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SENATE BILL NO. 365

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources on February 9, 2004)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact §§ 10.1-1322, 10.1-1402, 10.1-1402.1, as it shall become effective July 1, 2004, and 62.1-44.15:6, as it is currently effective until July 1, 2004, of the Code of Virginia, and to amend and reenact the third enactment of Chapter 822 of the Acts of Assembly as it applies to § 62.1-44.15:6 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 10.1-1402.1:1, relating to environmental permit fees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1322, 10.1-1402, 10.1-1402.1, as it shall become effective July 1, 2004, and 62.1-44.15:6, as it is currently effective until July 1, 2004, of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding a section 10.1-1402.1:1 as follows:

§ 10.1-1322. Permits.

A. Pursuant to regulations adopted by the Board, permits may be issued, amended, revoked or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders. Failure to comply with any condition of a permit shall be considered a violation of this chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter.

B. The Board by regulation may prescribe and provide for the payment and collection of annual permit program fees for air pollution sources. Annual permit program fees shall not be collected until (i) the federal Environmental Protection Agency approves the Board's operating permit program established pursuant to Title V of the federal Clean Air Act or (ii) the Governor determines that such fees are needed earlier to maintain primacy over the program. The annual fees shall be based on the actual emissions (as calculated or estimated) of each regulated pollutant, as defined in § 502 of the federal Clean Air Act, in tons per year, not to exceed 4,000 tons per year of each pollutant for each source. The annual permit program fees shall not exceed a base year amount of twenty-five dollars per ton using 1990 as the base year, and shall be adjusted annually by the Consumer Price Index as described in § 502 of the federal Clean Air Act. Permit program fees for air pollution sources who receive state operating permits in lieu of Title V operating permits shall be paid in the first year and thereafter shall be paid biennially. The fees shall approximate the direct and indirect costs of administering and enforcing the permit program, and of administering the small business stationary source technical and environmental compliance assistance program as required by the federal Clean Air Act. The Board shall also collect a permit application fee amounts not to exceed \$30,000 from applicants for a permit for a new major stationary source. The permit application fee amount paid shall be credited towards the amount of annual fees owed pursuant to this section during the first two years of the source's operation. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

C. When adopting regulations for permit program fees for air pollution sources, the Board shall take into account the permit fees charged in neighboring states and the importance of not placing existing or prospective industry in the Commonwealth at a competitive disadvantage.

D. On January 1, 1993, and December 1 of every even-numbered year thereafter, the Department shall make an evaluation of the implementation of the permit fee program and provide this evaluation in writing to the Senate Committee on Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House Committee on Appropriations, the House Committee on Conservation and Natural Resources and the House Committee on 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.

E. To the extent allowed by federal law and regulations, priority for utilization of permit fees shall be given to cover the costs of processing permit applications in order to more efficiently issue permits.

F. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund appropriation to the Department.

G. The permit fees shall apply to permit programs in existence on July 1, 1992, any additional permit programs which that may be required by the federal government and administered by the Board, or any new permit program required by the Code of Virginia.

H. The permit program fee regulations promulgated pursuant to this section shall not become effective until July 1, 1993.

SENATE SUBSTITUTE

SB365S1

60 I. [Expired.]

61 § 10.1-1402. Powers and duties of the Board.

62 The Board shall carry out the purposes and provisions of this chapter and compatible provisions of  
63 federal acts and is authorized to:

64 1. Supervise and control waste management activities in the Commonwealth.

65 2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other  
66 state and federal agencies for the purpose of implementing this chapter and the federal acts.

67 3. Provide technical assistance and advice concerning all aspects of waste management.

68 4. Develop and keep current state waste management plans and provide technical assistance, advice  
69 and other aid for the development and implementation of local and regional waste management plans.

70 5. Promote the development of resource conservation and resource recovery systems and provide  
71 technical assistance and advice on resource conservation, resource recovery and resource recovery  
72 systems.

73 6. Collect data necessary to conduct the state waste programs, including data on the identification of  
74 and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.

75 7. Require any person who generates, collects, transports, stores or provides treatment or disposal of  
76 a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal  
77 statute or regulation.

78 8. Designate, in accordance with criteria and listings identified under federal statute or regulation,  
79 classes, types or lists of waste that it deems to be hazardous.

80 9. Consult and coordinate with the heads of appropriate state and federal agencies, independent  
81 regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum  
82 effectiveness and enforcement of this chapter while imposing the least burden of duplicative  
83 requirements on those persons subject to the provisions of this chapter.

84 10. Apply for federal funds and transmit such funds to appropriate persons.

85 11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions  
86 necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except  
87 that a description of provisions of any proposed regulation which are more restrictive than applicable  
88 federal requirements, together with the reason why the more restrictive provisions are needed, shall be  
89 provided to the standing committee of each house of the General Assembly to which matters relating to  
90 the content of the regulation are most properly referable.

91 12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent  
92 domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the  
93 fee simple title to any lands, selected in the discretion of the Board as constituting necessary and  
94 appropriate sites to be used for the management of hazardous waste as defined in this chapter, including  
95 lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all  
96 instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a  
97 site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned  
98 property for a disposal site in accordance with the criteria for selection of a hazardous waste  
99 management site.

100 13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste  
101 management facilities.

102 14. Collect, from any person operating or using a hazardous waste management facility, fees  
103 sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary.  
104 All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the  
105 responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste  
106 management facilities.

107 15a. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage  
108 or disposal facility or any person transporting hazardous waste, permit ~~application~~ fees sufficient to  
109 defray only costs related to the issuance of permits as required in this chapter in accordance with Board  
110 regulations, but such fees shall not exceed costs necessary to implement this subdivision. All fees  
111 received by the Board pursuant to this subdivision shall be used exclusively for the hazardous waste  
112 management program set forth herein.

113 *15b. Collect fees from large quantity generators of hazardous wastes*

114 16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for  
115 the disposal, treatment or storage of nonhazardous solid waste, : (i) permit application fees sufficient to  
116 defray only costs related to the issuance, *reissuance, amendment or modification* of permits as required  
117 in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to  
118 issue, *reissue, amend or modify* such permits and (ii) *annual fees established pursuant to*  
119 *§ 10.1-1402.1:1*. All such fees received by the Board shall be used exclusively for the solid waste  
120 management program set forth herein. The Board shall establish a schedule of fees by regulation as  
121 provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.

122 17. Issue, deny, amend and revoke certification of site suitability for hazardous waste facilities in  
123 accordance with this chapter.

124 18. Make separate orders and regulations it deems necessary to meet any emergency to protect public  
125 health, natural resources and the environment from the release or imminent threat of release of waste.

126 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites where solid  
127 or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly  
128 managed and to institute legal proceedings to recover the costs of the containment or clean-up activities  
129 from the responsible parties.

130 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste  
131 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the  
132 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been  
133 improperly managed, including sites eligible for a joint federal and state remedial project under the  
134 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law  
135 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law  
136 99-499, and for investigations to identify parties responsible for such mismanagement.

137 21. Abate hazards and nuisances dangerous to public health, safety or the environment, both  
138 emergency and otherwise, created by the improper disposal, treatment, storage, transportation or  
139 management of substances within the jurisdiction of the Board.

140 22. Notwithstanding any other provision of law to the contrary, regulate the management of mixed  
141 radioactive waste.

142 § 10.1-1402.1. (Effective July 1, 2004) Permit fee regulations.

143 Regulations promulgated by the Board which establish a permit fee assessment and collection system  
144 pursuant to ~~subdivision~~ subdivisions 15 and 16 of § 10.1-1402 shall be governed by the following:

145 1. Permit fees charged an applicant shall reflect the average time and complexity of processing a  
146 permit in each of the various categories of permits and permit actions. *No fees shall be charged for*  
147 *minor modifications or minor amendments to such permits. For purposes of this subdivision, "minor*  
148 *permit modifications" or "minor amendments" means specific types of changes, defined by the Board,*  
149 *that are made to keep the permit current with routine changes to the facility or its operation and that*  
150 *do no require extensive review. A minor permit modification or amendment does not substantially alter*  
151 *permit conditions, increase the size of the operation, or reduce the capacity of the facility to protect*  
152 *human health or the environment.*

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

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

164 4. Fees collected pursuant to ~~subdivision~~ subdivisions 15 or 16 of § 10.1-1402 shall not supplant or  
165 reduce in any way the general fund appropriation to the Board.

166 5. These permit fees shall be collected in order to recover a portion of the agency's costs associated  
167 with (i) the processing of an application to issue, reissue, amend or modify permits, which the Board  
168 has authority to issue for the purpose of more efficiently and expeditiously processing *and maintaining*  
169 *permits and (ii) the inspections necessary to assure the compliance of large quantity generators of*  
170 *hazardous waste. The fees shall be exempt from statewide indirect costs charged and collected by the*  
171 Department of Accounts.

172 § 10.1-1402.1:1. Annual fees for nonhazardous solid waste management facilities.

173 A. In addition to the permit fees assessed and collected pursuant to § 10.1-1402.1, the Board shall  
174 collect an annual fee from any person operating a sanitary landfill or other facility permitted under this  
175 chapter for the disposal, storage, or treatment of nonhazardous solid waste. The fees shall be exempt  
176 from statewide indirect cost charged and assessed by the Department of Accounts. Annual fees shall  
177 reflect the time and complexity of inspecting and monitoring the different categories of facilities. Any  
178 annual fee that is based on volume shall be calculated using the tonnage reported by each facility  
179 pursuant to § 10.1-1413.2 for the preceding year. The annual fee shall be assessed as follows:

180 1. Noncaptive industrial landfills \$8,000

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182 2. Construction and demolition debris landfills \$4,000

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3. Sanitary landfills shall be assessed a fee based on their annual tonnage as follows:

Annual Tonnage	Base Fee	Fee per ton over base fee
Up to 10,000	\$ 1,000	
10,001 to 100,000	\$ 1,000	\$.09
100,001 to 250,000	\$10,000	\$.09
250,001 to 500,000	\$23,500	\$.075
500,001 to 1,000,000	\$42,250	\$.06
1,000,001 to 1,500,000	\$72,250	\$.05
Over 1,500,000	\$97,250	\$.04

4. Incinerators and energy recovery facilities shall be assessed a fee based upon their annual tonnage as follows:

Annual Tonnage	Fee
10,000 or less	\$2,000
10,001 to 50,000	\$3,000
50,001 to 100,000	\$4,000
100,001 or more	\$5,000

5. Other types of facilities shall be assessed an annual fee as follows:

Composting	\$500
Regulated medical waste	\$1,000
Materials recovery	\$2,000
Transfer station	\$2,000
Facilities in post-closure care	\$500

B. The Board shall by regulation prescribe the manner and schedule for remitting fees imposed by this section and may allow for the quarterly payment of any such fees. The payment of any annual fee amounts owed shall be deferred until January 1, 2005, if the person subject to those fees submits a written request to the Department prior to October 1, 2004. The selection of this deferred payment option shall not reduce the amount owed.

C. The regulation shall include provisions allowing the Director to waive or reduce fees assessed

240 during a state of emergency or for waste resulting from emergency response actions.

241 D. The Board may promulgate regulations establishing a schedule of reduced permit fees for  
 242 facilities that have established a record of compliance with the terms and requirements of their permits  
 243 and shall establish criteria, by regulation, to provide for reductions in the annual fee amount assessed  
 244 for facilities based upon acceptance into the Department's programs to recognize excellent  
 245 environmental performance.

246 E. The operator of a facility owned by a private entity and subject to any fee imposed pursuant to  
 247 this section shall collect such fee as a surcharge on any fee schedule established pursuant to law,  
 248 ordinance, resolution or contract for solid waste processing or disposal operations at the facility.

249 § 62.1-44.15:6. (Effective until July 1, 2004) Permit fee regulations.

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

259 B1. Permit fees charged an applicant for a Virginia Pollutant Discharge Elimination System permit  
 260 or a Virginia Pollution Abatement permit shall reflect the average time and complexity of processing a  
 261 permit in each of the various categories of permits and permit actions. However, notwithstanding any  
 262 other provision of law, in no instance shall the Board charge a fee for a permit pertaining to a farming  
 263 operation engaged in production for market or for a permit pertaining to maintenance dredging for  
 264 federal navigation channels or other Corps of Engineers sponsored dredging projects; and in or for the  
 265 regularly scheduled renewal of an individual permit for an existing facility. Fees shall be charged for a  
 266 major modification or reissuance of a permit initiated by the permittee that occurs between permit  
 267 issuance and the stated expiration date. No fees shall be charged for a modification or amendment  
 268 made at the Board's initiative. In no instance shall the Board exceed the following amounts for the  
 269 processing of each type of permit/certificate category:

270 Type of Permit/Certificate Category	Maximum Amount
272 1. Virginia Pollutant Discharge Elimination System	
274 Major Industrial	\$24,000
276 Major Municipal	\$21,300
278 Minor Industrial with nonstandard limits	\$10,300
280 Minor Industrial with standard limits	<del>\$10,500</del> \$6,600
282 Minor Municipal >100,000 gallons per day	\$7,500
284 Minor Municipal 10,001-100,000 gallons per day	\$6,000
286 Minor Municipal 1,000-10,000 gallons per day	\$5,400
288 Minor Municipal <1,000 gallons per day	\$2,000
290 General-industrial stormwater management	\$500
292 General-stormwater management-phase I land clearing	\$500
294 General-stormwater management-phase II land clearing	\$300
296 General-other	\$600

298 2. Virginia Pollution Abatement

299			
300	Industrial/Wastewater 10 or more inches per year	\$15,000	
301			
302	Industrial/Wastewater less than 10 inches per year	\$10,500	
303			
304	Industrial/Sludge	\$7,500	
305			
306	Municipal/Wastewater	<del>\$15,000</del>	\$13,500
307			
308	Municipal/Sludge	\$7,500	
309			
310	General Permit	\$600	
311			
312	Other	\$750	
313			
314	<del>3. 401 Certification/Virginia Water Protection</del>		
315			
316	<del>Individual</del>	<del>\$9,000</del>	
317			
318	<del>General</del>	<del>\$1,200</del>	
319			
320	<del>4. Ground Water Withdrawal</del>	<del>\$6,000</del>	
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322	<del>5. Surface Water Withdrawal</del>	<del>\$12,000</del>	
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324 When modifications in these permits or certificates have been initiated by the Board, the fee for  
 325 the ~~modified~~ major modification of a permit or certificate that occurs between the permit issuance and  
 326 expiration dates shall not exceed ~~seventy-five~~ be 50 percent of the maximum amount established by  
 327 this subsection. Payments for the costs of processing applications by the Department of Game and  
 328 Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of  
 329 twenty-five percent of the fees prescribed by regulation or \$100 per permit or certificate and shall  
 330 further be limited to those permits or certificates these agencies are required to review by the Code of  
 331 Virginia. No fees shall be charged for minor modifications or minor amendments to such permits. For  
 332 the purpose of this subdivision, "minor modifications or "minor amendments" means specific types of  
 333 changes defined by the Board that are made to keep the permit current with routine changes to the  
 334 facility or its operation that do not require extensive review. A minor permit modification or amendment  
 335 does not substantially alter permit conditions, increase the size of the operation, or reduce the capacity  
 336 of the facility to protect human health or the environment.

337 B2. Each permitted facility shall pay a permit maintenance fee to the Board by October 1 of each  
 338 year, not to exceed the following amounts:

339	Type of Permit/Certificate Category	Maximum Amount
340		
341	1. Virginia Pollutant Discharge Elimination System	
342		
343	Major Industrial	\$4,800
344		
345	Major Municipal > 10 million gallons per day	\$4,750
346		
347	Major Municipal 2-10 million gallons per day	\$4,350
348		
349	Major Municipal < 2 million gallons per day	\$3,850
350		
351	Minor Industrial with nonstandard limits	\$2,040
352		
353	Minor Industrial with standard limits	\$1,320
354		
355	Minor Industrial water treatment system	\$1,200
356		

357	Minor Municipal >100,000 gallons per day	\$1,500
358		
359	Minor Municipal 10,001-100,000 gallons per day	\$1,200
360		
361	Minor Municipal 1,000-10,000 gallons per day	\$1,080
362		
363	Minor Municipal <1,000 gallons per day	\$400
364		
365	2. Virginia Pollution Abatement Industrial/Wastewater 10 or more inches-	
366	per year \$3,000	
367		
368	Industrial/Wastewater less than 10 inches per year	\$2,100
369		
370	Industrial/Sludge	\$3,000
371		
372	Municipal/Wastewater	\$2,700
373		
374	Municipal/Sludge	\$1,500
375		

376 An additional permit maintenance fee of \$1,000 shall be collected from facilities in a toxics  
377 management program and an additional permit maintenance fee shall be collected from facilities that  
378 have more than five process wastewater discharge outfalls. Permit maintenance fees shall be collected  
379 annually and shall be remitted by October 1 of each year. For a local government or public service  
380 authority with permits for multiple facilities in a single jurisdiction, the permit maintenance fees for  
381 permits held as of April 1, 2004, shall not exceed \$20,000 per year. No permit maintenance fee shall be  
382 assessed for facilities operating under a general permit or for permits pertaining to a farming operation  
383 engaged in production for market.

384 B3. Permit application fees charged for Virginia Water Protection Permits, ground water withdrawal  
385 permits, and surface water withdrawal permits shall reflect the average time and complexity of  
386 processing a permit in each of the various categories of permits and permit actions and the size of the  
387 proposed impact. Only one permit fee shall be assessed for a water protection permit involving elements  
388 of more than one category of permit fees under this section. The fee shall be assessed based upon the  
389 primary purpose of the proposed activity. In no instance shall the Board charge a fee for a permit  
390 pertaining to maintenance dredging for federal navigation channels or other U.S. Army Corps of  
391 Engineers-sponsored dredging projects, and in no instance shall the Board exceed the following amounts  
392 for the processing of each type of permit/certificate category:

393	Type of Permit	Maximum Amount
394		
395	1. Virginia Water Protection	
396		
397	Individual-wetland impacts	\$2,4000 plus \$220 per 1/10 acre of impact
398		
399		over two acres, not to exceed \$60,000
400		
401	Individual-minimum instream flow	\$25,000
402		
403	Individual-reservoir	\$35,000
404		
405	Individual-nonmetallic mineral mining	\$7,500
406		
407	General-less than 1/10 acre impact	0
408		
409	General-1/10 to 1/2 acre impact	\$600
410		
411	General-greater than 1/2 to one acre impact	\$1,200
412		
413	General-greater than one acre to two acres of impact	\$120 per 1/10
414		

415		acre of impact
416		
417	2. Ground Water Withdrawal	\$6,000
418		
419	3. Surface Water Withdrawal	\$12,000
420		

421 *No fees shall be charged for minor modifications or minor amendments to such permits. For the*  
 422 *purpose of this subdivision, "minor modifications or "minor amendments" means specific types of*  
 423 *changes defined by the Board that are made to keep the permit current with routine changes to the*  
 424 *facility or its operation that do not require extensive review. A minor permit modification or amendment*  
 425 *does not substantially alter permit conditions, increase the size of the operation, or reduce the capacity*  
 426 *of the facility to protect human health or the environment.*

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

430 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board  
 431 shall make a report on the implementation of the water permit program to the Senate Committee on  
 432 Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House  
 433 Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources  
 434 and the House Committee on Finance. The report shall include the following: (i) the total costs, both  
 435 direct and indirect, including the costs of overhead, water quality planning, water quality assessment,  
 436 operations coordination, and surface water and ground water investigations, (ii) the total fees collected  
 437 by permit category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal  
 438 funds received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number  
 439 of permit applications received by category, (vii) the number of permits issued by category, (viii) the  
 440 progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and  
 441 indirect costs to neighboring states of administering their water permit programs, including what  
 442 activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders  
 443 and applicants.

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

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

449 G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees  
 450 for facilities that have established a record of compliance with the terms and requirements of their  
 451 permits *and shall establish criteria by regulation to provide for reductions in the annual fee amount*  
 452 *assessed for facilities accepted into the Department's programs to recognize excellent environmental*  
 453 *performance.*

454 **2. That the third enactment of Chapter 822 of the Acts of Assembly of 2002 is amended and**  
 455 **reenacted as follows:**

456 **3. That the provisions of this act § 10.1-1402.1 shall expire on July 1, 2004.**

457 **3. That the regulations adopted by the State Air Pollution Control Board, the Virginia Waste**  
 458 **Management Board, and the State Water Control Board to initially implement the provisions of**  
 459 **this act shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code**  
 460 **of Virginia and shall become effective upon filing with the Registrar of Regulations. Thereafter,**  
 461 **any amendments to the fee schedule shall not be exempted from Article 2 (§ 2.2-4006 et seq.).**

462 **4. That it is the General Assembly's intent that the Department of Environmental Quality (DEQ)**  
 463 **shall evaluate and implement measures to improve the long-term effectiveness and efficiency of its**  
 464 **programs in ensuring the Commonwealth's air quality, water quality and land resources are**  
 465 **protected and to ensure the maximum value from the funding provided for the Commonwealth's**  
 466 **environmental programs. To assist DEQ in accomplishing such goals, a management efficiency**  
 467 **peer review shall be conducted of the Virginia Pollutant Discharge Elimination System permit**  
 468 **programs and the air permit program implemented by the agency. The review shall evaluate (i)**  
 469 **operational changes that would improve the efficiency and effectiveness of the agency's operations,**  
 470 **(ii) ways to reduce the costs of compliance, and (iii) the adequacy and appropriateness of staffing**  
 471 **levels to meet state and federal requirements. The review shall be led by a consulting firm with**  
 472 **expertise and previous experience in conducting similar reviews of state agencies and private firms**  
 473 **and shall include a peer review team appointed by the Director of DEQ, consisting of individuals**  
 474 **familiar with the permit program including, but not limited to, persons nominated by the Virginia**  
 475 **Association of Counties, the Virginia Chemistry Council, the Virginia Manufacturers Association,**

476 the Virginia Municipal League, the Hampton Roads Planning District Commission, and the  
 477 Virginia Association of Municipal Wastewater Agencies. All individuals serving on the peer review  
 478 team shall have previous training and experience in preparing applications for permits issued  
 479 under the Virginia Pollutant Discharge Elimination System Permit program or the air permitting  
 480 program. The consulting firm shall be selected by agreement between the Director of DEQ and the  
 481 peer review team members from the previously mentioned organizations and in accordance with  
 482 the Virginia Procurement Act. The review shall be completed and a written report containing  
 483 findings and recommendations for the implementation of any practices, procedures or other steps  
 484 necessary to increase the efficiency of DEQ shall be forwarded to the members of the peer review  
 485 team by September 15, 2006. The report shall include information, to the extent available, on  
 486 whether or not the recommendations would change the level of environmental protection, the  
 487 estimated savings to DEQ and the regulated community, and any barriers to implementation. The  
 488 report and DEQ's responses and plans for implementation of such recommendations shall be  
 489 forwarded to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural  
 490 Resources, the House Committee on Appropriations, the Senate Committee on Agriculture,  
 491 Conservation and Natural Resources, and the Senate Committee on Finance by October 15, 2006.

492 5. That a review of DEQ's solid waste permitting and inspection programs shall be conducted in  
 493 order to ensure that those programs provide maximum efficiency consistent with protection of the  
 494 environment and public health. The review shall be conducted by DEQ with the active  
 495 participation of persons qualified by training and experience in the management and operation of  
 496 solid waste facilities, who shall be recommended by the Virginia Waste Industries Association, the  
 497 Solid Waste Association of North America and the Southwest Virginia Solid Waste Management  
 498 Association. The review shall be completed and a written report containing findings and  
 499 recommendations for the implementation of any practices, procedures or other steps necessary to  
 500 increase the efficiency of DEQ shall be forwarded to the members of the peer review team by  
 501 September 15, 2006. The report shall include information, to the extent available, on whether or  
 502 not the recommendations would change the level of environmental protection, the estimated  
 503 savings to DEQ and the regulated community, and any barriers to implementation. The report  
 504 and DEQ's responses and plans for implementation of such recommendations shall be forwarded  
 505 to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources, the  
 506 House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and  
 507 Natural Resources, and the Senate Committee on Finance by October 15, 2006.

508 6. That in order to accomplish the intent of the General Assembly, DEQ shall:

509 a. Implement a streamlined permit application to be used for renewals of previously granted  
 510 environmental permits where there has been no significant change in the permitted activity or  
 511 applicable statutory or regulatory requirements during the previous permit term. Such streamlined  
 512 permit renewal application shall be designed, to the extent not prohibited by federal law or  
 513 regulation, to avoid the submission and duplication of information that has previously been  
 514 submitted by the applicant and achieve maximum efficiency and economy for both the permittee  
 515 and DEQ, and DEQ shall work with the peer review team to develop these applications with the  
 516 goal of minimizing the amount of duplicate, costly work on the part of the permit renewal  
 517 applicants and DEQ;

518 b. Expeditiously implement electronic permitting, filing and reporting procedures so as to improve  
 519 access to information, reduce the costs of compliance, and reduce costs to DEQ;

520 c. Explore ways to reduce compliance costs to the permittee and reduce DEQ's oversight costs for  
 521 ensuring compliance. The options to be explored shall include, but not be limited to, increased  
 522 utilization of certified evaluations (i.e., by professional engineers) as a method of ensuring  
 523 compliance while reducing the need for physical inspections; and

524 d. Encourage efficient and effective environmental performance by deeming a facility's  
 525 demonstration of a proven environmental management system, such as ISO 14001, along with a  
 526 commitment to pollution prevention, annual progress reporting, and a record of sustained  
 527 compliance as meeting the criteria for acceptance into DEQ's programs for environmental  
 528 excellence.

529 7. That if general fund revenues in excess of \$500,000 per year over the Governor's submitted  
 530 budget for natural resources for the 2004-2006 biennium are appropriated by the 2004  
 531 Appropriation Act and are allocated for implementation of the water permit programs, the water  
 532 permit fees set forth in or established pursuant to this act shall be reduced by a pro rata basis.

SENATE SUBSTITUTE

SB365S1