

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

# A Bill

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32 [superseded], and 8-9-403.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

34 (B)(i) All fees will be capped at no more than the  
35 appropriation. Provided, however, in setting reasonable permit fees, the

1 commission shall not set water permit fees calculated to generate revenues in  
2 any fiscal year that exceed three and one-quarter (3.25) times the total  
3 amount collected from water permit fees in fiscal year 1992-93 provided water  
4 permit fee revenues generated through permits issued for new facilities which  
5 are permitted after July 1, 1995 shall not be subject to the overall fee cap  
6 specified for water permit fees herein, nor set solid waste permit fees for  
7 Class I and Class III landfills calculated to generate revenues in any fiscal  
8 year that exceed four and one-quarter (4.25) times the total amount of permit  
9 fees collected from Class I and Class III solid waste landfills in fiscal  
10 year 1992-93 provided that the total fee revenues cannot exceed one and  
11 one-quarter (1.25) times the total amount collected from solid waste permit  
12 fees in fiscal year 1994-95. In raising the cap for total fee revenues, fees  
13 for solid waste permits shall not increase in fiscal years 1995-96 and  
14 1996-97.

15                   (ii) Should the amount of permit fees levied on and  
16 received from permits existing prior to June 30, 1995 exceed the amounts  
17 specified above in a fiscal year, the overcollections may be retained by the  
18 department to be used to reduce permit fees in subsequent years by relative  
19 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 2. 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 3. 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 4. All laws and parts of laws in conflict with this act are  
26 hereby repealed.

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