

House Bill 276 (COMMITTEE SUBSTITUTE)

By: Representatives Nimmer of the 178th, Hatchett of the 150th, Coomer of the 14th, Smith of the 70th, and Nix of the 69th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 12 and 45 of the Official Code of Georgia Annotated, relating to
2 conservation and natural resources and public officers and employees, respectively, so as to
3 change certain procedures regarding appropriations to the Department of Natural Resources
4 and the Georgia Hazardous Waste Management Authority; to extend the sunset dates for
5 certain fees and surcharges; to provide for automatic fee adjustments in cases where funds
6 are not appropriated in certain amounts for specified purposes when certain fees are imposed
7 for such purposes; to provide for definitions, procedures, conditions, and limitations; to
8 provide for corresponding changes; to provide for an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
13 resources, is amended by revising subsection (b) of Code Section 12-8-95, relating to the
14 hazardous waste trust fund, as follows:

15 "(b) The moneys deposited in the hazardous waste trust fund may be expended by the
16 director as follows:

17 (1) For activities associated with the investigation, detoxification, removal, and disposal
18 of any hazardous wastes, hazardous constituents, or hazardous substances at sites where
19 corrective action is necessary to mitigate a present or future danger to human health or
20 the environment;

21 (2) For emergency actions the director considers necessary to protect public health,
22 safety, or the environment whenever there is a release of hazardous wastes, hazardous
23 constituents, or hazardous substances;

24 (3) For activities of the division associated with the administration of this part, including
25 reviewing and overseeing investigations, corrective action, and other actions by federal

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26 agencies required under this article and supporting the reduction of hazardous waste and
 27 pollution prevention activities by federal agencies;

28 (4) In accordance with rules promulgated by the board, for financing of the state and
 29 local share of the costs associated with the investigation, remediation, and postclosure
 30 care and maintenance of sites placed on the National Priority List pursuant to the federal
 31 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as
 32 amended, or sites placed on the hazardous site inventory pursuant to Code Section
 33 12-8-97; provided, however, that the director shall ensure that beginning July 1, 2003,
 34 and annually in each following year, an amount equal to at least one-half of the sum of
 35 annual collections made pursuant to subsection (e) of Code Section 12-8-39 and
 36 appropriated to the department in accordance with subsection (b) of Code Section
 37 12-8-91 shall be available to be used for the purposes of this paragraph; provided, further,
 38 that if a county or municipal corporation has been or is the owner of or operator of such
 39 site, not less than \$500,000 of such costs shall be paid from the hazardous waste trust
 40 fund; and

41 (5) For activities administered by the director associated with pollution prevention,
 42 including reduction of hazardous wastes generated in ~~the~~ this state; ~~and.~~

43 ~~(6) Provided that annual appropriations are made to the Department of Natural Resources~~
 44 ~~in accordance with subsection (b) of Code Section 12-8-91, for transfer on an annual~~
 45 ~~basis to the Georgia Hazardous Waste Management Authority in an amount equal to 10~~
 46 ~~percent of the previous year's payment into the state treasury by the division of fees and~~
 47 ~~penalties pursuant to subsection (e) of Code Section 12-2-2, subsection (e) of Code~~
 48 ~~Section 12-8-39, and Code Section 12-8-95.1. If in any year the fees cease to be collected~~
 49 ~~due to the unencumbered principal balance exceeding \$25 million in the hazardous waste~~
 50 ~~trust fund, a transfer of funds shall be made to the Georgia Hazardous Waste~~
 51 ~~Management Authority from the principal of the hazardous waste trust fund equal to the~~
 52 ~~average transfer for the three preceding years. Such transferred funds are to be~~
 53 ~~administered by the chief administrative officer of the Georgia Hazardous Waste~~
 54 ~~Management Authority to fund source reduction and project activities as set forth in~~
 55 ~~Article 4 of this chapter and in accordance with the policies of the board."~~

56 **SECTION 2.**

57 Said title is further amended by revising subsections (e) and (g) of Code Section 12-8-39,
 58 relating to solid waste disposal cost reimbursement fees and surcharges, as follows:

59 "(e)(1) Owners or operators of any solid waste disposal facility other than an inert waste
 60 landfill as defined in regulations promulgated by the board or a private industry solid
 61 waste disposal facility shall assess and collect on behalf of the division from each

62 disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said
 63 surcharges collected may be retained by the owner or operator of any solid waste disposal
 64 facility collecting said surcharge to pay for costs associated with collecting said
 65 surcharge. Surcharges assessed and collected on behalf of the division shall be paid to
 66 the division not later than the first day of July of each year for the preceding calendar
 67 year. Any facility permitted exclusively for the disposal of construction or demolition
 68 waste that conducts recycling activities for construction or demolition materials shall
 69 receive a credit towards such surcharges of 75¢ per ton of material recycled at the facility.

70 (2) The surcharge amount provided for in this subsection shall be subject to revision
 71 pursuant to Code Section 45-12-92.2."

72 "(g) Unless the requirement for the surcharge required by subsection (e) of this Code
 73 section is reimposed by the General Assembly, no such surcharge shall be collected after
 74 July 1, ~~2013~~ 2018."

75 **SECTION 3.**

76 Said title is further amended in subsection (h) of Code Section 12-8-40.1, relating to tire
 77 disposal restrictions and fees, by adding a new paragraph to read as follows:

78 "(4) The fee amount provided for in this subsection shall be subject to revision pursuant
 79 to Code Section 45-12-92.2."

80 **SECTION 4.**

81 Said title is further amended by revising subsection (h) of Code Section 12-8-95.1, relating
 82 to hazardous waste management fees and hazardous substance reporting fees, as follows:

83 "(h) Unless fee requirements established in this Code section are reimposed by the General
 84 Assembly, no such fees shall be levied after July 1, ~~2013~~ 2018."

85 **SECTION 5.**

86 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 87 is amended by adding a new Code section to read as follows:

88 "45-12-92.2.

89 (a) As used in this Code section, the term:

90 (1) 'Base amount' means the amount of fee proceeds collected during the complete fiscal
 91 year which immediately precedes the fiscal year for which the current appropriation
 92 amount is determined. When a fee amount has been reduced pursuant to any provision
 93 of this Code section, then for purposes of calculating amounts as required under this Code
 94 section for the next fiscal year, the term shall mean the amount of fee proceeds that would

95 have been collected during a specified fiscal year under the original amount of the fee
 96 unreduced by this Code section.

97 (2) 'Collecting agency' means the Environmental Protection Division of the Department
 98 of Natural Resources.

99 (3) 'Current appropriation amount' means total amount of funds which were appropriated
 100 for a purpose or function described under a subparagraph of paragraph (4) of this
 101 subsection during the fiscal year which immediately precedes the fiscal year for which
 102 the new appropriation amount is determined for which the calculations are required under
 103 subsection (b) of this Code section.

104 (4) 'Fee' means the:

105 (A) Solid waste disposal surcharge fee provided for under subsection (e) of Code
 106 Section 12-8-39 for the hazardous waste trust fund; and

107 (B) Tire disposal fee provided for under subsection (h) of Code Section 12-8-40.1 for
 108 the solid waste trust fund.

109 (5) 'New appropriation amount' means total amount of funds which are appropriated for
 110 a purpose or function described under a subparagraph of paragraph (4) of this subsection
 111 for the newly commencing fiscal year for which the calculations are required under
 112 subsection (b) of this Code section.

113 (b) Unless otherwise prohibited pursuant to subsection (f) of this Code section, effective
 114 for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, for paragraph (4)
 115 of subsection (a) of this Code section:

116 (1) The Office of Planning and Budget shall determine the base amount for the purpose
 117 or function as described under a subparagraph of paragraph (4) of subsection (a) of this
 118 Code section;

119 (2) The Office of Planning and Budget shall determine the current appropriation amount
 120 and the new appropriation amount;

121 (3) The Office of Planning and Budget shall determine an amount equal to 25 percent of
 122 the base amount and shall add the amount so determined to the current appropriation
 123 amount. This sum shall be the target appropriation amount;

124 (4) If the new appropriation amount is equal to or greater than 95 percent of the base
 125 amount or is equal to or greater than the target appropriation amount, then the amount of
 126 the fee shall not be reduced under this Code section;

127 (5)(A) If the new appropriation amount is less than the target appropriation amount,
 128 then the amount of the fee shall be reduced automatically by operation of this Code
 129 section by 25 percent for the fiscal year beginning on July 1; provided, however, that
 130 in no event shall the reduction ever be less than an amount which would be equal to the
 131 new appropriation amount.

132 (B) Immediately following the date the General Appropriations Act for the newly
133 commencing fiscal year is approved by the Governor or becomes law without such
134 approval, the Office of Planning and Budget shall notify the collecting agency of the
135 adjusted fee amount; and

136 (6)(A) Except as otherwise provided in subparagraph (B) of this paragraph, for any
137 fiscal year following a fee reduction under paragraph (5) of this subsection, if the new
138 appropriation amount is equal to or greater than the target appropriation amount, then
139 the fee amount shall, by operation of this Code section, be increased back to the fee
140 amount in place immediately prior to the most recent such reduction.

141 (B) If the new appropriation amount is equal to or greater than the target appropriation
142 amount as determined in the fiscal year in which such fee amount was first reduced
143 under this subsection, then such fee amount shall, by operation of this subparagraph,
144 be increased back to the amount in place immediately prior to such first reduction.

145 (c) For purposes of the calculations required under this Code section, each time that a 25
146 percent amount has been added to a prior appropriation amount under paragraph (3) of
147 subsection (b) of this Code section, that amount shall remain cumulative and shall remain
148 as a part of the target appropriation amount for purposes of the calculations required under
149 subsection (b) of this Code section for the next fiscal year.

150 (d)(1) Except as otherwise provided in paragraph (2) or (3) of this subsection,
151 calculations under subsection (b) of this Code section shall continue in effect for a fee for
152 each fiscal year until the new appropriation amount is equal to or greater than 95 percent
153 of the target appropriation amount.

154 (2) If, in any subsequent fiscal year, the new appropriation amount is less than 95 percent
155 of the base amount, then there shall be a commensurate fee reduction applicable to that
156 fee amount effective the first day of the subsequent fiscal year in such amount as may be
157 necessary to offset the difference between the new appropriation amount and the base
158 amount in such fiscal year.

159 (3) In the event the 25 percent addition required under paragraph (3) of subsection (b)
160 of this Code section results in the target appropriation amount equaling or exceeding 95
161 percent of the base amount, then there shall be no reduction in the fee amount under this
162 Code section for the applicable fiscal year.

163 (e)(1) During any session of the General Assembly, prior to the adoption of the
164 supplementary appropriations Act amending the current fiscal year budget or prior to the
165 adoption of the General Appropriations Act providing for the succeeding fiscal year's
166 budget, the General Assembly shall be authorized to waive and suspend the operation of
167 this Code section with respect to any fee or fee identified under paragraph (4) of

168 subsection (a) of this Code section in the manner specified in paragraph (2) of this
169 subsection.

170 (2) Each such waiver and suspension shall be accomplished by a joint resolution, enacted
171 with the force and effect of law, the duration of which shall not exceed a single fiscal
172 year, and which shall apply only to a single fee identified under a subparagraph of
173 paragraph (4) of subsection (a) of this Code section.

174 (f) No provision of this Code section providing for the determination of any amount shall
175 preclude the appropriation of greater amounts for purposes or functions covered by this
176 Code section.

177 (g) The collecting agency and the Office of Planning and Budget shall promulgate such
178 rules and regulations as are necessary and appropriate to implement and administer this
179 Code section, including, but not limited to, appropriate public notification of any change
180 in a fee amount and the effective date of such change required by any provision of this
181 Code section."

182 **SECTION 6.**

183 This Act shall become effective upon its approval by the Governor or upon its becoming law
184 without such approval.

185 **SECTION 7.**

186 All laws and parts of laws in conflict with this Act are repealed.