

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# A Bill

**ACT 509 OF 1995**  
**SENATE BILL 428**

4 **By: Committee on Public Health, Welfare, and Labor**

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## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 8-1-101,  
9 8-1-102, AND 8-1-103 TO ADJUST THE LANDFILL PERMIT FEES  
10 CAP AND TO AUTHORIZE FEES OTHER THAN PERMIT FEES FOR  
11 SERVICES RENDERED; AND FOR OTHER PURPOSES."

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## **Subtitle**

14 "TO ADJUST LANDFILL PERMIT FEES AND FEES  
15 FOR OTHER SERVICES RENDERED."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code Annotated § 8-1-101 is amended to read as  
20 follows:

21 "8-1-101. Purpose.

22 (a) It is the purpose of this chapter to authorize the Arkansas  
23 Pollution Control and Ecology Commission to establish a system of fees for the  
24 issuance of permits required by §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229,  
25 8-4-301 - 8-4-314, 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded], and  
26 8-9-403, to defray costs of other services provided, and to authorize the  
27 Department of Pollution Control and Ecology to collect and enforce these fees.

28 (b) The express purpose of these fees shall be to defray the  
29 administrative costs of issuance, renewal, inspection, modification, and  
30 monitoring associated with these permits and other services provided."

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32 SECTION 2. Arkansas Code Annotated § 8-1-102 is amended to read as  
33 follows:

34 "8-1-102. Definitions.

35 As used in this chapter, unless the context otherwise requires:

36 (1) Department means the Department of Pollution Control and Ecology;

1           (2) Commission means the Arkansas Pollution Control and Ecology  
2 Commission;

3           (3) Director means the executive head and active administrator of the  
4 Department of Pollution Control and Ecology;

5           (4) Initial fee means that fee required by this chapter to be  
6 submitted with all applications for water, air, and solid waste permits  
7 required by §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-314,  
8 §§ 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded], or 8-9-403;

9           (5) Annual review fee means that fee required by this chapter to be  
10 submitted upon the anniversary date of issuance of permits required by the  
11 statutes enumerated in subdivision (4) of this section;

12           (6) Modification fee means the fee required to be submitted by this  
13 chapter for modification of any existing or future permit required by the  
14 statutes enumerated in subdivision (4) of this section, either at the request  
15 of the permittee or as required by the laws of the State of Arkansas or the  
16 rules and regulations of the department;

17           (7) Facility means an activity or operation within a specific  
18 geographic location including property contiguous thereto. A facility may  
19 consist of several treatment, storage, or disposal operational units."  
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21           SECTION 3. Arkansas Code Annotated § 8-1-103 is amended to read as  
22 follows:

23           "8-1-103. Powers and duties.

24           The department and commission shall have the following powers and  
25 duties, respectively:

26           (1)(A) Following a public hearing and based upon a record calculating  
27 the reasonable administrative costs of evaluating and taking action on permit  
28 applications and of implementing and enforcing the terms and conditions of  
29 permits and variances, the commission shall establish, by regulation,  
30 reasonable fees for initial issuance, annual review, and modification of  
31 water, air, or solid waste permits required by §§ 8-4-101 - 8-4-106, 8-4-201 -  
32 8-4-229, 8-4-301 - 8-4-314, 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded],  
33 and 8-9-403. These fees shall consist of initial fees, annual review fees, and  
34 modification fees, as defined in § 8-1-102.

35           (B)(i) All fees will be capped at no more than the appropriation.

1 Provided, however, in setting reasonable permit fees, the commission shall not  
2 set water permit fees calculated to generate revenues in any fiscal year that  
3 exceed three and one-quarter (3.25) times the total amount collected from  
4 water permit fees in fiscal year 1992-93, nor set solid waste permit fees for  
5 Class I and Class III landfills calculated to generate revenues in any fiscal  
6 year that exceed four and one-quarter (4.25) times the total amount of permit  
7 fees collected from Class I and Class III solid waste landfills in fiscal year  
8 1992-93 provided that the total fee revenues cannot exceed one and one-quarter  
9 (1.25) times the total amount collected from solid waste permit fees in fiscal  
10 year 1994-95. In raising the cap for total fee revenues, fees for solid waste  
11 permits shall not increase in fiscal years 1995-97 and 1996-97.

12 (ii) Should the amount of permit fees levied on and  
13 received from permit holders exceed the amounts specified above in a fiscal  
14 year, the overcollections may be retained by the department to be used to  
15 reduce permit fees in subsequent years by relative amounts.

16 (iii) With the exception of major underground injection  
17 control wells, fees for no-discharge state permits will be capped at five  
18 hundred dollars (\$500);

19 (2) (A) The regulations shall provide that the fees shall be assessed on  
20 a per-facility basis for the following categories of permits:

- 21 (i) Air;
- 22 (ii) Water; and
- 23 (iii) Solid waste.

24 (B) All annual fees for air permits issued under the state  
25 implementation plan or the regulations promulgated pursuant to the federal  
26 Clean Air Act shall be assessed in accordance with the federal Clean Air Act.

27 (C) The regulations may include a provision for appropriate  
28 adjustments in the fees to reflect carryover fee collections in excess of the  
29 administrative costs of issuance, renewal, inspection, modification, and  
30 monitoring associated with these permits;

31 (3) The department shall collect the permit fees as established by the  
32 commission and shall deny the issuance of an initial permit, a renewal permit,  
33 or a modification permit if and when any facility subject to control by the  
34 department fails or refuses to pay the fees after reasonable notice as  
35 established by the regulations promulgated under this chapter;

1 (4) The department shall require that any fee defined in this chapter  
2 shall be paid prior to the issuance of any permit; and

3 (5) The Department of Pollution Control and Ecology is hereby  
4 authorized to promulgate such rules and regulations necessary to administer  
5 the fees, rates, tolls, or charges for services established by this section  
6 and is directed to prescribe and collect such fees, rates, tolls, or charges  
7 for the services delivered by the Department of Pollution Control and Ecology  
8 in such manner as may be necessary to support the programs of the department  
9 as directed by the Governor and the General Assembly."

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11 SECTION 4. All provisions of this act of a general and permanent nature  
12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
13 Revision Commission shall incorporate the same in the Code.

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15 SECTION 5. If any provision of this act or the application thereof to  
16 any person or circumstance is held invalid, such invalidity shall not affect  
17 other provisions or applications of the act which can be given effect without  
18 the invalid provision or application, and to this end the provisions of this  
19 act are declared to be severable.

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21 SECTION 6. All laws and parts of laws in conflict with this act are  
22 hereby repealed.

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24 SECTION 7. EMERGENCY. It is hereby found and determined by the General  
25 Assembly of the State of Arkansas that an adjustment is needed to adjust the  
26 collection cap due to additional fees to be generated by the permitting of  
27 composting facilities and transfer stations, and to clarify cost recovery  
28 authorization for administrative services provided by the Department of  
29 Pollution Control and Ecology. Therefore, an emergency is hereby declared to  
30 exist and this act being necessary for the immediate preservation of the  
31 public peace, health, and safety, shall be in full force and effect from and  
32 after its passage and approval.

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APPROVED: 3-2-95

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