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LRB096 13504 JDS 36173 a

1 AMENDMENT TO HOUSE BILL 4612

2 AMENDMENT NO. _____. Amend House Bill 4612 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 12.5 as follows:

6 (415 ILCS 5/12.5)

7 Sec. 12.5. NPDES discharge fees; sludge permit fees.

8 (a) Beginning July 1, 2003, the Agency shall assess and
9 collect annual fees (i) in the amounts set forth in subsection
10 (e) for all discharges that require an NPDES permit under
11 subsection (f) of Section 12, from each person holding an NPDES
12 permit authorizing those discharges (including a person who
13 continues to discharge under an expired permit pending
14 renewal), and (ii) in the amounts set forth in subsection (f)
15 of this Section for all activities that require a permit under
16 subsection (b) of Section 12, from each person holding a

1 domestic sewage sludge generator or user permit.

2 Each person subject to this Section must remit the
3 applicable annual fee to the Agency in accordance with the
4 requirements set forth in this Section and any rules adopted
5 pursuant to this Section.

6 (b) Within 30 days after the effective date of this
7 Section, and each year thereafter, except when a fee is not due
8 because of the operation of subsection (c), the Agency shall
9 send a fee notice by mail to each existing permittee subject to
10 a fee under this Section at his or her address of record. The
11 notice shall state the amount of the applicable annual fee and
12 the date by which payment is required.

13 Except as provided in subsection (c) with respect to
14 initial fees under new permits and certain modifications of
15 existing permits, fees payable under this Section are due by
16 the date specified in the fee notice, which shall be no less
17 than 30 days after the date the fee notice is mailed by the
18 Agency.

19 (c) The initial annual fee for discharges under a new NPDES
20 permit or for activity under a new sludge generator or sludge
21 user permit must be remitted to the Agency prior to the
22 issuance of the permit. The Agency shall provide notice of the
23 amount of the fee to the applicant during its review of the
24 application. In the case of a new NPDES or sludge permit issued
25 during the months of January through June, the Agency may
26 prorate the initial annual fee payable under this Section.

1 The initial annual fee for discharges or other activity
2 under a general NPDES permit must be remitted to the Agency as
3 part of the application for coverage under that general permit.

4 Beginning January 1, 2010, in the case of construction site
5 storm water discharges for which a coverage letter under a
6 general NPDES permit or individual NPDES permit has been issued
7 or for which the application for coverage under an NPDES permit
8 has been filed with the Agency, no annual fee shall be due
9 after payment of an initial annual fee in the amount provided
10 in subsection (e) (10) of this Section.

11 If a requested modification to an existing NPDES permit
12 causes a change in the applicable fee categories under
13 subsection (e) that results in an increase in the required fee,
14 the permittee must pay to the Agency the amount of the
15 increase, prorated for the number of months remaining before
16 the next July 1, before the modification is granted.

17 (d) Failure to submit the fee required under this Section
18 by the due date constitutes a violation of this Section. Late
19 payments shall incur an interest penalty, calculated at the
20 rate in effect from time to time for tax delinquencies under
21 subsection (a) of Section 1003 of the Illinois Income Tax Act,
22 from the date the fee is due until the date the fee payment is
23 received by the Agency.

24 (e) The annual fees applicable to discharges under NPDES
25 permits are as follows:

26 (1) For NPDES permits for publicly owned treatment

1 works, other facilities for which the wastewater being
2 treated and discharged is primarily domestic sewage, and
3 wastewater discharges from the operation of public water
4 supply treatment facilities, the fee is:

5 (i) \$1,500 for the 12 months beginning July 1, 2003
6 and \$500 for each subsequent year, for facilities with
7 a Design Average Flow rate of less than 100,000 gallons
8 per day;

9 (ii) \$5,000 for the 12 months beginning July 1,
10 2003 and \$2,500 for each subsequent year, for
11 facilities with a Design Average Flow rate of at least
12 100,000 gallons per day but less than 500,000 gallons
13 per day;

14 (iii) \$7,500 for facilities with a Design Average
15 Flow rate of at least 500,000 gallons per day but less
16 than 1,000,000 gallons per day;

17 (iv) \$15,000 for facilities with a Design Average
18 Flow rate of at least 1,000,000 gallons per day but
19 less than 5,000,000 gallons per day;

20 (v) \$30,000 for facilities with a Design Average
21 Flow rate of at least 5,000,000 gallons per day but
22 less than 10,000,000 gallons per day; and

23 (vi) \$50,000 for facilities with a Design Average
24 Flow rate of 10,000,000 gallons per day or more.

25 (2) For NPDES permits for treatment works or sewer
26 collection systems that include combined sewer overflow

1 outfalls, the fee is:

2 (i) \$1,000 for systems serving a tributary
3 population of 10,000 or less;

4 (ii) \$5,000 for systems serving a tributary
5 population that is greater than 10,000 but not more
6 than 25,000; and

7 (iii) \$20,000 for systems serving a tributary
8 population that is greater than 25,000.

9 The fee amounts in this subdivision (e)(2) are in
10 addition to the fees stated in subdivision (e)(1) when the
11 combined sewer overflow outfall is contained within a
12 permit subject to subsection (e)(1) fees.

13 (3) For NPDES permits for mines producing coal, the fee
14 is \$5,000.

15 (4) For NPDES permits for mines other than mines
16 producing coal, the fee is \$5,000.

17 (5) For NPDES permits for industrial activity where
18 toxic substances are not regulated, other than permits
19 covered under subdivision (e)(3) or (e)(4), the fee is:

20 (i) \$1,000 for a facility with a Design Average
21 Flow rate that is not more than 10,000 gallons per day;

22 (ii) \$2,500 for a facility with a Design Average
23 Flow rate that is more than 10,000 gallons per day but
24 not more than 100,000 gallons per day; and

25 (iii) \$10,000 for a facility with a Design Average
26 Flow rate that is more than 100,000 gallons per day.

1 (6) For NPDES permits for industrial activity where
2 toxic substances are regulated, other than permits covered
3 under subdivision (e) (3) or (e) (4), the fee is:

4 (i) \$15,000 for a facility with a Design Average
5 Flow rate that is not more than 250,000 gallons per
6 day; and

7 (ii) \$20,000 for a facility with a Design Average
8 Flow rate that is more than 250,000 gallons per day.

9 (7) For NPDES permits for industrial activity
10 classified by USEPA as a major discharge, other than
11 permits covered under subdivision (e) (3) or (e) (4), the fee
12 is:

13 (i) \$30,000 for a facility where toxic substances
14 are not regulated; and

15 (ii) \$50,000 for a facility where toxic substances
16 are regulated.

17 (8) For NPDES permits for municipal separate storm
18 sewer systems, the fee is \$1,000.

19 (9) For NPDES permits for industrial storm water, the
20 fee is \$500.

21 (10) for NPDES permits for construction site storm
22 water, the fee

23 (A) for applications received before January 1,
24 2010 is \$500;

25 (B) for applications received on or after January
26 1, 2010 is:

1 (i) \$250 if less than 5 acres are disturbed;

2 and

3 (ii) \$750 if 5 or more acres are disturbed.

4 (f) The annual fee for activities under a permit that
5 authorizes applying sludge on land is \$2,500 for a sludge
6 generator permit and \$5,000 for a sludge user permit.

7 (g) More than one of the annual fees specified in
8 subsections (e) and (f) may be applicable to a permit holder.
9 These fees are in addition to any other fees required under
10 this Act.

11 (h) The fees imposed under this Section do not apply to the
12 State or any department or agency of the State, nor to any
13 school district, or to any private sewage disposal system as
14 defined in the Private Sewage Disposal Licensing Act (225 ILCS
15 225/).

16 (h-5) The fees imposed under this Section do not apply to a
17 person or entity that recovers coal waste from abandoned mines
18 for the purpose of reuse or recycling, if the person or entity
19 no longer has a point source discharge created from the
20 operation.

21 (i) The Agency may adopt rules to administer the fee
22 program established in this Section. The Agency may include
23 provisions pertaining to invoices, notice of late payment,
24 refunds, and disputes concerning the amount or timeliness of
25 payment. The Agency may set forth procedures and criteria for
26 the acceptance of payments. The absence of such rules does not

1 affect the duty of the Agency to immediately begin the
2 assessment and collection of fees under this Section.

3 (j) All fees and interest penalties collected by the Agency
4 under this Section shall be deposited into the Illinois Clean
5 Water Fund, which is hereby created as a special fund in the
6 State treasury. Gifts, supplemental environmental project
7 funds, and grants may be deposited into the Fund. Investment
8 earnings on moneys held in the Fund shall be credited to the
9 Fund.

10 Subject to appropriation, the moneys in the Fund shall be
11 used by the Agency to carry out the Agency's clean water
12 activities.

13 (k) Except as provided in subsection (l) or Agency rules,
14 fees paid to the Agency under this Section are not refundable.

15 (l) The Agency may refund the difference between (a) the
16 amount paid by any person under subsection (e)(1)(i) or
17 (e)(1)(ii) of this Section for the 12 months beginning July 1,
18 2004 and (b) the amount due under subsection (e)(1)(i) or
19 (e)(1)(ii) as established by this amendatory Act of the 93rd
20 General Assembly.

21 (Source: P.A. 95-516, eff. 8-28-07; 96-245, eff. 8-11-09.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."