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SENATE BILL NO. 1349

Senate Amendments in [] — January 29, 2003

A BILL to amend and reenact § 62.1-44.15:6 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to environmental permit fees.

Patrons Prior to Engrossment—Senators Rerras, Hawkins and Ruff

Unanimous consent to introduce

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:6 of the Code of Virginia, as it is currently effective and as it shall become effective, is amended and reenacted as follows:

§ 62.1-44.15:6. (Effective until July 1, 2004) Permit fee regulations.

A. The Board shall promulgate regulations establishing a fee assessment and collection system to recover a portion of the State Water Control Board's, the Department of Game and Inland Fisheries' and the Department of Conservation and Recreation's direct and indirect costs associated with the processing of an application to issue, reissue, amend or modify any permit or certificate, which the Board has authority to issue under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of this title, from the applicant for such permit or certificate for the purpose of more efficiently and expeditiously processing permits. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts. The Board shall have no authority to charge such fees where the authority to issue such permits has been delegated to another agency that imposes permit fees.

B. Permit fees charged an applicant shall reflect the average time and complexity of processing a permit in each of the various categories of permits and permit actions. However, notwithstanding any other provision of law, in no instance shall the Board charge a fee for a permit pertaining to a farming operation engaged in production for market, *which shall include washing and packing of produce by the grower for shipment to market*, or for a permit pertaining to maintenance dredging for federal navigation channels or other Corps of Engineers sponsored dredging projects, and in no instance shall the Board exceed the following amounts for the processing of each type of permit/certificate category:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major	\$24,000
Minor	\$10,500
General	\$ 1,200
2. Virginia Pollution Abatement	
Industrial/Wastewater	\$15,000
Industrial/Sludge	\$ 7,500
Municipal/Wastewater	\$15,000
Municipal/Sludge	\$ 7,500
Other	\$ 750
3. 401 Certification/Virginia Water Protection	
Individual	\$ 9,000
General	\$ 1,200
4. Ground Water Withdrawal	\$ 6,000
5. Surface Water Withdrawal	\$12,000

When modifications in these permits or certificates have been initiated by the Board, the fee for the modified permit or certificate shall not exceed ~~seventy-five~~75 percent of the maximum amount established by this subsection. Payments for the costs of processing applications by the Department of Game and Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of ~~twenty-five~~25 percent of the fees prescribed by regulation or \$100 per permit or certificate and shall further be limited to those permits or certificates these agencies are required to review by the Code of Virginia.

C. When promulgating regulations establishing permit fees, the Board shall take into account the permit fees charged in neighboring states and the importance of not placing existing or prospective

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57 industries in the Commonwealth at a competitive disadvantage.

58 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board
 59 shall make a report on the implementation of the water permit program to the Senate Committee on
 60 Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House
 61 Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources
 62 and the House Committee on Finance. The report shall include the following: (i) the total costs, both
 63 direct and indirect, including the costs of overhead, water quality planning, water quality assessment,
 64 operations coordination, and surface water and ground water investigations, (ii) the total fees collected
 65 by permit category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal
 66 funds received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number
 67 of permit applications received by category, (vii) the number of permits issued by category, (viii) the
 68 progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and
 69 indirect costs to neighboring states of administering their water permit programs, including what
 70 activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders
 71 and applicants.

72 E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund
 73 appropriation to the Board.

74 F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any additional
 75 permits that may be required by the federal government and administered by the Board, or any new
 76 permit required pursuant to any law of the Commonwealth.

77 G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees
 78 for facilities that have established a record of compliance with the terms and requirements of their
 79 permits.

80 § 62.1-44.15:6. (Effective July 1, 2004) Permit fee regulations.

81 A. The Board shall promulgate regulations establishing a fee assessment and collection system to
 82 recover a portion of the State Water Control Board's, the Department of Game and Inland Fisheries' and
 83 the Department of Conservation and Recreation's direct and indirect costs associated with the processing
 84 of an application to issue, reissue, amend or modify any permit or certificate, which the Board has
 85 authority to issue under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of
 86 this title, from the applicant for such permit or certificate for the purpose of more efficiently and
 87 expeditiously processing permits. The fees shall be exempt from statewide indirect costs charged and
 88 collected by the Department of Accounts. The Board shall have no authority to charge such fees where
 89 the authority to issue such permits has been delegated to another agency which imposes permit fees.

90 B. Permit fees charged an applicant shall reflect the average time and complexity of processing a
 91 permit in each of the various categories of permits and permit actions. However, notwithstanding any
 92 other provision of law, in no instance shall the Board charge a fee for a permit pertaining to a farming
 93 operation engaged in production for market, [*which shall include washing and packing of produce by*
 94 *the grower for shipment to market,*] or for a permit pertaining to maintenance dredging for federal
 95 navigation channels or other Corps of Engineers sponsored dredging projects, and in no instance shall
 96 the Board exceed the following amounts for the processing of each type of permit/certificate category:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major	\$ 8,000
Minor	\$ 3,500
General	\$ 400
2. Virginia Pollution Abatement	
Industrial/Wastewater	\$ 5,000
Industrial/Sludge	\$ 2,500
Municipal/Wastewater	\$ 5,000
Municipal/Sludge	\$ 2,500
Other	\$ 250
3. 401 Certification/Virginia Water Protection	
Individual	\$ 3,000
General	\$ 400
Waiver	\$ 400
4. Ground Water Withdrawal	\$ 2,000
5. Surface Water Withdrawal	\$ 4,000

115 When modifications in these permits or certificates have been initiated by the Board, the fee for the
 116 modified permit or certificate shall not exceed seventy-five percent of the maximum amount established

117 by this subsection. Payments for the costs of processing applications by the Department of Game and
118 Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of
119 twenty-five percent of the fees prescribed by regulation or \$100 per permit or certificate and shall
120 further be limited to those permits or certificates these agencies are required to review by the Code of
121 Virginia.

122 C. When promulgating regulations establishing permit fees, the Board shall take into account the
123 permit fees charged in neighboring states and the importance of not placing existing or prospective
124 industries in the Commonwealth at a competitive disadvantage.

125 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board
126 shall make a report on the implementation of the water permit program to the Senate Committee on
127 Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House
128 Committee on Appropriations, the House Committee on Conservation and Natural Resources and the
129 House Committee on Finance. The report shall include the following: (i) the total costs, both direct and
130 indirect, including the costs of overhead, water quality planning, water quality assessment, operations
131 coordination, and surface water and ground water investigations, (ii) the total fees collected by permit
132 category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal funds
133 received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number of
134 permit applications received by category, (vii) the number of permits issued by category, (viii) the
135 progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and
136 indirect costs to neighboring states of administering their water permit programs, including what
137 activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders
138 and applicants.

139 In addition, the 1998 report shall include an analysis and estimate of the annual costs to permit
140 holders and permit applicants if the direct and indirect costs of administering the water permit program
141 were to be apportioned in a manner that would require the permit holders and applicants to pay fifty,
142 seventy-five, and one hundred percent of the program's total cost through annual permit fees. The
143 Department shall propose how the following factors could be used to adjust individual permit fees: (i)
144 the average time and complexity of processing a permit in each of the various categories of permits and
145 permit actions, (ii) the permit holder's compliance history, (iii) whether the permit holder has
146 implemented pollution prevention plans, (iv) whether the applicant or permit holder has used innovative
147 technology and (v) the financial hardship of the applicant or permit holder.

148 E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund
149 appropriation to the Board.

150 F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any additional
151 permits which may be required by the federal government and administered by the Board, or any new
152 permit required pursuant to any law of the Commonwealth.

153 G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees
154 for facilities which have established a record of compliance with the terms and requirements of their
155 permits.