



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0109

Introduced 2/1/2005, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

Amends the Environmental Protection Act. Provides that the annual fees applicable to discharges under NPDES permits do not apply to (i) a unit of local government, (ii) a private sector contractor providing sewage treatment services or infrastructure under contract with the State, any department or agency of the State, a unit of local government, or a school district during the course of providing those services, or (iii) a not-for-profit organization. Effective July 1, 2005.

LRB094 07485 RSP 37649 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental protection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 domestic sewage sludge generator or user permit.

18 Each person subject to this Section must remit the
19 applicable annual fee to the Agency in accordance with the
20 requirements set forth in this Section and any rules adopted
21 pursuant to this Section.

22 (b) Within 30 days after the effective date of this
23 Section, and each year thereafter, the Agency shall send a fee
24 notice by mail to each existing permittee subject to a fee
25 under this Section at his or her address of record. The notice
26 shall state the amount of the applicable annual fee and the
27 date by which payment is required.

28 Except as provided in subsection (c) with respect to
29 initial fees under new permits and certain modifications of
30 existing permits, fees payable under this Section are due by
31 the date specified in the fee notice, which shall be no less
32 than 30 days after the date the fee notice is mailed by the

1 Agency.

2 (c) The initial annual fee for discharges under a new
3 individual NPDES permit or for activity under a new individual
4 sludge generator or sludge user permit must be remitted to the
5 Agency prior to the issuance of the permit. The Agency shall
6 provide notice of the amount of the fee to the applicant during
7 its review of the application. In the case of a new individual
8 NPDES or sludge permit issued during the months of January
9 through June, the Agency may prorate the initial annual fee
10 payable under this Section.

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

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

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

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

29 (1) For NPDES permits for publicly owned treatment
30 works, other facilities for which the wastewater being
31 treated and discharged is primarily domestic sewage, and
32 wastewater discharges from the operation of public water
33 supply treatment facilities, the fee is:

34 (i) \$1,500 for the 12 months beginning July 1, 2003
35 and \$500 for each subsequent year, for facilities with
36 a Design Average Flow rate of less than 100,000 gallons

1 per day;

2 (ii) \$5,000 for the 12 months beginning July 1,
3 2003 and \$2,500 for each subsequent year, for
4 facilities with a Design Average Flow rate of at least
5 100,000 gallons per day but less than 500,000 gallons
6 per day;

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

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

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

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

18 (2) For NPDES permits for treatment works or sewer
19 collection systems that include combined sewer overflow
20 outfalls, the fee is:

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

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

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

28 The fee amounts in this subdivision (e)(2) are in
29 addition to the fees stated in subdivision (e)(1) when the
30 combined sewer overflow outfall is contained within a
31 permit subject to subsection (e)(1) fees.

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

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

36 (5) For NPDES permits for industrial activity where

1 toxic substances are not regulated, other than permits
2 covered under subdivision (e) (3) or (e) (4), the fee is:

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

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

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

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

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

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

18 (7) For NPDES permits for industrial activity
19 classified by USEPA as a major discharge, other than
20 permits covered under subdivision (e) (3) or (e) (4), the fee
21 is:

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

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

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

28 (9) For NPDES permits for construction site or
29 industrial storm water, the fee is \$500.

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

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

1 (h) The fees imposed under this Section do not apply to the
2 State or any department or agency of the State, nor to any
3 school district, or to any private sewage disposal system as
4 defined in the Private Sewage Disposal Licensing Act (225 ILCS
5 225/).

6 (h-5) The annual fees applicable to discharges under NPDES
7 permits imposed pursuant to item (i) of subsection (a) of this
8 Section do not apply to (i) a unit of local government, (ii) a
9 private sector contractor providing sewage treatment services
10 or infrastructure under contract with the State, any department
11 or agency of the State, a unit of local government, or a school
12 district during the course of providing those services, or
13 (iii) a not-for-profit organization exempt under Section
14 501(c) of the Internal Revenue Code of 1986.

15 (i) The Agency may adopt rules to administer the fee
16 program established in this Section. The Agency may include
17 provisions pertaining to invoices, notice of late payment, and
18 disputes concerning the amount or timeliness of payment. The
19 Agency may set forth procedures and criteria for the acceptance
20 of payments. The absence of such rules does not affect the duty
21 of the Agency to immediately begin the assessment and
22 collection of fees under this Section.

23 (j) All fees and interest penalties collected by the Agency
24 under this Section shall be deposited into the Illinois Clean
25 Water Fund, which is hereby created as a special fund in the
26 State treasury. Gifts, supplemental environmental project
27 funds, and grants may be deposited into the Fund. Investment
28 earnings on moneys held in the Fund shall be credited to the
29 Fund.

30 Subject to appropriation, the moneys in the Fund shall be
31 used by the Agency to carry out the Agency's clean water
32 activities.

33 (k) Except as provided in subsection (l), fees paid to the
34 Agency under this Section are not refundable.

35 (l) The Agency may refund the difference between (a) the
36 amount paid by any person under subsection (e)(1)(i) or

1 (e) (1) (ii) of this Section for the 12 months beginning July 1,
2 2004 and (b) the amount due under subsection (e) (1) (i) or
3 (e) (1) (ii) as established by this amendatory Act of the 93rd
4 General Assembly.

5 (Source: P.A. 93-32, eff. 7-1-03; 93-840, eff. 7-30-04.)

6 Section 99. Effective date. This Act takes effect July 1,
7 2005.