

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2010

BY DELEGATES FOLK AND MCGEEHAN

[Introduced February 8, 2017; Referred
to the Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §7-1-3tt, relating to requiring a county to obtain express authorization from the
 3 Legislature in the form of a concurrent resolution before submitting an application for an
 4 MS-4 permit to the United States Environmental Protection Agency and providing that a
 5 county may not be required to comply with terms of an MS-4 permit unless the state or
 6 federal government pays for the cost of compliance.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §7-1-3tt, to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3tt. Municipal separate storm sewer system permits; legislative authorization required.

1 (a) Definitions.--

2 A “municipal separate storm sewer system permit” or an “MS-4 permit” means a permit
 3 issued under the National Pollutant Discharge Elimination System, authorized by the Clean Water
 4 Act, 33 U.S.C. §1251-1387, and promulgated by 40 C.F.R. §§122.1-122.64.

5 (b) Legislative Authorization.--

6 (1) Notwithstanding any other provision of this code, a county is prohibited from submitting
 7 an application for an MS-4 permit to the United States Environmental Protection Agency without
 8 first requesting and receiving the express approval of both houses of the Legislature by concurrent
 9 resolution.

10 (2) A county requesting approval of the Legislature to apply for an MS-4 permit must
 11 submit a proposal to the Legislature which shall include:

12 (A) The county commission’s rationale and justification for requesting an MS-4 permit; and

13 (B) The estimated costs to the county of complying with the terms of an MS-4 permit,
 14 including the cost of compliance with any reporting requirements, and a detailed description of

15 the county's plan to pay for the costs of an MS-4 permit.

16 (3) If both houses of the Legislature adopt a concurrent resolution authorizing a county to
17 apply for an MS-4 permit, the county commission may submit an application for an MS-4 permit
18 to the United State Environmental Protection Agency. If either house of the Legislature fails to
19 adopt the concurrent resolution under this subsection, the department may not submit an
20 application for an MS-4 permit to the United States Environmental Protection Agency for
21 consideration.

22 (4) Any county that received an MS-4 permit prior to the enactment of this section may not
23 be required to comply with the conditions of the permit unless any and all costs of compliance are
24 paid by the federal or state government.

NOTE: The purpose of this bill is to require a county to obtain express authorization from the Legislature in the form of a concurrent resolution before submitting an application for an MS-4 permit to the United States Environmental Protection Agency and providing that a county may not be required to comply with terms of an MS-4 permit unless the state or federal government pays for the cost of compliance.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.