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SENATE BILL NO. 592

Offered January 17, 2002

A BILL to amend and reenact §§ 10.1-1402.1 and 62.1-44.15:6 of the Code of Virginia, relating to environmental permit fees.

Patron—Hanger

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1402.1 and 62.1-44.15:6 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1402.1. Permit fee regulations.

Regulations promulgated by the Board ~~which~~*that* establish a permit fee assessment and collection system pursuant to subdivision 16 of § 10.1-1402 shall be governed by the following:

1. 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.

2. 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 industries in the Commonwealth at a competitive disadvantage.

3. On January 1, 1993, and January 1 of every even-numbered year thereafter, the Board shall evaluate the implementation of the permit fee program and provide this evaluation in writing to the Senate Committees on Agriculture, Conservation and Natural Resources, and Finance; and the House Committees on Appropriations, Conservation and Natural Resources, and Finance. This evaluation shall include a report on the total fees collected, the amount of general funds allocated to the Department, the Department's use of the fees and the general funds, the number of permit applications received, the number of permits issued, the progress in eliminating permit backlogs, and the timeliness of permit processing.

4. ~~Fees collected pursuant to subdivision 16 of § 10.1-1402 shall not supplant or reduce in any way the general fund appropriation to the Board.~~

5. ~~These permit fees shall be collected in order~~ *The Board shall establish a permit fee schedule for solid and hazardous waste management facilities sufficient to recover a that portion of the agency's costs associated with the processing of an application to issue, reissue, amend or modify permits which the Board has authority to issue for the purpose of more efficiently and expeditiously processing permits implementation of these programs that are not covered by general fund appropriations or federal grants. Such permit fee schedule shall be effective by July 15, 2002. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.*

§ 62.1-44.15:6. 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 implementing these permit programs~~. 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 ~~which~~*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~~ *The Board shall establish a permit fee schedule for water permits issued under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of this title that is sufficient to recover that portion of the agency's costs associated with the implementation of these programs that are not covered by general fund appropriations or federal grants. Such permit fee schedule shall be effective by July 15, 2002. In no instance shall the Board charge a fee for a permit pertaining to a farming operation engaged in production for 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:*

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59	Type of Permit/Certificate Category	Maximum Amount
60	1. Virginia Pollutant Discharge Elimination System	
61	Major	\$ 8,000
62	Minor	\$ 3,500
63	General	\$ 400
64	2. Virginia Pollution Abatement	
65	Industrial/Wastewater	\$ 5,000
66	Industrial/Sludge	\$ 2,500
67	Municipal/Wastewater	\$ 5,000
68	Municipal/Sludge	\$ 2,500
69	Other	\$ 250
70	3. 401 Certification/Virginia Water Protection	
71	Individual	\$ 3,000
72	General	\$ 400
73	Waiver	\$ 400
74	4. Ground Water Withdrawal	\$ 2,000
75	5. Surface Water Withdrawal	\$ 4,000

~~76~~
~~77~~ When modifications in these permits or certificates have been initiated by the Board, the fee for the
~~78~~ modified permit or certificate shall not exceed seventy-five percent of the maximum amount established
~~79~~ by this subsection. Payments for the costs of processing applications by the Department of Game and
~~80~~ Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of
~~81~~ twenty-five percent of the fees prescribed by regulation or \$100 per permit or certificate and shall
~~82~~ further be limited to those permits or certificates these agencies are required to review by the Code of
~~83~~ Virginia.

~~84~~ C. When promulgating regulations establishing permit fees, the Board shall take into account the
~~85~~ permit fees charged in neighboring states and the importance of not placing existing or prospective
~~86~~ industries in the Commonwealth at a competitive disadvantage.

~~87~~ D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board
~~88~~ shall make a report on the implementation of the water permit program to the Senate Committee on
~~89~~ Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House
~~90~~ Committee on Appropriations, the House Committee on Conservation and Natural Resources and the
~~91~~ House Committee on Finance. The report shall include the following: (i) the total costs, both direct and
~~92~~ indirect, including the costs of overhead, water quality planning, water quality assessment, operations
~~93~~ coordination, and surface water and ground water investigations, (ii) the total fees collected by permit
~~94~~ category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal funds
~~95~~ received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number of
~~96~~ permit applications received by category, (vii) the number of permits issued by category, (viii) the
~~97~~ progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and
~~98~~ indirect costs to neighboring states of administering their water permit programs, including what
~~99~~ activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders
~~100~~ and applicants.

~~101~~ In addition, the 1998 report shall include an analysis and estimate of the annual costs to permit
~~102~~ holders and permit applicants if the direct and indirect costs of administering the water permit program
~~103~~ were to be apportioned in a manner that would require the permit holders and applicants to pay fifty,
~~104~~ seventy-five, and one hundred percent of the program's total cost through annual permit fees. The
~~105~~ Department shall propose how the following factors could be used to adjust individual permit fees: (i)
~~106~~ the average time and complexity of processing a permit in each of the various categories of permits and
~~107~~ permit actions, (ii) the permit holder's compliance history, (iii) whether the permit holder has
~~108~~ implemented pollution prevention plans, (iv) whether the applicant or permit holder has used innovative
~~109~~ technology and (v) the financial hardship of the applicant or permit holder.

~~110~~ E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund
~~111~~ appropriation to the Board.

~~112~~ F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any additional
~~113~~ permits ~~which~~that may be required by the federal government and administered by the Board, or any
~~114~~ new permit required pursuant to any law of the Commonwealth.

~~115~~ G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees
~~116~~ for facilities ~~which~~that have established a record of compliance with the terms and requirements of their
~~117~~ permits.