



Gregory J. Swain, County Attorney

## MEMORANDUM

**To:** Council Members, Anne Arundel County Council

**From:** Kelly Phillips Kenney, Supervising County Attorney /s/

**Date:** November 15, 2019

**Subject:** Bill No. 90-19 – Public Works – Utilities – Partial Deferral of Residential Wastewater System Connection Charges and Assessments

---

### Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law at the request of Councilwoman Jessica Haire for use by members of the Anne Arundel County Council during consideration of Bill No. 90-19. The summary is intended to explain the purposes and legal effects of the bill.

#### Purpose.

**Purpose and Background.** The primary purpose of Bill No. 90-19 is to allow the partial deferral of the payment of certain residential wastewater connection charges for certain properties that are currently on septic systems that are connected to the County's wastewater system as a result of a petition project or an extension by the County.

Current § 13-5-813 (h) addresses the payment options for the user connection charges ("UCC") and capital facility connection charges ("CFCC") for residential properties with existing improvements.<sup>1</sup> The UCC and CFCC can currently be paid in full when application for connection is made, or any portion of either charge may be paid and the rest can be financed in 30 annual installments. Subsections (h) and (h)(2) are revised to recognize the properties that will be eligible for the new deferral created in the Bill. The owners eligible for deferral may finance any unpaid portions of the CFCC and UCC in 40 annual installments (as opposed to the 30 year installments that is available now). The 40 annual installments, like the 30 annual installments now, will accrue

---

<sup>1</sup> "Properties with existing improvements" is defined in § 13-5-813(a)(1) as "improved properties that are supplied water by means of a private well system when County water becomes available or improved properties that have wastewater service by means of a private septic system when County wastewater becomes available."

annual interest at the bond rate established by the Controller at the time a construction contract notice to proceed is issued for a wastewater extension project.

Section **13-5-815.1** is new. Subsection **(a)** sets forth definitions of terms used in the section. “Assessment” is what is currently the front foot assessment imposed under § 13-5-601, et seq. “Eligible area” is defined to be 4 different areas: **(i)** the critical area, as defined in § 18-1-101; **(ii)** an onsite wastewater management problem area as defined in subsection (a)(4); **(iii)** an area designated in the County’s Master Plan for Water Supply and Sewerage Systems as a septic to sewer conversion area; or **(iv)** an area that is adjacent to one of the areas listed in (i) through (iii) and that is within the boundary of a wastewater extension project that includes one of areas listed in (i) through (iii).

Subsection **(b)** allows the owner of residential property with existing improvements in an eligible area to choose to partially defer payment of the CFCC, UCC, and assessment imposed for connections to an extension of the County’s wastewater system. The partial deferral may be up to 50% of the CFCC, UCC and assessment, separately or in total. The “up to” language allows the percentage of the deferral to be at the discretion of the homeowner. The deferral lasts until the earlier of 40 years after the date of connection or upon a title transfer by deed. Lastly, subsection (b) provides that the portions not deferred are paid in accordance with the Code provisions governing payment due dates (§ 13-5-601 et seq. for assessments and § 13-5-813(h) of the CFCC and UCC).

Under subsection **(c)**, the portions of the CFCC and UCC that are deferred accrue annual interest at the bond rate established by the Controller at the time a construction contract notice to proceed is issued for a wastewater extension project. Interest is already added in the assessment under § 13-5-603(b)(3).

Subsection **(d)** is similar to language in § 13-5-813(n), and provides that the deferred portions of the assessment, CFCC and UCC, plus any interest accrued on the CFCC and UCC under (c), shall be a lien on the property. This ensures that the deferred portions of the assessment, CFCC and UCC are paid upon sale of the property.

Under subsection **(e)**, the deferred portions of the CFCC, UCC and assessment, as well as the remaining unpaid balance of the CFCC and UCC, are paid upon the earlier of 40 years after the date of connection or title transfer by deed, except when at least one record owner remains the same either individually or as a trustee. The und deferred portion of the assessment continues to be paid in accordance with § 13-5-601 et seq. Under that subtitle as it currently exists, the assessment is not required to be paid upon title transfer of the property.

Subsection **(f)** provides that the deferral in § 13-5-815.1 is only available to the owner of the property at the time the property is connected to the County’s wastewater system.

The Office of Law is available to answer any additional questions regarding this Bill. Thank you very much.