

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

# A Bill

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  
24 the 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25 8-4-301 - 8-4-314, 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded], and  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  
28 fees.

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

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

35 "8-1-102. Definitions.

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

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

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

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

8 (4) Initial fee means that fee required by this chapter to be  
9 submitted with all applications for water, air, and solid waste permits  
10 required by §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-314,  
11 §§ 8-6-201 - 8-6-214, 8-6-215 - 8-6-217 [superseded], or 8-9-403;

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

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

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

26 "8-1-103. Powers and duties.

27 The department and commission shall have the following powers and  
28 duties, respectively:

29 (1)(A) Following a public hearing and based upon a record calculating  
30 the reasonable administrative costs of evaluating and taking action on permit  
31 applications and of implementing and enforcing the terms and conditions of  
32 permits and variances, the commission shall establish, by regulation,  
33 reasonable fees for initial issuance, annual review, and modification of  
34 water, air, or solid waste permits required by §§ 8-4-101 - 8-4-106, 8-4-201  
35 - 8-4-229, 8-4-301 - 8-4-314, 8-6-201 - 8-6-214, 8-6-215 - 8-6-217

1 [superseded], and 8-9-403. These fees shall consist of initial fees, annual  
2 review fees, and modification fees, as defined in § 8-1-102.

3 (B)(i) All fees will be capped at no more than the  
4 appropriation. Provided, however, in setting reasonable permit fees, the  
5 commission shall not set water permit fees calculated to generate revenues in  
6 any fiscal year that exceed three and one-quarter (3.25) times the total  
7 amount collected from water permit fees in fiscal year 1992-93, nor set solid  
8 waste permit fees for Class I and Class III landfills calculated to generate  
9 revenues in any fiscal year that exceed four and one-quarter (4.25) times the  
10 total amount of permit fees collected from Class I and Class III solid waste  
11 landfills in fiscal year 1992-93 provided that the total fee revenues cannot  
12 exceed one and one-quarter (1.25) times the total amount collected from solid  
13 waste permit fees in fiscal year 1994-95. In raising the cap for total fee  
14 revenues, fees for solid waste permits shall not increase in fiscal years  
15 1995-97 and 1996-97.

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

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

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

- 25 (i) Air;
- 26 (ii) Water; and
- 27 (iii) Solid waste.

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

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

35 (3) The department shall collect the permit fees as established by the

1 commission and shall deny the issuance of an initial permit, a renewal  
2 permit, or a modification permit if and when any facility subject to control  
3 by the department fails or refuses to pay the fees after reasonable notice as  
4 established by the regulations promulgated under this chapter;

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

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

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

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

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

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

1 and effect from and after its passage and approval.

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