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SENATE BILL NO. 250

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 10.1-1402.1 and 10.1-1402.1:1 of the Code of Virginia, relating to nonhazardous solid waste fees.

Patron—Surovell

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 10.1-1402.1:1 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 subdivisions 15a, 15b, and 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. ~~No fees shall be charged for minor modifications or minor amendments to such permits. For purposes of this subdivision, "minor permit 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 and 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.~~

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 Appropriations~~ and the House Committees on ~~Appropriations~~, Agriculture, Chesapeake and Natural Resources, ~~Appropriations~~, 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 ~~subdivisions~~ *subdivision* 15a, 15b, or 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 to recover a portion of the agency's costs associated with (i) 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 and maintaining permits and (ii) the inspections necessary to assure the compliance of large quantity generators of hazardous waste. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

6. *Permit fees assessed pursuant to this section and subdivision 16 of § 10.1-1402 shall be adjusted annually by the change in the United States Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year.*

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

A. In addition to the permit fees assessed and collected pursuant to § 10.1-1402.1, the Board shall collect an annual fee from any person operating a sanitary landfill or other facility permitted under this chapter for the disposal, storage, or treatment of nonhazardous solid waste. The fees shall be exempt from statewide indirect cost charged and assessed by the Department of Accounts. Annual fees shall reflect the time and complexity of inspecting and monitoring the different categories of facilities. Any annual fee that is based on volume shall be calculated using the tonnage reported by each facility pursuant to § 10.1-1413.1 for the preceding year; ~~and. Annual fees shall be adjusted annually by the change in the United States Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year.~~ The annual fee shall be assessed as follows:

1. Sanitary landfills, noncaptive industrial landfills, and construction and demolition debris landfills

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59 shall be assessed an annual fee of ~~\$0.115~~ *the greater of \$12,000 or \$0.30* per ton.

60 2. Incinerators and energy recovery facilities shall be assessed an annual fee of ~~\$0.055~~ *the greater of*
 61 *\$6,000 or \$0.0647* per ton.

62 Ash generated by incinerators and energy recovery facilities that are subject to this section shall be
 63 exempted from the annual fees assessed under this section.

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

65	Composting	\$1,200 <i>\$5,500</i>
66	Regulated medical waste	\$2,500 <i>\$5,500</i>
67	Materials recovery	\$4,500 <i>\$6,500</i>
68	Transfer station	\$5,500 <i>\$6,500</i>
69	Facilities in post-closure care	\$1,000 <i>\$7,500</i>
70	Surface impoundments with a permit	\$12,000
71	Active captive landfills	\$32,000

72 The annual fee for active captive landfills shall be as follows:

73	Small landfills (landfilling less than 100,000 tons per year)	\$2,500
74	Large landfills (landfilling 100,000 tons or more per year)	\$7,500

75 B. The Board shall by regulation prescribe the manner and schedule for remitting fees imposed by
 76 this section and may allow for the quarterly payment of any such fees.

77 C. The regulation shall include provisions allowing the Director to waive or reduce fees assessed
 78 during a state of emergency or for waste resulting from emergency response actions.

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

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

87 **2. That the Virginia Waste Management Board (the Board) shall adjust the schedule of permit**
 88 **fees established by regulation pursuant to § 10.1-1402.1 of the Code of Virginia consistent with**
 89 **the recommendations of the December 2021 report of the Recommendations from the**
 90 **Nonhazardous Solid Waste Fee Study Working Group and the provisions of this act. The**
 91 **regulations adopted by the Board to initially implement the provisions of this enactment shall be**
 92 **exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except**
 93 **that the Board shall provide an opportunity for public comment on the regulations prior to**
 94 **adoption. Thereafter, any amendments to the regulations shall be subject to the Administrative**
 95 **Process Act.**

96 **3. That any general fund moneys appropriated to the Department of Environmental Quality for**
 97 **operational costs and expenditures associated with the nonhazardous solid waste management**
 98 **program shall not be reduced until such time as the revenues collected pursuant to this act are**
 99 **sufficient to cover the direct costs of such program.**