

House Bill 811

By: Representatives Powell of the 171st, Meadows of the 5th, England of the 108th, Hamilton of the 23rd, Nix of the 69th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia
2 Annotated, relating to management of budgetary and financial affairs, so as to provide for
3 automatic fee adjustments in cases where funds are not appropriated in certain amounts for
4 specified purposes when certain fees are imposed for such purposes; to provide for
5 definitions, procedures, conditions, and limitations; to provide an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated,
10 relating to management of budgetary and financial affairs, is amended by adding a new Code
11 section to read as follows:

12 "45-12-92.2.

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

14 (1) 'Base fee amount' means only the amount of fee proceeds actually collected during
15 a specified calendar year with respect to an individual fee which proceeds are required
16 to be remitted for:

17 (A) Deposit in the general fund of the state for use for purposes specified by general
18 law;

19 (B) Use for a specified purpose;

20 (C) Deposit into a trust fund created by general law; or

21 (D) Deposit in a trust fund provided for under the Constitution of Georgia or use for
22 a specified purpose provided for under the Constitution of Georgia when such proceeds
23 are not directly earmarked thereunder or when the General Assembly is authorized
24 thereunder, but not required, to appropriate funds thereto;

25 provided, however, that, if a fee amount has been reduced pursuant to any provision of
26 this Code section, then for purposes of calculating amounts as required under this Code

27 section, the term shall mean the amount of fee proceeds that would have been collected
 28 during a specified calendar year under the original, unreduced amount of the fee.

29 (2) 'Fee' means the:

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

32 (B) Tire disposal fee provided for under subsection (h) of Code Section 12-8-40.1 for
 33 the solid waste trust fund;

34 (C) Additional penalty sum provided for under subparagraph (a)(1)(A) of Code
 35 Section 15-21-73 for peace officer and prosecutor training;

36 (D) Additional penalty sum provided for under subparagraph (a)(1)(B) of Code
 37 Section 15-21-73 for indigent criminal defense;

38 (E) Additional penalty sum provided for under subparagraph (a)(2)(A) of Code
 39 Section 15-21-73 for indigent defense fund bond forfeiture;

40 (F) Additional penalty sum provided for under subparagraph (a)(2)(B) of Code
 41 Section 15-21-73 for indigent defense fund bond forfeiture;

42 (G) Additional penalty sum provided for under subsection (a) of Code
 43 Section 15-21-179 for the driver education and training fund;

44 (H) Additional filing fee provided for under subsection (a) of Code Section 15-21A-6
 45 for indigent defense;

46 (I) Additional filing fee provided for under subsection (b) of Code Section 15-21A-6
 47 for indigent defense; and

48 (J) Additional application fee provided for under subsection (c) of Code
 49 Section 15-21A-6 for indigent defense.

50 (3) 'State department or agency' means any state department, state agency, or state
 51 authority or any public officer, public official, or public entity which collects or receives
 52 proceeds of a fee specified under this Code section.

53 (b)(1) Not later than June 30, 2014, each state department or agency which collects or
 54 receives a fee shall determine the base fee amount collected or received for the particular
 55 purpose or function as described in paragraph (2) of subsection (a) of this Code section
 56 for which such fee was collected or received by such state department or agency during
 57 the calendar year beginning on January 1, 2013, and concluding on December 31, 2013,
 58 and the Office of Planning and Budget shall determine the total amount of funds
 59 appropriated to such state department or agency for purposes of administration and
 60 enforcement relative to such purpose or function for the fiscal year commencing on
 61 July 1, 2014, and concluding on June 30, 2015.

62 (2) If the Office of Planning and Budget determines that the total amount of such
 63 appropriated funds is 50 percent or more of the base fee amount, then the amount of the

64 fee shall not be reduced. If the Office of Planning and Budget determines that the total
65 amount of such appropriated funds is less than 50 percent of the base fee amount, then
66 there shall be a commensurate fee reduction applicable to that fee amount during the
67 fiscal year beginning on July 1, 2014, and concluding on June 30, 2015, in such amount
68 as may be necessary to offset the excess amount of fee proceeds collected or received in
69 such immediately preceding calendar year.

70 (c)(1) Not later than June 30, 2015, each state department or agency which collects or
71 receives a fee shall determine the base fee amount collected or received for the particular
72 purpose or function as described in paragraph (2) of subsection (a) of this Code section
73 for which such fee was collected or received by such state department or agency during
74 the calendar year beginning on January 1, 2014, and concluding on December 31, 2014,
75 and the Office of Planning and Budget shall determine the total amount of funds
76 appropriated to such state department or agency for purposes of administration and
77 enforcement relative to such purpose or function for the fiscal year commencing on July
78 1, 2015, and concluding on June 30, 2016.

79 (2) If the Office of Planning and Budget determines that the total amount of such
80 appropriated funds is 60 percent or more of the base fee amount, then the amount of the
81 fee shall not be reduced. If the Office of Planning and Budget determines that the total
82 amount of such appropriated funds is less than 60 percent of the base fee amount, then
83 there shall be a commensurate fee reduction applicable to that fee amount during the
84 fiscal year beginning on July 1, 2015, and concluding on June 30, 2016, in such amount
85 as may be necessary to offset the excess amount of fee proceeds collected or received in
86 such immediately preceding calendar year.

87 (d)(1) Not later than June 30, 2016, each state department or agency which collects or
88 receives a fee shall determine the base fee amount collected or received for the particular
89 purpose or function as described in paragraph (2) of subsection (a) of this Code section
90 for which such fee was collected or received by such state department or agency during
91 the calendar year beginning on January 1, 2015, and concluding on December 31, 2015,
92 and the Office of Planning and Budget shall determine the total amount of funds
93 appropriated to such state department or agency for purposes of administration and
94 enforcement relative to such purpose or function for the fiscal year commencing on
95 July 1, 2016, and concluding on June 30, 2017.

96 (2) If the Office of Planning and Budget determines that the total amount of such
97 appropriated funds is 70 percent or more of the base fee amount, then the amount of the
98 fee shall not be reduced. If the Office of Planning and Budget determines that the total
99 amount of such appropriated funds is less than 70 percent of the base fee amount, then
100 there shall be a commensurate fee reduction applicable to that fee amount during the

101 fiscal year beginning on July 1, 2016, and concluding on June 30, 2017, in such amount
102 as may be necessary to offset the excess amount of fee proceeds collected or received in
103 such immediately preceding calendar year.

104 (e)(1) Not later than June 30, 2017, each state department or agency which collects or
105 receives a fee shall determine the base fee amount collected or received for the particular
106 purpose or function as described in paragraph (2) of subsection (a) of this Code section
107 for which such fee was collected or received by such state department or agency during
108 the calendar year beginning on January 1, 2016, and concluding on December 31, 2016,
109 and the Office of Planning and Budget shall determine the total amount of funds
110 appropriated to such state department or agency for purposes of administration and
111 enforcement relative to such purpose or function for the fiscal year commencing on
112 July 1, 2017, and concluding on June 30, 2018.

113 (2) If the Office of Planning and Budget determines that the total amount of such
114 appropriated funds is 80 percent or more of the base fee amount, then the amount of the
115 fee shall not be reduced. If the Office of Planning and Budget determines that the total
116 amount of such appropriated funds is less than 80 percent of the base fee amount, then
117 there shall be a commensurate fee reduction applicable to that fee amount during the
118 fiscal year beginning on July 1, 2017, and concluding on June 30, 2018, in such amount
119 as may be necessary to offset the excess amount of fee proceeds collected or received in
120 such immediately preceding calendar year.

121 (f)(1) Not later than June 30, 2018, each state department or agency which collects or
122 receives a fee shall determine the base fee amount collected or received for the particular
123 purpose or function as described in paragraph (2) of subsection (a) of this Code section
124 for which such fee was collected or received by such state department or agency during
125 the calendar year beginning on January 1, 2017, and concluding on December 31, 2017,
126 and the Office of Planning and Budget shall determine the total amount of funds
127 appropriated to such state department or agency for purposes of administration and
128 enforcement relative to such purpose or function for the fiscal year commencing on
129 July 1, 2018, and concluding on June 30, 2019.

130 (2) If the Office of Planning and Budget determines that the total amount of such
131 appropriated funds is 90 percent or more of the base fee amount, then the amount of the
132 fee shall not be reduced. If the Office of Planning and Budget determines that the total
133 amount of such appropriated funds is less than 90 percent of the base fee amount, then
134 there shall be a commensurate fee reduction applicable to that fee amount during the
135 fiscal year beginning on July 1, 2018, and concluding on June 30, 2019, in such amount
136 as may be necessary to offset the excess amount of fee proceeds collected or received in
137 such immediately preceding calendar year.

138 (g)(1) Not later than June 30, 2019, each state department or agency which collects or
139 receives a fee shall determine the base fee amount collected or received for the particular
140 purpose or function as described in paragraph (2) of subsection (a) of this Code section
141 for which such fee was collected or received by such state department or agency during
142 the calendar year beginning on January 1, 2018, and concluding on December 31, 2018,
143 and the Office of Planning and Budget shall determine the total amount of funds
144 appropriated to such state department or agency for purposes of administration and
145 enforcement relative to such purpose or function for the fiscal year commencing on
146 July 1, 2019, and concluding on June 30, 2020.

147 (2) If the Office of Planning and Budget determines that the total amount of such
148 appropriated funds is 95 percent or more of the base fee amount, then the amount of the
149 fee shall not be reduced. If the Office of Planning and Budget determines that the total
150 amount of such appropriated funds is less than 95 percent of the base fee amount, then
151 there shall be a commensurate fee reduction applicable to that fee amount during the
152 fiscal year beginning on July 1, 2019, and concluding on June 30, 2020, in such amount
153 as may be necessary to offset the excess amount of fee proceeds collected or received in
154 such immediately preceding calendar year.

155 (h)(1) Not later than June 30 of each year following 2019, each state department or
156 agency which collects or receives a fee shall determine the base fee amount collected or
157 received for the particular purpose or function as described in paragraph (2) of subsection
158 (a) of this Code section for which such fee was collected or received by such state
159 department or agency during the immediately preceding calendar year, and the Office of
160 Planning and Budget shall determine the total amount of funds appropriated to such state
161 department or agency for purposes of administration and enforcement relative to such
162 purpose or function for the fiscal year commencing on July 1 immediately following the
163 June 30 deadline date specified in this paragraph.

164 (2) If the Office of Planning and Budget determines that the total amount of such
165 appropriated funds is 95 percent or more of the base fee amount, then the amount of the
166 fee shall not be reduced. If the Office of Planning and Budget determines that the total
167 amount of such appropriated funds is less than 95 percent of the base fee amount, then
168 there shall be a commensurate fee reduction applicable to that fee amount during the
169 fiscal year beginning on July 1 immediately following the June 30 deadline date specified
170 in paragraph (1) of this subsection in such amount as may be necessary to offset the
171 excess amount of fee proceeds collected or received in such immediately preceding
172 calendar year.

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

176 (j) Each state department or agency collecting or receiving a fee covered by this Code
177 section shall promulgate such rules and regulations as are necessary and appropriate to
178 implement and administer this Code section, including, but not limited to, appropriate
179 public notification of any change in a fee amount and the effective date of such change
180 required by any provision of this Code section."

181 **SECTION 2.**

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

184 **SECTION 3.**

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