

House Bill 811 (COMMITTEE SUBSTITUTE)

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 Titles 45, 12, and 15 of the Official Code of Georgia Annotated, relating to public
2 officers, conservation and natural resources, and courts, respectively, 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 for corresponding changes;
6 to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "45-12-92.2.

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

13 (1) 'Base amount' means the amount of fee proceeds collected during the complete fiscal
14 year which immediately precedes the fiscal year for which the current appropriation
15 amount is determined with respect to an individual fee which proceeds are required to be
16 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 into 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 When a fee amount has been reduced pursuant to any provision of this Code section, then
26 for purposes of calculating amounts as required under this Code section for the next fiscal

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

29 (2) 'Collecting agency' means:

30 (A) For the fees identified in subparagraphs (A) and (B) of paragraph (4) of this
 31 subsection, the state department, state agency, public officer, public official, or public
 32 entity which collects or receives proceeds of the fee; and

33 (B) For the fees identified in subparagraphs (C) through (J) of paragraph (4) of this
 34 subsection, the Georgia Superior Court Clerks' Cooperative Authority.

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

40 (4) 'Fee' means the:

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

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

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

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

49 (E) Additional penalty sum provided for under subparagraph (a)(2)(A) of Code
 50 Section 15-21-73 for bond forfeitures for peace officer and prosecutor training;

51 (F) Additional penalty sum provided for under subparagraph (a)(2)(B) of Code
 52 Section 15-21-73 for indigent criminal defense;

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

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

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

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

61 (5) 'New appropriation amount' means the total amount of funds which are appropriated
 62 for a purpose or function described under a subparagraph of paragraph (4) of this

63 subsection for the newly commencing fiscal year for which the calculations are required
64 under subsection (b) of this Code section.

65 (b) Effective for the fiscal year beginning July 1, 2013, and each fiscal year thereafter:

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

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

71 (3) The Office of Planning and Budget shall determine an amount equal to 20 percent of
72 the base amount and shall add the amount so determined to the current appropriation
73 amount. This sum shall be the target appropriation amount;

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

77 (5) If the new appropriation amount is less than the target appropriation amount, then the
78 amount of the fee shall be reduced automatically by operation of this Code section by
79 20 percent for the fiscal year beginning on July 1. Any fee amount adjusted pursuant to
80 this paragraph shall be rounded to the nearest whole dollar amount. Immediately
81 following the date the General Appropriations Act for the newly commencing fiscal year
82 is approved by the Governor or becomes law without such approval, the Office of
83 Planning and Budget shall notify the appropriate collecting agency of the adjusted fee
84 amount; and

85 (6) For any fiscal year following a fee reduction under paragraph (5) of this subsection,
86 if the new appropriation amount is equal to or greater than the target appropriation
87 amount, then the fee amount shall, by operation of law, be increased back to the fee
88 amount in place immediately prior to the most recent such reduction.

89 (c) For purposes of the calculations required under this Code section, each time that a
90 20 percent amount has been added to a prior appropriation amount under paragraph (3) of
91 subsection (b) of this Code section, that amount shall remain cumulative and shall remain
92 as a part of the target appropriation amount for purposes of the calculations required under
93 subsection (b) of this Code section for the next fiscal year.

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

98 (2) If, in any subsequent fiscal year, the new appropriation amount is less than 95 percent
99 of the base amount, then there shall be a commensurate fee reduction applicable to that

100 fee amount effective the first day of the subsequent fiscal year in such amount as may be
 101 necessary to offset the difference between the new appropriation amount and the base
 102 amount in such fiscal year.

103 (3) In the event that the 20 percent addition required under paragraph (3) of
 104 subsection (b) of this Code section results in the target appropriation amount to equal or
 105 exceed 95 percent of the base amount, then there shall be no reduction in the fee amount
 106 under this Code section for the applicable fiscal year.

107 (e) In the event that a portion of the proceeds of a particular fee are directed by general law
 108 to be remitted by a collecting agency directly to a local governing authority, the reduction
 109 in such fee amount, if required by this Code section, shall apply proportionately only to that
 110 portion of the fee amount that is not required to be so remitted to such local governing
 111 authority.

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

115 (g) Each collecting agency covered by this Code section and the Office of Planning and
 116 Budget shall promulgate such rules and regulations as are necessary and appropriate to
 117 implement and administer this Code section, including, but not limited to, appropriate
 118 public notification of any change in a fee amount and the effective date of such change
 119 required by any provision of this Code section."

120 **SECTION 2.**

121 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
 122 resources, is amended by revising subsection (e) of Code Section 12-8-39, relating to solid
 123 waste disposal cost reimbursement fees and surcharges, as follows:

124 "(e)(1) Owners or operators of any solid waste disposal facility other than an inert waste
 125 landfill as defined in regulations promulgated by the board or a private industry solid
 126 waste disposal facility shall assess and collect on behalf of the division from each
 127 disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said
 128 surcharges collected may be retained by the owner or operator of any solid waste disposal
 129 facility collecting said surcharge to pay for costs associated with collecting said
 130 surcharge. Surcharges assessed and collected on behalf of the division shall be paid to
 131 the division not later than the first day of July of each year for the preceding calendar
 132 year. Any facility permitted exclusively for the disposal of construction or demolition
 133 waste that conducts recycling activities for construction or demolition materials shall
 134 receive a credit towards such surcharges of 75¢ per ton of material recycled at the facility.

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

137 **SECTION 3.**

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

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

142 **SECTION 4.**

143 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding
144 a new paragraph to subsection (a) of Code Section 15-21-73, relating to penalties to be
145 imposed in certain criminal and quasi-criminal and traffic cases and upon violation of bond,
146 to read as follows:

147 "(3) Each of the fee amounts provided for in this subsection shall be subject to revision
148 pursuant to Code Section 45-12-92.2."

149 **SECTION 5.**

150 Said title is further amended by revising subsection (a) of Code Section 15-21-179, relating
151 to additional penalties for violation of traffic laws or ordinances, as follows:

152 "(a)(1) In every case in which any court in this state shall impose a fine or bond payment,
153 which shall be construed to include costs, for any violation of the traffic laws of this state
154 or for violations of ordinances of political subdivisions which have adopted by reference
155 the traffic laws of this state, there shall be imposed as an additional penalty a sum equal
156 to 5 percent of the original fine.

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

159 **SECTION 6.**

160 Said title is further amended by adding a new subsection to Code Section 15-21A-6, relating
161 to additional filing fees, application fee for free legal services, and remittance of funds, to
162 read as follows:

163 "(g) Each of the fee amounts provided for in subsections (a), (b), and (c) of this Code
164 section shall be subject to revision pursuant to Code Section 45-12-92.2."

165 **SECTION 7.**

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

168 **SECTION 8.**

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