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Paying for Rain: Are Stormwater Charges a Tax or Fee? PA Supreme Court to Decide in 2026.

For the last three years, the Pennsylvania Supreme Court has been grappling with whether stormwater charges imposed by local municipalities and municipal authorities throughout the Commonwealth are a tax or a fee, evaluating the still-pending case *Borough of West Chester v. Pa. State System of Higher Education and West Chester University of Pa. of the State System of Higher Education,* Dkt. No. 9 MAP 2023. In MGKF's 2024 Environmental Forecast, we previously reported on this important case, soon after it was taken up on appeal from the Commonwealth Court to the Pennsylvania Supreme Court. Briefing from all parties – including several amicus curiae – is now complete, and oral argument was held before the Pennsylvania Supreme Court on September 11, 2024. A final ruling from the Pennsylvania Supreme Court is anticipated to be issued in 2026.

The foundational question the Pennsylvania Supreme Court must decide is whether stormwater charges, which some have dubbed a "rain tax," are a fee for service provided by a municipality or municipal authority, or instead, are an unauthorized separately levied tax.

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