorded and released in the same manner as property tax liens.

BACKGROUND

Property Tax Assessment Appeals

By law, property owners can appeal their assessments to a municipality's board of tax review or assessment appeals. The appeals board must hold a hearing on each appeal except for those for commercial, industrial, utility, or apartment properties assessed at over \$1 million. A taxpayer aggrieved by an appeals board's decision can appeal to Superior Court (CGS § 12-117a). The law provides the following two circumstances under which a taxpayer may appeal directly to Superior Court:

1. when the appeals board declines to hear an appeal on commercial, industrial, utility, or apartment properties assessed at over \$1 million (CGS § 12-111) and
2. when the taxpayer alleges that the tax was illegal (i.e., assessed on property not taxable in the municipality or "computed on an assessment which, under all circumstances, was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of such property") (CGS § 12-119).

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 25 Nay 8 (03/12/2021)