

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Edwards**

A Bill

ACT 1056 OF 1995
SENATE BILL 723

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 8-1-103, AS AMENDED BY
9 ACT 509 OF 1995 TO EXEMPT REVENUES GENERATED FROM PERMITS
10 ISSUED FOR NEW FACILITIES FROM THE MAXIMUM CAP FOR PERMIT
11 FEES; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO EXEMPT REVENUES GENERATED
15 FROM PERMITS ISSUED FOR NEW FACILITIES
16 FROM THE MAXIMUM CAP FOR PERMIT FEES."

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

20 SECTION 1. Arkansas Code § 8-1-103, as amended by Section 3 of Act 509
21 of 1995, is amended to read as follows:

22 "8-1-103. Powers and duties.

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

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31 8-4-229, 8-4-301 - 8-4-314, 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded],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

34 (B) (i) All fees will be capped at no more than the appropriation.
35 Provided, however, in setting reasonable permit fees, the commission shall not
36 set water permit fees calculated to generate revenues in any fiscal year that

1 exceed three and one-quarter (3.25) times the total amount collected from
2 water permit fees in fiscal year 1992-93 provided water permit fee revenues
3 generated through permits issued for new facilities which are permitted after
4 July 1, 1995 shall not be subject to the overall fee cap specified for water
5 permit fees herein, nor set solid waste permit fees for Class I and Class III
6 landfills calculated to generate revenues in any fiscal year that exceed four
7 and one-quarter (4.25) times the total amount of permit fees collected from
8 Class I and Class III solid waste landfills in fiscal year 1992-93 provided
9 that the total fee revenues cannot exceed one and one-quarter (1.25) times the
10 total amount collected from solid waste permit fees in fiscal year 1994-95.
11 In raising the cap for total fee revenues, fees for solid waste permits shall
12 not increase in fiscal years 1995-96 and 1996-97.

13 (ii) Should the amount of permit fees levied on and
14 received from permits existing prior to June 30, 1995 exceed the amounts
15 specified above in a fiscal year, the overcollections may be retained by the
16 department to be used to reduce permit fees in subsequent years by relative
17 amounts.

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

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

- 23 (i) Air;
- 24 (ii) Water; and
- 25 (iii) Solid waste.

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

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

33 (3) The department shall collect the permit fees as established by the
34 commission and shall deny the issuance of an initial permit, a renewal permit,
35 or a modification permit if and when any facility subject to control by the

1 department fails or refuses to pay the fees after reasonable notice as
2 established by the regulations promulgated under this chapter;

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

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

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13 SECTION 2. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 3. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 4. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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28 APPROVED: 4-10-95

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