WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2684

(By Delegates Michael, Compton, trump,
Jenkins, Capito, Johnson, and Amores)

Passed March 11, 1999

In Effect Ninety Days from Passage
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FOR
H. B. 2684

(BY DELEGATES MICHAEL, COMPTON, TRUMP, JENKINS, CAPITO, JOHNSON AND AMORES)

[Passed March 11, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article eleven, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to application and permit fees paid to the division of environmental protection for certain permits; continuing the water quality management fund; permitting the director of the division of environmental protection to expend interest, assessments and other moneys deposited in the water quality management fund; increasing maximum fees for permit applications and permits issued under the water pollution control act; exempting home aerator units of six hundred gallons and under; changing the circumstances under which permits become void for failure to pay annual permit fees; requiring the director of the division of environmental protection to promulgate emergency and legislative rules to implement a revised schedule for application and permit fees; and reporting requirements.

Be it enacted by the Legislature of West Virginia:
That section ten, article eleven, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-10. Water quality management fund established; permit application fees; annual permit fees; dedication of proceeds; rules.

(a) The special revenue fund designated the “Water Quality Management Fund” established in the state treasury on the first day of July, one thousand nine hundred eighty-nine is hereby continued.

(b) The permit application fees and annual permit fees established and collected pursuant to this section; any interest or surcharge assessed and collected by the director; interest accruing on investments and deposits of the fund; and any other moneys designated by the director shall be deposited into the water quality management fund. The director shall expend the proceeds of the water quality management fund for the review of initial permit applications, renewal permit applications and permit issuance activities.

(c) The director shall propose for promulgation, legislative rules in accordance with the provisions of chapter twenty-nine-a of this code, to establish a schedule of application fees for which the appropriate fee shall be submitted by the applicant to the division with the application filed pursuant to this article for any state water pollution control permit or national pollutant discharge elimination system permit. The schedule of application fees shall be designed to establish reasonable categories of permit application fees based upon the complexity of the permit application review process required by the division pursuant to the provisions of this article and the rules promulgated thereunder: Provided, That no initial application fee may exceed fifteen thousand dollars for any facility nor may any permit renewal application fee exceed five thousand dollars. The division may not process any permit application pursuant to this article until the required permit application fee has been received.
(d) The director shall propose for promulgation legislative rules in accordance with the provisions of chapter twenty-nine-a of this code, to establish a schedule of permit fees to be assessed annually upon each person holding a state water pollution control permit or national pollutant discharge elimination system permit issued pursuant to this article. Each person holding a permit shall pay the prescribed annual permit fee to the division pursuant to the rules promulgated hereunder: Provided, That no person holding a permit for a home aerator of six hundred gallons and under shall be required to pay an annual permit fee. The schedule of annual permit fees shall be designed to establish reasonable categories of annual permit fees based upon the relative potential of categories or permits to degrade the waters of the state: Provided, That no annual permit fee may exceed five thousand dollars. The director may declare any permit issued pursuant to this article void when the annual permit fee is more than ninety days past due pursuant to the rules promulgated hereunder. Voiding of the permit will only become effective upon the date the director mails, by certified mail, written notice to the permittee's last known address notifying the permittee that the permit has been voided.

(e) The director shall promulgate an emergency rule and propose a legislative rule for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code by the first day of July, one thousand nine hundred ninety-nine, to implement the fee schedule authorized by the amendments to this section enacted in the year one thousand nine hundred ninety-nine. Beginning the first day of September, one thousand nine hundred ninety-nine, the director shall file a quarterly report with the joint committee on government and finance setting forth the fees established and collected pursuant to this section.

(f) The provisions of this section are not applicable to fees required for permits issued under article three of this chapter.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 24th day of March, 1999.

Governor