

House Bill 550

By: Representatives Willard of the 49th, Buckner of the 130th, Geisinger of the 48th, Barnard of the 166th, Coleman of the 97th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the
2 "Georgia Water Quality Control Act," so as to change certain provisions relating to powers
3 and duties of the Board of Natural Resources and director of the Environmental Protection
4 Division as to control of water pollution and surface-water use generally; to provide for fees
5 for site specific National Pollution Discharge Elimination System permits and site specific
6 land application system permits; to provide for related enforcement efforts; to provide for
7 subsequent fee reductions for government entities which paid certain regulatory fees related
8 to environmental protection programs of the Department of Natural Resources in cases where
9 the General Assembly did not appropriate funds to such department in amounts greater than
10 or equal to the collective amount of such fees for purposes of administrating such programs;
11 to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
12 relating to imposition, rate, and computation of and exemptions from income taxes, so as to
13 provide for income tax credits to certain persons who paid certain regulatory fees related to
14 environmental protection programs of the Department of Natural Resources in cases where
15 the General Assembly did not appropriate funds to such department in amounts greater than
16 or equal to the collective amount of such fees for purposes of administrating such programs;
17 to provide effective dates; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Article 2 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the "Georgia
21 Water Quality Control Act," is amended in subsection (a) of Code Section 12-5-23, relating
22 to powers and duties of the Board of Natural Resources and director of the Environmental
23 Protection Division as to control of water pollution and surface-water use generally, by
24 striking "and" at the end of paragraph (4), by striking the period and inserting in lieu thereof
25 "; and" at the end of paragraph (5), and by inserting a new paragraph to read as follows:

1 “(6)(A) By December 31, 2005, promulgate rules and regulations that establish a scaled
2 system of permit application fees and annual fees for site specific National Pollution
3 Discharge Elimination System permits and site specific land application system
4 permits. The amounts of such fees shall increase in direct correlation with the relative
5 detriment, hazard, or toxicity of the pollutant discharge or land application and may be
6 based upon the type or class and amount of such pollutant discharge or land application.
7 (B) The maximum permit application fees or annual fees established by the board
8 under this paragraph shall not exceed:

9 (i) For each municipal, county, or local government authority facility--minor source,
10 \$7,000.00;

11 (ii) For each municipal, county, or local government authority facility--major source,
12 \$10,000.00;

13 (iii) For each private industrial or commercial facility--minor source, \$10,000.00; and
14 (iv) For each private industrial or commercial facility--major source, \$12,000.00.”

15 **SECTION 2.**

16 Said article is further amended in Code Section 12-5-23, relating to powers and duties of the
17 Board of Natural Resources and director of the Environmental Protection Division as to
18 control of water pollution and surface-water use generally, by striking paragraph (15) of
19 subsection (c) and inserting in lieu thereof the following:

20 “(15) Perform any and all acts and exercise all incidental powers necessary to carry out
21 the purposes and requirements of this article and of the Federal Water Pollution Control
22 Act, as amended, 33 U.S.C. Section 1251, et seq., relating to this state’s participation in
23 the National Pollutant Discharge Elimination System established under that act and shall
24 administer the fee ~~program~~ programs established by the board pursuant to ~~paragraph (5)~~
25 paragraphs (5) and (6) of subsection (a) of this Code section;”

26 **SECTION 3.**

27 Said article is further amended by adding a new Code section to read as follows:

28 “12-5-38.2.

29 (a) Not later than July 31 of each year, the names and addresses of all government entities
30 from which fees were collected by the department pursuant to division (b)(6)(B)(i) or
31 (b)(6)(B)(ii) of Code Section 12-5-23 during the most recently concluded fiscal year and
32 the amount of such fees paid by each such entity, the total amount of such fees collected
33 during the most recently concluded fiscal year, and the total amount of funds appropriated
34 to the department for purposes of administration and enforcement efforts relative to a
35 program for specific National Pollution Discharge Elimination System permits issued to

1 government entities and site specific land application system permits issued to government
 2 entities for the most recently concluded fiscal year shall be published by the department for
 3 purposes of determining the amounts of fee reductions, if any, for which government
 4 entities may be eligible under this Code section.

5 (b) If the total amount of collected fees exceeds the total amount of appropriated funds as
 6 reported under subsection (a) of this Code section, then there shall be a fee reduction for
 7 each government entity which paid a fee pursuant to division (b)(6)(B)(i) or (b)(6)(B)(ii)
 8 of Code Section 12-5-23 during the fiscal year for which collected fees were reported under
 9 subsection (a) of this Code section. Such fee reduction shall apply to fees due under
 10 division (b)(6)(B)(i) or (b)(6)(B)(ii) of Code Section 12-5-23 during the fiscal year
 11 immediately subsequent to the fiscal year for which collected fees were reported under
 12 subsection (a) of this Code section.

13 (c) The combined total amount of fee reductions that shall apply to all eligible government
 14 entities during the subsequent fiscal year shall be equivalent to the amount, if any, by
 15 which total collected fees exceeded total appropriated funds as reported under subsection
 16 (a) of this Code section. The amount of such fee reduction that shall apply to any
 17 government entity shall be a prorated share of such difference, based upon the amount of
 18 fees collected from the government entity under division (b)(6)(B)(i) or (b)(6)(B)(ii) of
 19 Code Section 12-5-23 during the fiscal year reported under subsection (a) of this Code
 20 section as a percentage of the total of such fees collected from all government entities
 21 during the fiscal year reported under subsection (a) of this Code section. Any unused fee
 22 reduction shall not be allowed to be carried forward to apply to the succeeding years' fee
 23 liability of such government entity. No such fee reduction shall be allowed against prior
 24 years' fee liability of any government entity.

25 (d) The board shall promulgate such rules and regulations as are necessary and appropriate
 26 to implement and administer this Code section."

27 **SECTION 4.**

28 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
 29 imposition, rate, and computation of and exemptions from income taxes, is amended by
 30 adding a new Code section to read as follows:

31 "48-7-40.26.

32 (a) Not later than July 31 of each year, the names and addresses of all persons from whom
 33 fees were collected by the Department of Natural Resources pursuant to division
 34 (b)(6)(B)(iii) or (b)(6)(B)(iv) of Code Section 12-5-23 during the most recently concluded
 35 fiscal year and the amount of such fees paid by each such person, the total amount of such
 36 fees collected during the most recently concluded fiscal year, and the total amount of funds

1 appropriated to the Department of Natural Resources for purposes of administration and
2 enforcement efforts relative to a program for specific National Pollution Discharge
3 Elimination System permits issued to nongovernment entities and site specific land
4 application system permits issued to nongovernment entities for the most recently
5 concluded fiscal year shall be published and reported in writing to the department by the
6 Department of Natural Resources for purposes of determining the amounts of income tax
7 credits, if any, that may be claimed under this Code section.

8 (b) If the total amount of collected fees exceeds the total amount of appropriated funds as
9 reported under subsection (a) of this Code section, then there shall be an income tax credit
10 which may be claimed by each taxpayer which paid a fee pursuant to division (b)(6)(B)(iii)
11 or (b)(6)(B)(iv) of Code Section 12-5-23 during the fiscal year for which collected fees
12 were reported under subsection (a) of this Code section. Such tax credit may be claimed
13 for the most recent taxable year ending on or after the conclusion of the fiscal year for
14 which collected fees were reported under subsection (a) of this Code section.

15 (c) The combined total amount of tax credits that may be claimed by all eligible taxpayers
16 for such taxable year shall be equivalent to the amount, if any, by which total collected fees
17 exceeded total appropriated funds as reported under subsection (a) of this Code section.
18 The amount of such tax credit that may be claimed by any person shall be a prorated share
19 of such difference, based upon the amount of fees collected from the taxpayer under
20 division (b)(6)(B)(iii) or (b)(6)(B)(iv) of Code Section 12-5-23 during the fiscal year
21 reported under subsection (a) of this Code section as a percentage of the total of such fees
22 collected from all persons during the fiscal year reported under subsection (a) of this Code
23 section; provided, however, that in no event shall the amount of tax credit provided any
24 person by this Code section exceed the income tax liability of such person. Any unused tax
25 credit shall not be allowed to be carried forward to apply to the succeeding years' tax
26 liability of such person. No such tax credit shall be allowed against prior years' tax
27 liability of any person.

28 (d) The commissioner shall promulgate such rules and regulations as are necessary and
29 appropriate to implement and administer this Code section."

30 SECTION 5.

31 This Act shall become effective on July 1, 2006; except that Sections 3 and 4 of this Act shall
32 become effective on July 1, 2007.

33 SECTION 6.

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