

Legal Considerations for Stormwater Authorities

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Legal Challenges to Stormwater Authorities

- Challenges to Legal Authority to enact
- Challenges to fee
- Challenges to use of funds collected

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Legal Challenges to Stormwater Authorities

Challenges to Authority

- In CT, Legislature has granted **municipalities** authority to establish stormwater authorities
 - Can create a new stormwater authority
 - Can designate any existing board or commission to be the stormwater authority
 - May enter into contracts (w/DEEP approval) with any municipal or regional entity to accomplish purposes

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Legal Challenges to Stormwater Authorities

Challenges to the stormwater user fee

- Fee vs. “tax”
- Fee not derived from cost of service
- No appeals process
- No way to reduce fee if upgrade stormwater management

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Legal Challenges to Stormwater Authorities

Challenges to the use of stormwater fee

- “Revenues ... shall be used in carrying out any of the powers of such district.”
- Fee benefits those who pay
- Fees are fair approximation of cost to government to manage stormwater/benefit to user

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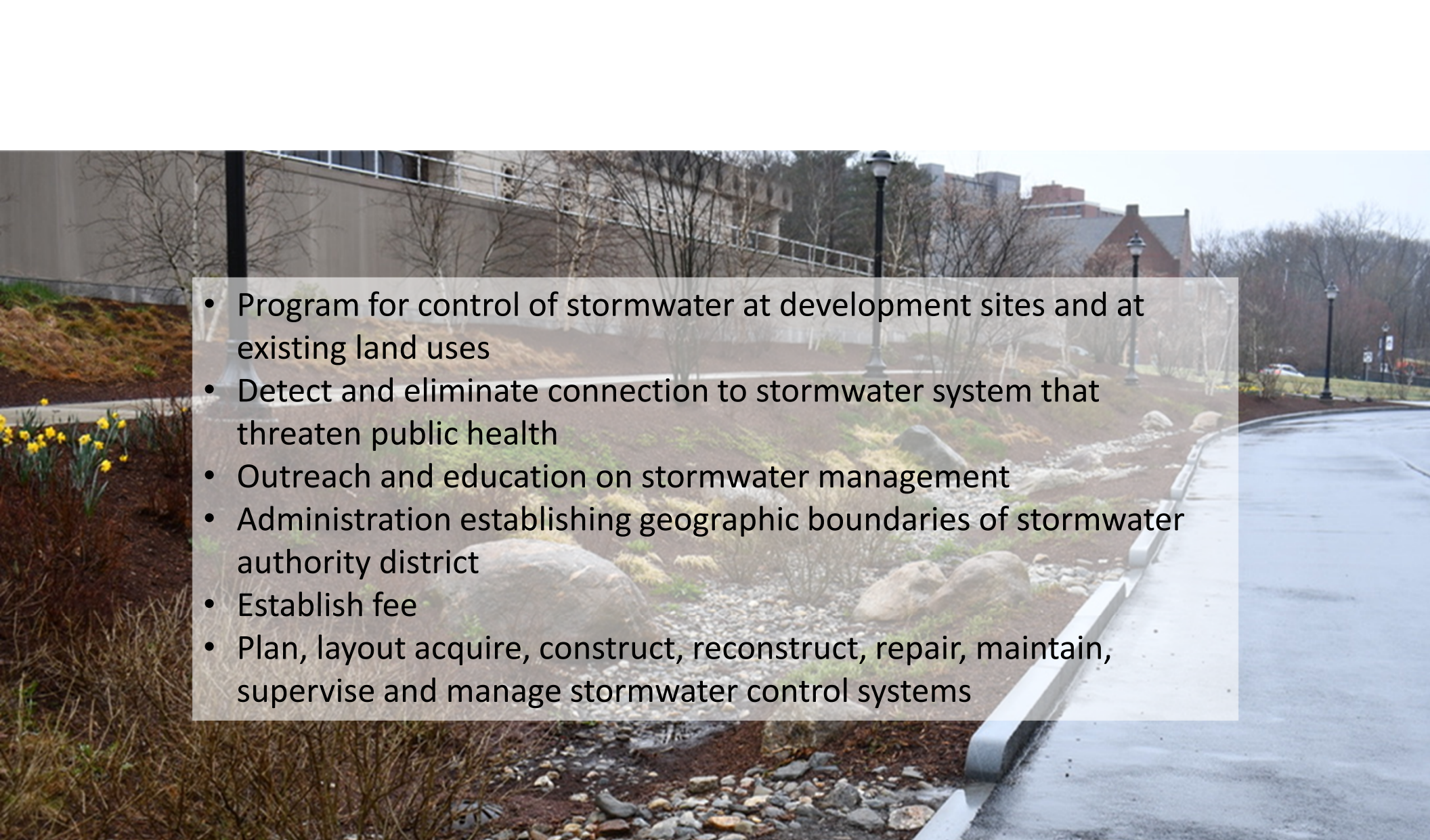




What can the fee
money be spent on?

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- Program for control of stormwater at development sites and at existing land uses
 - Detect and eliminate connection to stormwater system that threaten public health
 - Outreach and education on stormwater management
 - Administration establishing geographic boundaries of stormwater authority district
 - Establish fee
 - Plan, layout acquire, construct, reconstruct, repair, maintain, supervise and manage stormwater control systems

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How to avoid a court challenge

- Demonstrate need and educate public and property owners
 - Transparency
- Enable stormwater authority following CT statutory language
- Make sure fee structure is fair and equitable
 - Fee structure should be tied to usage and benefit
- Enable appeals process
- Develop incentive to improve private stormwater management

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CIRCA Legal Team: developing educational materials explaining how new legislation expands municipal authority to include climate resilience and resolving conflicts in state and federal standards.

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