

The Senate Appropriations Committee offered the following substitute to HB 811:

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 and employees, conservation and natural resources, and courts, respectively, so as
3 to provide for automatic fee adjustments in cases where funds are not appropriated in certain
4 amounts for specified purposes when certain fees are imposed for such purposes; to provide
5 for 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 and employees,
10 is amended 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 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 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), (D), and (E) of paragraph (4) of this
 34 subsection, the term means the Georgia Superior Court Clerks' Cooperative Authority.

35 (3) 'Current appropriation amount' means total amount of funds which were appropriated
 36 for a purpose or function described under a subparagraph of paragraph (4) of this
 37 subsection during the fiscal year which immediately precedes the fiscal year for which
 38 the new appropriation amount is determined for which the calculations are required under
 39 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)(2)(A) of Code
 48 Section 15-21-73 for bond forfeitures for peace officer and prosecutor training; and

49 (E) Additional penalty sum provided for under subsection (a) of Code
 50 Section 15-21-179 for the driver education and training fund.

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

55 (b) Unless otherwise prohibited pursuant to subsection (f) of this Code section, effective
 56 for the fiscal year beginning July 1, 2013, and each fiscal year thereafter, for each
 57 subparagraph of paragraph (4) of subsection (a) of this Code section:

58 (1) The Office of Planning and Budget shall determine the base amount for the particular
 59 purpose or function as described under that subparagraph of paragraph (4) of
 60 subsection (a) of this Code section.

61 (2) The Office of Planning and Budget shall determine the current appropriation amount
 62 and the new appropriation amount.

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

66 (4) If the new appropriation amount is equal to or greater than 95 percent of the base
67 amount or is equal to or greater than the target appropriation amount, then the amount of
68 the fee shall not be reduced under this Code section.

69 (5)(A) If the new appropriation amount is less than the target appropriation amount,
70 then the amount of the fee shall be reduced automatically by operation of this Code
71 section by 20 percent for the fiscal year beginning on July 1; provided, however, that
72 in no event shall the reduction ever be less than an amount equal which would be equal
73 to the new appropriation amount.

74 (B) Except for the fees specified under subparagraphs (a)(4)(A) and (a)(4)(B) of this
75 Code section, any fee amount adjusted pursuant to this paragraph shall be rounded to
76 the nearest whole dollar amount.

77 (C) Immediately following the date the General Appropriations Act for the newly
78 commencing fiscal year is approved by the Governor or becomes law without such
79 approval, the Office of Planning and Budget shall notify the appropriate collecting
80 agency of the adjusted fee amount.

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

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

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

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

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

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

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

113 (f)(1) As used in this subsection, the term 'fiscal year spending' means the total amount
 114 of moneys appropriated in the General Appropriations Act by the General Assembly and
 115 recommended by the Governor as determined by the revenue estimate under Article III,
 116 Section IX, Paragraph IV(b) of the Constitution except for:

117 (A) Appropriations funded by moneys received from the federal government;

118 (B) Appropriations funded by discretionary user charges to the extent that such charges
 119 do not exceed the cost of goods or services;

120 (C) Proceeds of gifts or bequests made for purposes specified by the donor;

121 (D) Lottery funds;

122 (E) Motor fuel tax proceeds;

123 (F) Tobacco settlement funds;

124 (G) Hospital provider fees and nursing home provider fees;

125 (H) The Revenue Shortfall Reserve Amount for education needs and enrollment
 126 growth for grades kindergarten through 12; and

127 (I) Payments from authorities.

128 (2) The provisions of this Code section shall not be implemented until January 1 of the
 129 calendar year following the state fiscal year in which the year-end balance of the Revenue
 130 Shortfall Reserve funds is equal to or greater than 7 percent of the fiscal year spending
 131 for the fiscal year which immediately precedes that year. If, in any subsequent fiscal
 132 year, the year-end balance of the amount of funds in the Revenue Shortfall Reserve falls
 133 below 7 percent of the fiscal year spending for the fiscal year immediately preceding that
 134 year, then the operation of this Code section shall be suspended and each fee amount
 135 which has been reduced by the operation of this Code section shall, by operation of this

136 subsection, be increased back to the amount in place immediately prior to its most recent
 137 reduction under this Code section.

138 (g) No provision of this Code section providing for the determination of any amount shall
 139 preclude the appropriation of greater amounts for purposes or functions covered by this
 140 Code section.

141 (h) Each collecting agency covered by this Code section and the Office of Planning and
 142 Budget shall promulgate such rules and regulations as are necessary and appropriate to
 143 implement and administer this Code section, including, but not limited to, appropriate
 144 public notification of any change in a fee amount and the effective date of such change
 145 required by any provision of this Code section."

146 **SECTION 2.**

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

150 "(e)(1) Owners or operators of any solid waste disposal facility other than an inert waste
 151 landfill as defined in regulations promulgated by the board or a private industry solid
 152 waste disposal facility shall assess and collect on behalf of the division from each
 153 disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said
 154 surcharges collected may be retained by the owner or operator of any solid waste disposal
 155 facility collecting said surcharge to pay for costs associated with collecting said
 156 surcharge. Surcharges assessed and collected on behalf of the division shall be paid to
 157 the division not later than the first day of July of each year for the preceding calendar
 158 year. Any facility permitted exclusively for the disposal of construction or demolition
 159 waste that conducts recycling activities for construction or demolition materials shall
 160 receive a credit towards such surcharges of 75¢ per ton of material recycled at the facility.
 161 (2) The surcharge amount provided for in this subsection shall be subject to revision
 162 pursuant to Code Section 45-12-92.2."

163 **SECTION 3.**

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

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

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SECTION 4.

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

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"(3) Each of the fee amounts provided for in subparagraph (A) of paragraph (1) and subparagraph (A) of paragraph (2) of this subsection shall be subject to revision pursuant to Code Section 45-12-92.2."

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SECTION 5.

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

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

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

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SECTION 6.

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

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SECTION 7.

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