

Taxing Rain Water Coming To Your State

“Just when frustrated residents of New Jersey, one of the most heavily taxed states in the US, thought Democratic Gov. Phil Murphy had already brought the state into the ninth circle of taxation hell with new taxes to save the state’s ailing pension system, middle class voters in one of the least affordable states in the country have now been given one more thing to complain about: **A tax on the rain.**”

The rainwater runoff fee (tax) is based on the amount of impervious surface on a property (rooftops, parking lots, driveways, etc.) that does not allow rainfall to penetrate into the ground, but instead causes it to runoff into our streams and rivers. It means that if you have sheds or other out buildings, patios, anything that prevents immediate ground absorption, you pay. In Knoxville, the previous city mayor was pushing for the fee (tax), but it would also have included determining any grade change in your property –a fee would have been determined by the percentage of the grade.

In 2018, more people fled New Jersey than any other state. Why? Perhaps because it is one of the highest taxed states already and Governor Phil Murphy is preparing to sign it into law over the objections, not only of state’s Republicans, but a lot of the over-taxed property owners. Under this law, each of the 565 municipalities could set up a public stormwater utility to “build and manage sewer systems to treat pollutant-filled stormwater runoff”. (I didn’t know rainwater was so nasty, neither did a judge you will hear from later.) The utilities would also have the power to levy “steep fees” on properties. Oh, and by the way, the state would snatch up five percent of the proceeds. Hmmm.

I don’t understand why this is such a big deal now. States

have been using this tax/theft since 2012. Are we finally seeing the straw of taxation that broke the camel's back? I'd like to hope so, but the American people don't seem able to get worked up enough about the loss of property rights and freedom to get off their duffs and phones long enough to notice a new form of theft, let alone get worked up enough about it to do something.

Now, please don't think this is just a New Jersey thing. In 2010, President Obama's Environmental Protection Agency ordered states whose rivers and streams flow into the Chesapeake Bay to drastically cut sediment pollution, so Maryland was the first state to jump on the rain tax in 2012, with a law that really ticked off the taxpayers.

"Maryland is the only state in the Chesapeake Bay watershed that decided to tax impervious surfaces to raise the necessary revenue for the federal stormwater management projects. This rain tax has damaged the economy because it forces businesses to pay yet another tax—one that, in some cases, is larger even than their property taxes.

"Maryland has taken a page from the federal government's playbook and forced this unfunded mandate on the state's ten most populous jurisdictions, including Baltimore and Harford Counties. To pay for the projects, the designated jurisdictions must impose a tax based on the square footage of residential and commercial land covered by impervious surfaces, which cannot absorb water. Impervious surfaces include parking lots, roofs, driveways, and pavements. Arguments were made to give the local governments the option to choose how they would pay for this fee; however, in the end the legislature voted to make the rain tax mandatory."[\[1\]](#)

"All of this is allegedly to comply with a 2010 U.S. Environmental Protection Agency (EPA) decree that the Old Line State reduce storm water runoff so as to shrink nitrogen and phosphorus levels in the Chesapeake Bay at a cost of \$14.8

billion. However, as Watchdog Wire points out, 'Virginia fought the EPA storm water mandate arguing that the agency overstepped its authority under the Clean Water Act.' Federal judge Liam O'Grady agreed, ruling in January that "stormwater runoff is not a pollutant, so EPA is not authorized to regulate it. Maryland, therefore, could easily slough off the EPA's order if its elected officials were so inclined."[\[2\]](#)

But Maryland taxpayers didn't have to put up with it forever. In 2015, Larry Hogan became Governor, running on the promise to repeal the 'rain tax'. Since 2012, many states have jumped on to this theft by taxation tool. Some have beaten it off. "Virginia fought the EPA storm water mandate arguing that the agency overstepped its authority under the Clean Water Act." Federal judge Liam O'Grady agreed, in January, ruling that "stormwater runoff is not a pollutant, so EPA is not authorized to regulate it."[\[3\]](#)

In New Castle, Pennsylvania, an attorney, Susan M. Papa, is "suing the city of New Castle over a stormwater runoff fee (tax), ordinance she claims violates state law. "Papa claims that the mayor and city council engaged in a political process in direct contravention of the principle of due process, notice and public comment, and that the city violated the provisions of the Pennsylvania Municipalities Planning Code by not properly advertising, providing notice of the introduction of the ordinance, by not holding and conducting public meetings and, by omission and private negotiations with unknown entities, and that the city committed various procedural irregularities in the ordinance adoption, the paperwork states." We'll see how that works out.

In Horry County, S.C., "a commercial property owner with a 96,000-square-foot lot pays about \$225 per year. A typical car dealership has a bill of just under \$730 per year and an outlet mall's fees are over \$5,200. Ocean Lakes Campground pays the highest stormwater fee (tax), in the county, about \$25,000 per year."[\[4\]](#) And they are looking at a proposed

increase of 32 percent, which would apply to all stormwater rates.

Probably every state has counties with rainwater runoff fees (tax). In San Francisco the plan is to 'gently' add this tax by starting with people who have vacant lots. Hmmm. Unless they are using the gradation charges, a vacant lot doesn't have much impermeable land to have rainwater runoff. "When it rains, it pours – and that has San Francisco water officials looking into charging property owners a new 'storm-water fee' to help with the upkeep of the city's aging sewer system.

"The first target will be the owners of vacant lots.

"'It's a tax on rain,' fumed **Jason Sanders**, who was just notified that effective July 1, he will be assessed \$31.46 a month for runoff on his vacant lot on Ashbury Street."[\[5\]](#)

I would bet that every year, in every state, county, and city (and let's not leave out the feds), lawmakers will pass legislation that increases an existing tax rate or levies a new fee (tax) on its constituents. As Tom DeWeese says, the American people, and their every action, are being ruled, regulated, restricted, licensed, registered, directed, checked, inspected, measured, numbered, counted, rated, stamped, censured, authorized, admonished, refused, prevented, drilled, indoctrinated, monopolized, extorted, robbed, hoaxed, fined, harassed, disarmed, dishonored, fleeced, exploited, assessed, and taxed to the point of suffocation and desperation.

Just know that your governments will be thinking up new taxes while you sleep.

You are here: [Home](#) / [Politics](#) / Sen. Jennings: "Rain Tax Has the Potential to Transform Maryland From a Business-Unfriendly State to a Business-Hostile State"

Sen. Jennings: "Rain Tax Has the Potential to Transform

Maryland From a Business-Unfriendly State to a Business-Hostile State"

FEBRUARY 12, 2015 BY [DAGGER NEWS SERVICE](#)

From State Sen. J.B. Jennings:

Governor Larry Hogan Introduces Legislation To Repeal "Rain Tax"

Governor Larry Hogan held a press conference on Tuesday announcing his legislation to repeal the "rain tax". This repeal will instead give local governments control of how they will pay for the stormwater management mandate.

Maryland's legislature passed the rain tax in 2012 in order to fund a federally mandated stormwater management program. The program aims to curb the environmental impact of stormwater runoff, which carries contaminants such as motor oil and pesticides into the Bay and its tributaries. The goal is to reduce pollution enough by 2025 so that the Chesapeake Bay can be taken off the nation's list of impaired waterways. Maryland's share of the bill to fund these remediation projects will cost the state upwards of \$14.8 billion.

Maryland is the only state in the Chesapeake Bay watershed that decided to tax impervious surfaces to raise the necessary revenue for the federal stormwater management projects. This rain tax has damaged the economy because it forces businesses to pay yet another tax—one that, in some cases, is larger even than their property taxes.

Maryland has taken a page from the federal government's playbook and forced this unfunded mandate on the state's ten most populous jurisdictions, including Baltimore and Harford Counties. To pay for the projects, the designated jurisdictions must impose a tax based on the square footage of residential and commercial land covered by impervious surfaces, which cannot absorb water. Impervious surfaces

include parking lots, roofs, driveways, and pavements. Arguments were made to give the local governments the option to choose how they would pay for this fee; however, in the end the legislature voted to make the rain tax mandatory.

Government property is exempt from the tax, but religious and nonprofit organizations are subject to it. A bill to exempt nonprofits – including environmental organizations – was proposed but failed.

MarylandReporter.com writes that Senate Republican Leader E.J. Pipkin noted the “irony of ironies”: Environmental groups tried to obtain an exemption from the tax that they themselves were pushing as a means of improving the environment. “He said that the groups’ stance was particularly galling, since much of the money raised through stormwater fees would benefit them by subsidizing [conservation projects.](#)”

All of this is allegedly to comply with a 2010 U.S. Environmental Protection Agency (EPA) decree that the Old Line State reduce storm water runoff so as to shrink nitrogen and phosphorus levels in the Chesapeake Bay at a cost of \$14.8 billion. However, as Watchdog Wire points out, “Virginia fought the EPA storm water mandate arguing that the agency overstepped its authority under the Clean Water Act.” Federal judge Liam O’Grady agreed, [ruling](#) in January that “stormwater runoff is not a pollutant, so EPA is not authorized to regulate it.” Maryland, therefore, could easily slough off the EPA’s order if its elected officials [were so inclined.](#)

Given the financial pressures the water department finds itself in, critics suspect that a fixed drainage rate was simply devised to fill a revenue gap.

It “really had nothing to do to correlate with drainage,” said Peter Hammer, director of the Damon J. Keith Center for Civil Rights at Wayne State University, “but was really just a crass calculation to say, how are we going to maintain our head

above water?”

And this is where the ongoing legal challenge comes into play.

Opponents of the rate, like Russ Bellant, a former water plant operator, argue that the calculation is not only crass, it's an unconstitutional tax.

“The drainage fee meets all three definitions of a tax, and if it met just one of them, it would be a tax,” Bellant said. “But [it's a tax, a tax, and a tax.](#)”

The Albemarle County Farm Bureau has come out against the fee, dubbing it a “rain tax” that would use aerial photographs to calculate the area of roofs of houses, barns and sheds, driveways (including gravel ones, as well as packed dirt farm roads), and parking lots on a parcel and impose a fee—not a tax, because that could not be imposed on tax-exempt properties such as churches, schools, or public properties such as fire or rescue squad stations.

© 2019 Kathleen Marquardt – All Rights Reserved

E-Mail Kathleen Marquardt: koikpm@yahoo.com

Footnotes:

[\[1\] Sen Jennings: Rain tax has the potential to transform Maryland from a business unfriendly state to a business hostile state](#)

[\[2\] Rain tax to soak Maryland taxpayers](#)

[\[3\] Watchdog Wire Alexandria](#)

[\[4\] Many Horry County home owners could see percent hike in higher taxes](#)

[\[5\] SF to charge vacant lot owners for rainwater](#)