

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB1100

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Sickles

3. Committee: Passed Both Houses

4. Title: **Stormwater management facilities; Commonwealth's acceptance of responsibility for liability when ceded by a common interest community.**

5. Summary: This bill provides that common interest communities that cede responsibility for the maintenance, repair, and replacement of a stormwater management facility on its real property to the Commonwealth or political subdivision thereof, shall be immune from civil liability in relation to such stormwater management facility. In order for the immunity to apply, (i) the common interest community must cede responsibility by contract or other instrument executed by both parties, and (ii) the Commonwealth shall have accepted the responsibility in writing or by resolution. The immunity does not extend to cases of intentional or willful misconduct or gross negligence. The bill specifies "maintenance, repair, and replacement" to include: cleaning of the facility, maintenance of adjacent grounds which are part of the facility, maintenance and replacement of fencing where the facility is fenced, and posting of signage indicating the identity of the government entity which maintains the facility.

6. Fiscal Impact Estimates: Final.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: While this bill may result in the Commonwealth accepting responsibility, and therefore liability, for the maintenance, repair and replacement of any stormwater management facility, the bill provides for a written contract or other instrument executed by the Commonwealth and any other impacted party for such transfer.

In the case that the Commonwealth does accept responsibility for any property ceded to the Commonwealth, there is the chance that this property could become a liability to the Commonwealth. While it is unknown how many claims would arise from the acceptance of these properties, there is a liability limit of \$100,000 which applies to any property or liability claim for money made against the Commonwealth. Note that this maximum liability cost does not consider the legal expenses incurred in dealing with any possible claims.

The cost of any claims, including legal expense, arising out of the ownership of these properties would be included in the determination of recommended funding levels and premiums charged to state agencies.

9. Specific Agency or Political Subdivisions Affected: Department of Conservation and Recreation, Risk Management Division at the Department of Treasury, all state agencies paying risk management premiums.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 3/12/2010 dpbaek

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