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HOUSE BILL NO. 2245

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Conservation and Natural Resources
on January 31, 1997)

(Patron Prior to Substitute—Delegate Connally)

A BILL to amend and reenact § 62.1-44.15:6 of the Code of Virginia, relating to water program permit fees report.

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 which 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 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 \$ 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

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 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 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 industries in the Commonwealth at a competitive disadvantage.

D. ~~On January 1, 1993~~ *Beginning January 1, 1998*, and January 1 of every even-numbered year thereafter, the Board shall make ~~an evaluation of a report on~~ the implementation of the water 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~~ *The report shall include a report on the following: (i) the total costs, both direct and*

60 indirect, including the costs of overhead, water quality planning, water quality assessment, operations
61 coordination, and surface water and ground water investigations, (ii) the total fees collected by permit
62 category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal funds
63 received, (v) the Board's use of the fees, ~~and~~ the general funds, ~~and the federal funds~~, (vi) the number of
64 permit applications received by category, (vii) the number of permits issued by category, (viii) the
65 progress in eliminating permit backlogs, ~~and~~ (ix) the timeliness of permit processing, and (x) the direct
66 and indirect costs to neighboring states of administering their water permit programs, including what
67 activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders
68 and applicants.

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

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

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

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