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**SENATE BILL NO. 961**

Offered January 12, 2011

Prefiled January 11, 2011

*A BILL to amend and reenact § 62.1-44.15:6 of the Code of Virginia, relating to the Virginia Water Protection Permit; fee exemption; U.S. Navy.*

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Patron—Northam

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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 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- or Department of the Navy-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	\$15,000

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

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

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

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

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

112 B3. Permit application fees charged for Virginia Water Protection Permits, ground water withdrawal  
 113 permits, and surface water withdrawal permits shall reflect the average time and complexity of  
 114 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- or Department of the Navy-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 appropriation to the Board.

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

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

**174** performance.