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HOUSE BILL NO. 2828

Offered January 19, 2005

A BILL to amend and reenact § 62.1-44.15:6 of the Code of Virginia, relating to exemptions from payment of annual permit maintenance fee.

Patrons—Orrock, Dudley, Louderback and Sherwood

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 62.1-44.15:6 of the Code of Virginia is amended and reenacted as follows:**

§ 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. 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.

B1. Permit fees charged an applicant for a Virginia Pollutant Discharge Elimination System permit or a Virginia Pollution Abatement permit 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 or for a permit pertaining to maintenance dredging for federal navigation channels or other Corps of Engineers sponsored dredging projects or for the regularly scheduled renewal of an individual permit for an existing facility. Fees shall be charged for a major modification or reissuance of a permit initiated by the permittee that occurs between permit issuance and the stated expiration date. No fees shall be charged for a modification or amendment made at the Board's initiative. 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 Industrial	\$24,000
Major Municipal	\$21,300
Minor Industrial with nonstandard limits	\$10,300
Minor Industrial with standard limits	\$ 6,600
Minor Municipal greater than 100,000 gallons per day	\$7,500
Minor Municipal 10,001-100,000 gallons per day	\$6,000
Minor Municipal 1,000-10,000 gallons per day	\$5,400
Minor Municipal less than 1,000 gallons per day	\$2,000
General-industrial stormwater management	\$ 500
General-stormwater management-phase I land clearing	\$ 500
General-stormwater management-phase II land clearing	\$ 300
General-other	\$ 600
2. Virginia Pollution Abatement	
Industrial/Wastewater 10 or more inches per year	\$15,000

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HB2828

57	Industrial/Wastewater less than 10	\$10,500
58	inches per year	
59	Industrial/Sludge	\$ 7,500
60	Municipal/Wastewater	\$13,500
61	Municipal/Sludge	\$ 7,500
62	General Permit	\$ 600
63	Other	\$ 750

64 The fee for the major modification of a permit or certificate that occurs between the permit issuance
 65 and expiration dates shall be 50 percent of the maximum amount established by this subsection. No fees
 66 shall be charged for minor modifications or minor amendments to such permits. For the purpose of this
 67 subdivision, "minor modifications" or "minor amendments" means specific types of changes defined by
 68 the Board that are made to keep the permit current with routine changes to the facility or its operation
 69 that do not require extensive review. A minor permit modification or amendment does not substantially
 70 alter permit conditions, increase the size of the operation, or reduce the capacity of the facility to protect
 71 human health or the environment.

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

74	Type of Permit/Certificate Category	Maximum Amount
75	1. Virginia Pollutant Discharge Elimination System	
76	Major Industrial	\$4,800
77	Major Municipal greater than 10	\$4,750
78	million gallons per day	
79	Major Municipal 2-10 million gallons	\$4,350
80	per day	
81	Major Municipal less than 2 million	\$3,850
82	gallons per day	
83	Minor Industrial with nonstandard	\$2,040
84	limits	
85	Minor Industrial with standard limits	\$1,320
86	Minor Industrial water treatment system	\$1,200
87	Minor Municipal greater than 100,000	\$1,500
88	gallons per day	
89	Minor Municipal 10,001-100,000 gallons	\$1,200
90	per day	
91	Minor Municipal 1,000-10,000 gallons	\$1,080
92	per day	
93	Minor Municipal less than 1,000	\$ 400
94	gallons per day	
95	2. Virginia Pollution Abatement	
96	Industrial/Wastewater 10 or more	\$3,000
97	inches per year	
98	Industrial/Wastewater less than 10	\$2,100
99	inches per year	
100	Industrial/Sludge	\$3,000
101	Municipal/Wastewater	\$2,700
102	Municipal/Sludge	\$1,500

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

111 *Any person who has paid an application fee between July 1, 2002, and July 1, 2004, to obtain a*
 112 *Virginia Pollutant Discharge Elimination System permit shall be exempt from having to pay the annual*
 113 *maintenance fee required under this subdivision until such time as the permit has been administratively*
 114 *continued or renewed if the permit issued was in one of the following categories: (i) Virginia Pollutant*

Discharge Elimination System industrial minor/water treatment system, (ii) Virginia Pollutant Discharge Elimination System minor municipal, or (iii) Virginia Pollutant Discharge Elimination System major industrial-10 million gallons per day or less. In addition, such persons who paid the maintenance fee assessed in 2004 and who fall into these these categories shall receive one year of credit for their payment of the maintenance fee, which shall be applied to the renewed permit.

B3. Permit application fees charged for Virginia Water Protection Permits, ground water withdrawal permits, and surface water withdrawal permits shall reflect the average time and complexity of processing a permit in each of the various categories of permits and permit actions and the size of the proposed impact. Only one permit fee shall be assessed for a water protection permit involving elements of more than one category of permit fees under this section. The fee shall be assessed based upon the primary purpose of the proposed activity. In no instance shall the Board charge a fee for a permit pertaining to maintenance dredging for federal navigation channels or other U.S. Army 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	Maximum Amount
1. Virginia Water Protection	
Individual-wetland impacts	\$2,400 plus \$220 per 1/10 acre of impact over two acres, not to exceed \$60,000
Individual-minimum	
instream flow	\$25,000
Individual-reservoir	\$35,000
Individual-nonmetallic mineral mining	\$ 7,500
General-less than 1/10 acre impact	\$ 0
General-1/10 to 1/2 acre impact	\$ 600
General-greater than 1/2 to one acre impact	\$1,200
General-greater than one acre to two acres of impact	\$120 per 1/10 acre of impact
2. Ground Water Withdrawal	\$6,000
3. Surface Water Withdrawal	\$12,000

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

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 industries in the Commonwealth at a competitive disadvantage.

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

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

174 appropriation to the Board.

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

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