

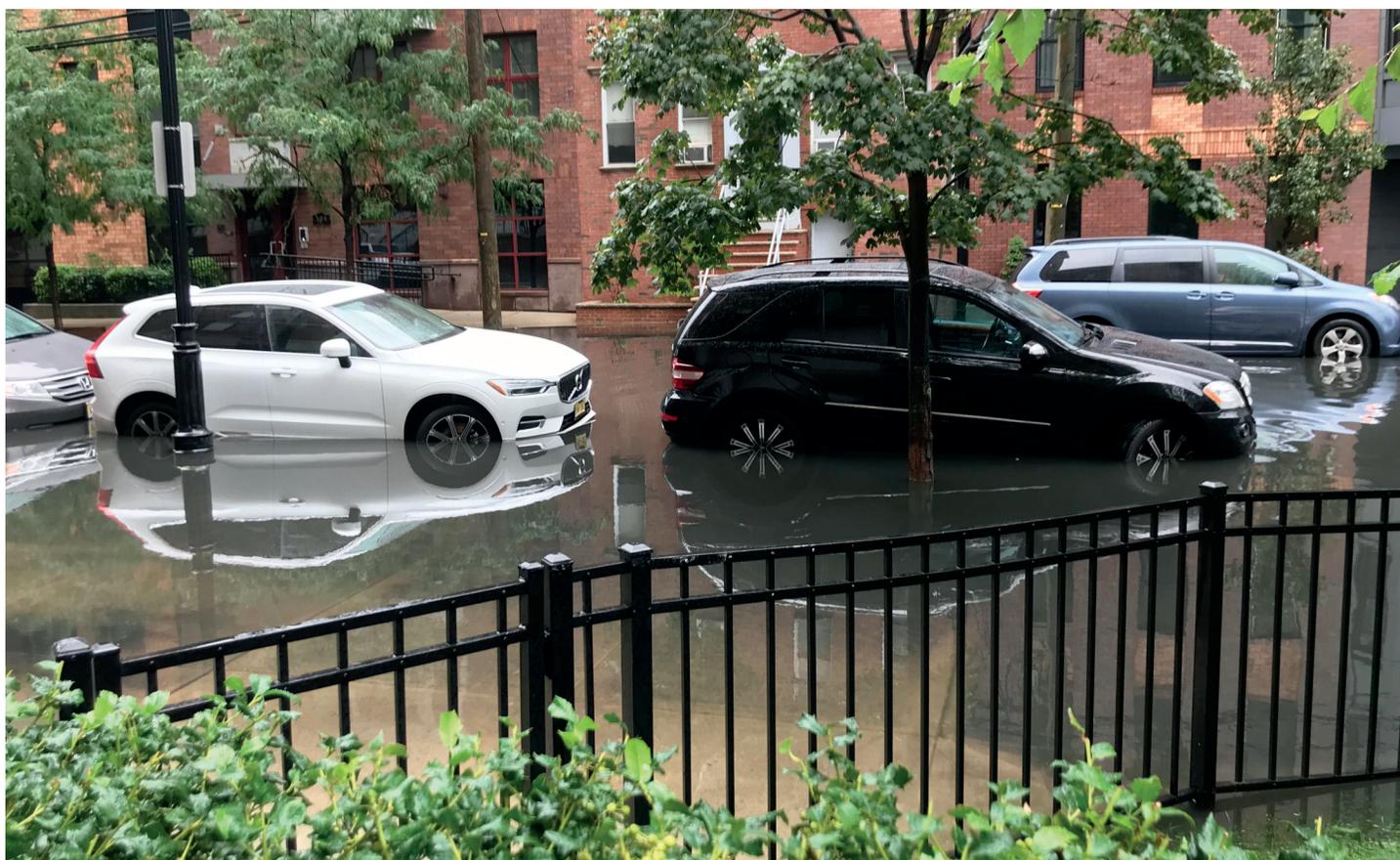


Focus: Smart Infrastructure

Stormwater Utilities in New Jersey

Coming to a town near you?

By Daniel J. Van Abs, Ph.D., AICP, PP, Associate Professor,
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New Jersey municipalities have been building and operating stormwater systems for many decades, using property taxes and developer contributions. Some have very active programs, while others are reactive. Some have complex systems, while others don't.

After a decade or so of legislative consideration, New Jersey now has become one of more than 40 states that authorize fee-based stormwater utilities. What does that mean for our state? How will this new law change local operations?

The most important point is that no municipality is required to do anything. Most municipalities will decide that business as usual is just fine for them. However, some municipalities will find this law to be of tremendous value.

Clarifying the new law

Let's clear up a misconception about fee-based stormwater utilities. Under the new law, a municipality or county may establish a fee-based system to fund the operations, repairs, and upgrades to the public stormwater systems under their management. In short, the law provides for a different way of funding existing government responsibilities. That's it.

However, for some municipalities, fee-based utilities would be



public sewer, the owner should support sewer costs. If a property is connected, directly or indirectly, to a public stormwater system, the owner should support stormwater costs.

Each municipality decides whether those costs should be handled through property taxes or fees. More than 60 New Jersey municipalities cover residential sewer costs through property taxes, and the rest use sewer fees.

Currently, no municipality in New Jersey can use stormwater utility fees; they must rely on property taxes.

Note that the vast majority of municipalities and counties don't have fee-based stormwater utilities, even in states that have many. Why? In most cases, the local governments decided that their needs just didn't require a new system of funding. In a very few cases, attempts to establish stormwater utilities founded on poor planning, poor communication, or poor execution.

much more equitable, as fees must be based on the relative amount of stormwater runoff generated, not the property value. Think of a parking lot, a single-story building and a five-story building, each occupying one acre. Their property

taxes will be wildly different, but they will generate roughly similar stormwater runoff, so each would pay similar stormwater fees.

Stormwater fees are similar to sewer fees. If a property is connected to a

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Major purposes of fee-based stormwater utilities

Black & Veatch, one of several national consulting companies active in this field, compiles a biennial survey of stormwater utility managers. Respondents to the 2018 survey ranked the importance of various issues for their stormwater utility. The top two were availability of capital and public awareness. Increasing stringency of stormwater regulations, water pollution, green stormwater infrastructure needs, and aging combined sewer and separate stormwater infrastructure also ranked high. (See sidebar.)

The high ranking for availability of capital is important. Fee-based stormwater utilities are often formed when a municipality realizes it faces major costs for improving or rehabilitating stormwater systems, often in response to local issues or state/federal regulations. After all, our stormwater systems are aging. Many were constructed well before modern standards and their uncontrolled discharge pipes cause tremendous damage to the environment and property.

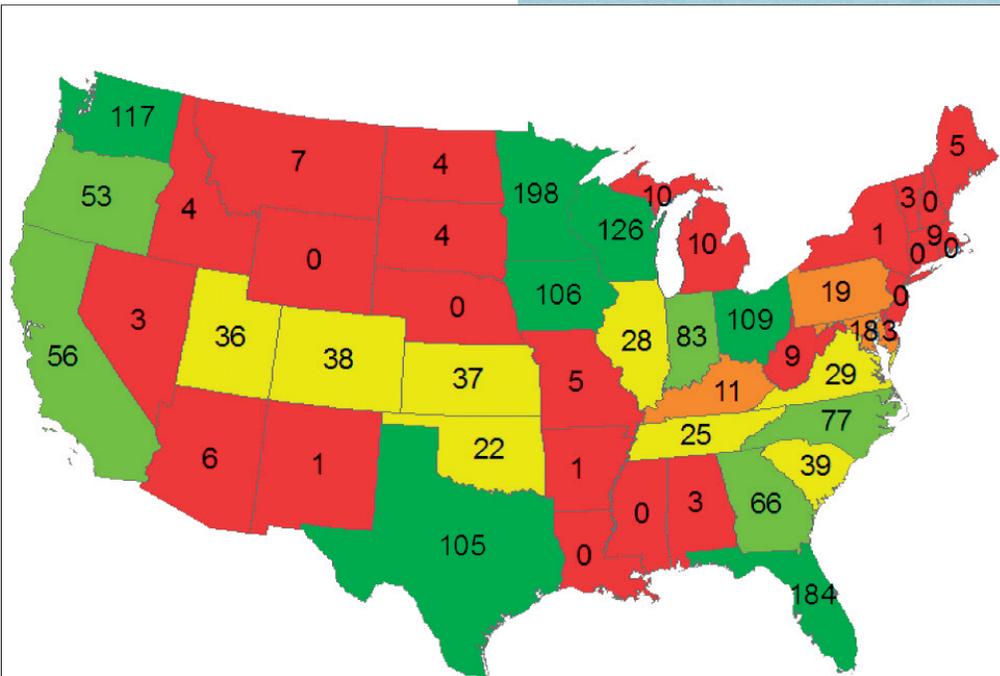
Municipalities face a choice between

Around the Nation

With the new law, municipalities have a choice—they can do nothing, or they can join nearly 1,700 local governments that have formed fee-based stormwater utilities or utility authorities. As documented by Western Kentucky University, these stormwater utilities are in small towns and large cities, rural states and urban states, and areas from cold to hot and wet to dry. Note that relatively conservative states such as Iowa (with 106) and Texas (with 105), along with much of the Southeast (especially Florida, with 184), are major users of fee-based stormwater utilities (see map). Why? Because they work, because they apportion the costs fairly among properties, and because the money is dedicated to a purpose.

As a side note, calling these fees a “rain tax” is incorrect and disingenuous, as these are fees for service and apply only to stormwater runoff that requires management. After all, most rainfall in New Jersey naturally goes back up into the atmosphere (evaporation and plant transpiration) or into the ground (infiltration and recharge) and doesn’t need active management. No cost, no charge.

Source: Western Kentucky University
Stormwater Utility Survey 2018



Stormwater Utilities 2018 by State

increased property taxes and establishment of a fee-based stormwater utility. Where the costs are high enough and the use of property taxes would be especially inequitable (i.e., in urban areas with many parking lots and tax-exempt properties), fee-based systems will be more compelling.

Influential factors

In New Jersey, we can expect the highest interest in areas that need to address one or more of the following issues:

- **Combined Sewer Overflow (CSO) Control Plans.** New Jersey has 21 municipalities with combined sewers that handle sewage all the time and stormwater during rainfall. These systems are often overwhelmed during rainstorms, forcing a combination of raw sewage and stormwater into nearby waterways.

Towns with CSOs are developing plans to control them, for protection of both public health and the environment. The total implementation costs will be in the billions of dollars. Because CSOs are caused primarily by stormwater runoff overwhelming combined sewers, the use of fee-based stormwater utilities to reduce the amount of stormwater inflow makes sense.

- **Severe Local Flooding.** Many urban areas were developed when no laws protected streams or required stormwater management. As a result, streams got buried or walled in, and stormwater runoff rushes into them with each rainfall event, overwhelming their limited capacity and flooding out into nearby streets, harming people and property.

The capital costs of correcting these problems can be high. Stormwater fees represent an equitable approach to raising those funds. (However, we shouldn't expect local stormwater utilities to resolve regional river flooding such as happens

along the Passaic, Raritan, Delaware, and other larger rivers.)

- **Stormwater Pollution of Recreational Lakes and Beaches.** Many municipalities have local lakes damaged by stormwater pollution—everything from motor oil to fertilizer to pet waste. Coastal municipalities have back-bay beaches and in some cases ocean beaches that are likewise polluted by stormwater. Fee-based utilities can provide some of the capital funds needed to correct these problems.

- **Severe Stream Erosion.** Stormwater runoff is a major cause of severe stream erosion. Addressing these problems, which can place buildings and roads in peril, will require capital funds that fee-based utilities can provide.

Who runs fee-based stormwater utilities?

According to Black & Veatch's 2018 report, existing stormwater utilities are operated in many ways. About a fifth each are operated through local departments of public works, shared between

water or wastewater utilities and municipal departments, or shared between municipal stormwater departments and other departments of the municipal government. Just less than a third are operated solely by stand-alone stormwater departments.

In other words, most are within municipal governments, and some are in utility authorities that also manage drinking water, sewage, or both. The creation of a new governmental agency to operated stormwater utilities is rare (and should be).

What to do?

First, if your municipality doesn't have a big stormwater problem and your existing programs work, you don't need to do anything. If it isn't broken, don't fix it.

Second, don't start with the assumption that you need a fee-based program. Start instead with problem identification, goals and objectives, management approaches, and an understanding of the capital costs necessary to achieve the

Stormwater Utilities

desired results. If all of that can be handled equitably without the creation of a fee-based stormwater utility, great! But if the capital needs and equity concerns are great enough, a fee-based utility may be the best answer.

In summary, many municipalities will not find a strong need for stormwater utilities, but others will find great value in the approach. New Jersey's first stormwater utilities will be looked to as helpful models for others to emulate. Let's work together to make sure they get it right. 🌿

Daniel J. Van Abs is associate professor of practice for water, society, and environment at the Rutgers School of Environmental and Biological Sciences. He has spent more than 30 years as a professional, manager, and advocate in the fields of water resources and watershed and regional environmental management. With Karen O'Neill, he is co-editor and co-author of "*Taking Chances: The Coast After Hurricane Sandy*" from Rutgers University Press. The views expressed in this essay are solely those of the author.



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